ADMINISTRATIVE IMPLICATIONS

TRD reported the following administrative issues:

- Ensuring that food retailers apply the deduction only for qualified food sales might be a problem. While most retailers are likely to claim only legitimate deductions, it will be almost impossible to identify those who don't. Typically when examining retail businesses with large sums of cash flow, auditors have only cash register tapes with no (or very cryptic) descriptions of purchases at their disposal. However, this proposal does impose an additional penalty for overstating deductions. Such a measure may be helpful to ensure compliance.
- No state administers a sales tax exemption for food without litigation, protest and controversy. The definitional problems are acute and continuing. Fortunately, New Mexico can adopt other state's regulations to better create "bright lines". The department will still face a significant regulatory effort, however.
- Provisions contained in the bill increase the complexity of the GRT for taxpayers who do not currently participate in the federal food stamp program, especially retailers who lack computer pricing and scanning technology. Therefore, the burden will be more acute on the smaller retailers.

TECHNICAL ISSUES:

TRD submitted these technical issues:

- The bill does not identify the inflation index to be used to determine the inflation-adjusted per capita gross receipts tax collections.
- Similarly, it is not clear if the per capita GRT amount is to be calculated each year from the most recent decennial census, or if annual population estimates are to be used.

OTHER IMPACTS AND ISSUES:

TRD's report included these issues:

Regressivity of State Taxes:

- A tax is said to be "regressive" if it takes a higher percentage of income from poor households than it does from richer households. The gross receipts tax ("GRT") on food is one of the regressive elements in the New Mexico tax structure. According to national survey results, the percentage of household income spent on food for home consumption decreases as household income increases. Although the state taxes many of the necessities of life in one form or another, the fact that food and healthcare are necessities enhances the perceived unfairness of the GRT.

- A couple of provisions of current law mitigate to some extent the regressive impacts of the GRT:
  1. Food purchased with food stamps is exempt from the GRT. 75,000 low-income families in New Mexico, with 195,000 persons, are food-stamp recipients. This provision excluded from tax approximately $184 million--or about 10 percent of total food spending--of food purchases in FY 2003.

2. The Low Income Comprehensive Tax Rebate (LICTR) is intended to offset to some degree the regressive impacts of the GRT. LICTR is a refundable credit of up to $450 per year for households with income of less than $22,000.

Stability and adequacy of state and local revenues:

- Food expenditures historically are a very stable component of the gross receipts tax base. Gross receipts tax collections from food help dampen volatility of state tax revenue collections, and buttress the revenue base during cyclical downturns in the economy. Over the last ten years, gross receipts tax collections on food have grown at a stable 1.7% compound rate per year.

Other States' Sales Tax Treatment of Food and Medical Services:

Of the 45 states that impose a sales or gross receipts tax, 28 have exemptions for food. Of the 17 states that tax food, five do so at a reduced tax rate. Of the thirteen states that fully tax food sales, seven (including New Mexico) offer income tax credits or rebates to offset at least part of the tax on food.

BT/lg:yr