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## FISCAL IMPACT REPORT

**SPONSOR** Smith **ORIGINAL DATE** 02/07/10 **LAST UPDATED** 02/08/10 **HB** \_\_\_\_\_  
**SHORT TITLE** Phase Out Food Tax Deduction **SB** 236  
**ANALYST** Gutierrez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	\$56,746.0	\$118,964.0	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB10, SB31, SB247

### SOURCES OF INFORMATION

LFC Files

Responses not received from

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 236 phases out the gross receipts tax deduction for the sale of food at a retail store as follows:

- 75 percent deductible in FY11
- 50 percent deductible in FY12
- 25 percent deductible in FY13
- 0 percent deductible in FY14 and beyond (Section 7-9-92 NMSA 1978 is repealed effective July 1, 2013)

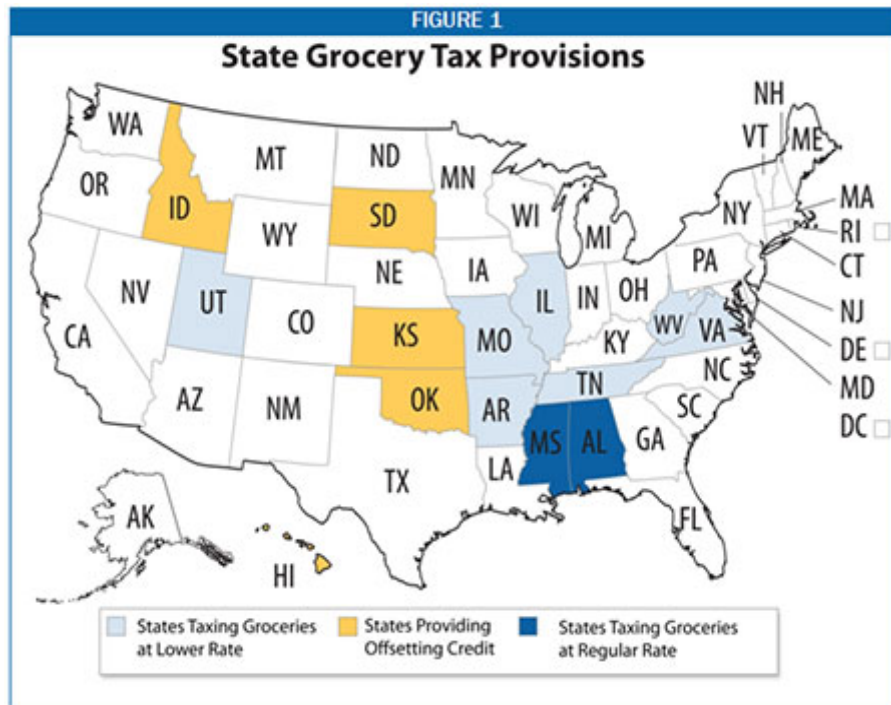
The effective date of this bill's provisions is July 1, 2010.

### FISCAL IMPLICATIONS

In fiscal year 2009, food deductions from gross receipts were \$2.97 billion and the average tax rate on food is 7.04 percent. Assuming food deductions grow at 3 percent in FY10 and an average of 5 percent in FY11 and beyond and the tax rate remains the same, this bill would increase general fund revenue by \$57 million in FY11 and \$119 million in FY12. Since local governments are held harmless from the food deduction created in Section 7-9-92 NMSA 1978, this entire revenue increase would benefit the general fund.

## SIGNIFICANT ISSUES

In 2009, 31 states and the District of Columbia exempted food for home consumption from the state sales tax. Seven other states tax food consumption at a lower rate than their state sales tax rate. Five states tax food at the state level but allow a rebate or income tax credit to compensate poor households. New Mexico both excludes food and has a low-income rebate.



Source: Center on Budget and Policy Priorities

By broadening the gross receipts tax base, the bill would allow a lower tax rate to generate the same amount of revenue. This improves the economic efficiency of the tax.

## RELATIONSHIP

Senate Bill 236 relates to:

SB10 – narrows the food tax deduction by changing the definition of food to food that is eligible for the special supplemental nutrition program for New Mexico women, infants and children administered by the department of health or that is fresh or frozen meat, poultry or fish with no additional ingredients or only minimal additional ingredients

SB31 – narrows the food tax deduction by excluding food products commonly referred to as “soft drinks” from the gross receipts tax deduction and distributes the revenue from taxing soft drinks to the county-supported Medicaid fund

SB247 – phases out distributions to municipalities and counties that are based on the gross receipts tax deduction for the sale of food

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***The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:***

- 1. Adequacy:*** revenue should be adequate to fund government services.
- 2. Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

***More information about the LFC tax policy principles will soon be available on the LFC website at [www.nmlegis.gov/lcs/lfc](http://www.nmlegis.gov/lcs/lfc)***