

# Food tax proposal gets frosty reception

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Writer

A proposal by the New Mexico Municipal League to reinstate taxes on food is spurring broad, bipartisan opposition from Democrats, Republicans and the Governor's Office.



Democrats say it would be a regressive tax on the poor for life's basic necessities.

Republican Gov. Susana Martinez has said it would fly in the face of her promise to impose no new taxes on New Mexicans.

Most food items were subject to state and local gross receipts taxes until they were exempted by the Legislature in 2004. But the Municipal League, which represents New Mexico's 105 cities and townships, says the proposal to restore the food tax should not be dismissed out of hand. And the group's executive director, Bill Fulginiti, says the proposal actually would result in an overall tax decrease.

Fulginiti said the group's proposal to tax food would allow the state to reduce its gross receipts tax on all goods from 5.125 percent to 5 percent, meaning consumers would pay a little less tax on goods and services overall, even though local government add-ons to the basic state rate push up gross receipts tax totals around the state.

That state tax cut, Fulginiti says, would offset the amount of tax most people would pay on food. Meanwhile, low-income New Mexicans using food stamps would continue to purchase food tax-free, Fulginiti said.

"For a family of four, they won't be paying more taxes by putting this (food tax) back on; they'll be paying less," Fulginiti said. "We would think if they (lawmakers) are sensible about this, they would want to reduce taxes."

The proposal to return to taxing food in New Mexico also is intended to stem perceived abuses by some cities and counties.

Some cities and counties raised their gross receipts tax add-ons to nonfood items after the Legislature in 2013 initiated a 17-year phaseout of the so-called hold-harmless payments from the state to local governments, which were intended to offset lost food tax revenues. They were allowed to raise local taxes by as much as three-eighths of 1 percent to raise to money to balance their revenues.

Ten counties and four cities have initiated their higher tax authorizations since 2013, although the 6 percent per year cuts to their hold-harmless payments have not yet begun. Those cuts are scheduled to begin in July.

Five of the counties that increased local taxes and one of the municipalities adopted the gross receipts tax increases even though they were exempted by the Legislature from hold-harmless payment cuts because of their small size, Fulginiti said.

Others have implemented new local taxes higher than the hold-harmless payments being cut. Otero County, for example, imposed a tax increment to generate \$2.4 million per year to offset its loss of less than \$390,000 in annual hold-harmless payments from the state, Fulginiti said.

Otero County Manager Pamela Heltner said she didn't "see it as an abuse" for Otero to raise more money in local taxes than it would lose through the hold-harmless phaseout. Heltner referred questions to Otero County Commission Chairwoman Susan Flores, who could not be reached for comment.

Fulginiti said the Municipal League proposal would eliminate the local tax option adopted in 2013.

Rep. Jim Trujillo, D-Santa Fe, said he is considering sponsoring a bill with the Municipal League's food tax proposal to spark a debate about what he and others see as unnecessary local tax increases.

"My main thing is this: That hold-harmless (phaseout) is so squirrely, we need to get rid of it once and for all," Trujillo said.

And, Trujillo said, "Our constituents will pay less gross receipts taxes."

Senate Finance Committee Chairman John Arthur Smith, D-Deming, said he would give the proposal a "robust" hearing after the Legislature convenes Jan. 20.

"I think it has some merit when you look at lowering the overall rates," the influential senator said.

But legislative leadership on both sides of the aisle and the Governor's Office recently said they'll oppose any proposal to tax food, despite the claim that the tax offers the potential of a net tax reduction.

Asked for comment on the potential for tax reductions, governor's spokesman Michael Lonergan repeated Martinez's opposition to raising the food tax. "The governor has long opposed (and continues to oppose) reinstating a tax on food and groceries in New Mexico," Lonergan said in an email.

That sentiment was echoed by Republican House Majority Leader Nate Gentry of Albuquerque.

"I don't think that we should be even considering raising taxes on life's necessities, such as food," Gentry said.

Democratic House Minority Leader Brian Egolf of Santa Fe said he is "confident" that Democrats would not support a food tax that "hurts the most vulnerable New Mexicans" and that the proposal is "dead on arrival."

Egolf said the Legislature should consider other ways to pay the Municipal League's proposal to change the hold-harmless payment phase-out.