

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 2791**  
**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

DATED: JUNE 29, 2022

**SUMMARY**

**Synopsis:** Provides sales and use tax exemption for certain purchases made by all supermarkets and grocery stores located within urban enterprise zones.

**Type of Impact:** Marginal decrease in annual State revenues.

**Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b>Annual Impact</b>
<b>State Revenue Decrease</b>	Up to \$50,000

- The Office of Legislative Services (OLS) estimates that the bill would decrease annual State revenues by up to \$50,000 associated with the expansion of the unlimited sales and use tax exemption for qualifying business purchases to include all supermarkets and grocery stores located within urban enterprise zones.
- Specifically, the bill is expected to decrease annual sales and use tax collections by an amount equal to: (1) the number of supermarkets and grocery stores located inside of urban enterprise zones but outside of food desert communities; multiplied by (2) the annual value of taxes paid by these entities on qualifying business purchases in excess of \$100,000.
- According to the Department of Community Affairs (DCA), the bill is expected to extend the unlimited sales and use tax exemption to approximately 38 additional supermarkets and grocery stores. Of the supermarkets and grocery stores that currently utilize the unlimited sales and use tax exemption, the average annual purchases made by each entity totaled approximately \$108,000.
- Based on this information, the OLS estimates that the bill would reduce annual sales and use tax collections by roughly \$21,134. However, the OLS is unable to determine whether the bill's expanded definition of "supermarket or grocery store" will increase the number of supermarkets and grocery stores that qualify for the unlimited sales and use tax exemption, including those located within food desert communities.

## **BILL DESCRIPTION**

This bill expands the existing sales and use tax exemption for supermarkets and grocery stores located within food desert communities to include all supermarkets and grocery stores located within urban enterprise zones.

Under current law, the sales and use tax is not imposed on certain purchases made by qualified businesses for their exclusive use within an urban enterprise zone. In this circumstance, the receipts from the first \$100,000 of retail sales of tangible personal property (except motor vehicles and energy) and sales of services (except telecommunications services and utility services) are exempt from the sales and use tax. However, if a supermarket or grocery store is located within a food desert community, the business is eligible for an uncapped sales and use tax exemption on these purchases, including purchases in excess of the first \$100,000 in qualifying sales.

Under the bill, the uncapped sales and use tax exemption for supermarket and grocery stores would no longer be limited to those businesses located within food desert communities. Instead, this bill provides that the uncapped exemption would also apply to any supermarket or grocery store that is located within an urban enterprise zone. Accordingly, any supermarket or grocery store that is located within an urban enterprise zone, but not within a food desert community, would no longer be limited to a sales and use tax exemption on the first \$100,000 in qualifying sales.

Additionally, the bill expands the definition of “supermarket or grocery store” for the purposes of the sales and use tax exemption. Under the bill, this term is defined as any retail outlet with at least 16,000 square feet, of which at least 80 percent is occupied by food and related products. Under current law, this term includes retail outlets with at least 16,000 square feet, of which at least 90 percent is occupied by food and related products.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill would decrease annual State revenues by up to \$50,000 associated with the expansion of the unlimited sales and use tax exemption for qualifying business purchases to include all supermarkets and grocery stores located within urban enterprise zones.

Under current law, qualified businesses located within urban enterprise zones are exempt from the sales and use tax on their first \$100,000 in annual qualifying business purchases. However, if the qualified business constitutes a supermarket or grocery store that is located within a designated food desert community, then all qualifying purchases made by the business are exempt from the sales and use tax. Under the bill, all supermarkets and grocery stores located within urban enterprise zones would also be eligible for the unlimited sales and use tax exemption. The bill also expands the definition of “supermarket or grocery store” to include any retail outlet with at least 16,000 square feet, of which at least 80 percent is occupied by food and related products; under current law, at least 90 percent of this space must be occupied by food and related products.

Consequently, the bill is expected to decrease annual sales and use tax collections by an amount equal to: (1) the number of supermarkets and grocery stores that are located within urban enterprise zones but outside of food desert communities; multiplied by (2) the annual value of taxes paid by

these entities on qualifying business purchases in excess of \$100,000, which purchases are taxed at the rate of 6.625 percent.

According to the DCA, the bill is expected to extend the unlimited sales and use tax exemption to approximately 38 additional supermarkets and grocery stores, which entities are located within urban enterprise zones, located outside of food desert communities, and maintain selling areas of at least 16,000 square feet. The DCA also indicated that of the supermarkets and grocery stores that are located within food desert communities, and thereby currently utilize the unlimited sales and use tax exemption, the average annual purchases made by each entity totaled approximately \$108,395. Based on this information, the OLS estimates that the bill would reduce annual sales and use tax collection by roughly \$21,134, or approximately \$556 per business entity, assuming that supermarkets and grocery stores located within urban enterprise zones exhibit similar purchasing patterns as those located within food desert communities.

As noted, the bill also expands the definition of “supermarket or grocery store” that is used to determine eligibility for the unlimited sales and use tax exemption. Under current law, this term is defined to include retail outlets with at least 16,000 square feet, of which at least 90 percent is occupied by food and related products. However, under the bill, this term would include those retail outlets with at least 16,000 square feet, of which at least 80 percent is occupied by food and related products. Accordingly, the bill may also increase the number of “supermarkets and grocery stores” that qualify for the unlimited sales and use tax exemption, including those located within food desert communities, to include otherwise eligible entities that dedicate between 80 percent and 90 percent of their selling areas to food and related products. However, the OLS is unable to determine how many additional supermarkets and grocery stores may qualify under this expanded definition.

*Section: Authorities, Utilities, Transportation and Communications*

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).