

HOUSE JOINT MEMORIAL 47

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Edward C. Sandoval

A JOINT MEMORIAL

REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO CREATE A
PROPERTY TAX LIMITATION TASK FORCE TO DEVELOP SOLUTIONS TO
RESOLVE THE CONSTITUTIONAL AND STATUTORY ISSUES CAUSING
SHIFTING INEQUITIES IN PROPERTY TAXATION, CONFUSION AND
DIFFICULTY IN ADMINISTRATION OF PROPERTY TAX LAWS,
INEFFICIENCIES THAT POTENTIALLY COULD DISTORT THE REAL ESTATE
MARKET AND FURTHER SUPPRESS SALES OF RESIDENTIAL PROPERTY AND
INADEQUATE LOCAL GOVERNMENT FUNDING.

WHEREAS, in 1998, an amendment to Article 8, Section 1 of
the constitution of New Mexico requiring that a limitation on
residential properties be implemented was approved by the
people of New Mexico; and

WHEREAS, in 2000, Section 7-36-21.2 NMSA 1978 was enacted
to comply with the amended requirements of the constitution of

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1 New Mexico, and Section 7-36-21.3 NMSA 1978 provides another
2 limitation on property values for owner-occupied residential
3 properties for elderly, low-income or disabled home owners; and

4 WHEREAS, the limitation pursuant to Section 7-36-21.2 NMSA
5 1978 placed on the value of residential property that did not
6 have a change in ownership in the last year may not exceed an
7 increase of three percent per year; and

8 WHEREAS, pursuant to Section 7-36-21.2 NMSA 1978, upon a
9 change in ownership, the value of the property is increased to
10 the current and correct or market value of the property, and in
11 some counties in which market values of property have increased
12 more than three percent per year, the values of properties that
13 have changed ownership since 2002 have increased substantially
14 when valued at the current and correct values; and

15 WHEREAS, when the value of the property increases
16 substantially, the property taxes also increase; and

17 WHEREAS, approximately one-third of the residential
18 housing in New Mexico has changed ownership since 2001, and
19 serious inequities have developed in the tax system, with
20 similarly situated taxpayers having substantially different tax
21 burdens on very similar properties; and

22 WHEREAS, newly constructed homes are valued much
23 differently than older homes that come under the value
24 limitation; and

25 WHEREAS, two New Mexico district court cases decided in

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1 Bernalillo county have determined that Section 7-36-21.2 NMSA
2 1978 is unconstitutional, resulting in extreme increases in the
3 number of taxpayer protests regarding valuations and tax bills
4 seen in some counties, and a case is pending before the New
5 Mexico court of appeals to determine if, indeed, Section
6 7-36-21.2 NMSA 1978 is unconstitutional; and

7 WHEREAS, the rate-determining process lacks transparency
8 that results in uninformed taxpayers voting on bond issues that
9 promise not to raise their taxes but many times raise their
10 taxes anyway; and

11 WHEREAS, more and more taxpayers grow frustrated with
12 inexplicable annual increases in their property tax burden and
13 many are stunned by changes in their taxes, regardless of the
14 requirement adopted in 2009 that an estimate of property taxes
15 be provided to residential property purchasers; the taxes seem
16 to always increase, never decrease; and

17 WHEREAS, although the property tax division of the
18 taxation and revenue department has general supervision over
19 county assessors, the property tax division lacks the necessary
20 electronic connectivity with county assessors to share
21 information quickly, and many county assessors lack the
22 information and technical resources needed to create uniform
23 assessments across the state; and

24 WHEREAS, property taxes are the product of valuation
25 multiplied by the tax rates, and a correction of the limitation

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1 problem must address both of these factors; and

2 WHEREAS, property tax rates are also controlled by a
3 formula referred to as "yield control", but not all tax levies
4 are subject to control by the yield control formula; and

5 WHEREAS, limitations on valuation increases and decreases
6 inhibit the correct application of the yield control formula,
7 which was designed to reduce property tax rates as property
8 values increased; and

9 WHEREAS, local governments, especially counties, rely on
10 property taxes to provide essential services to their
11 communities and already find it difficult to fund the services
12 demanded by the taxpayers; and

13 WHEREAS, while counties have the greatest reliance on
14 property tax revenue, property taxes also provide essential
15 funds to municipalities, school districts, soil and water
16 conservation districts, conservancy districts, hospital
17 districts and other special districts for operations and
18 capital needs; and

19 WHEREAS, a solution to the property tax problems must
20 include the promise of adequate funds for local governments to
21 continue to provide services to the people;

22 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF NEW
23 MEXICO that the New Mexico legislative council create a
24 property tax limitation task force to address the many issues
25 arising from the administration of the property tax and the

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1 statutory and constitutional language now creating the
2 framework for the property tax; and

3 BE IT FURTHER RESOLVED that the New Mexico legislative
4 council charge the legislative council service with contracting
5 to convene the property tax limitation task force; and

6 BE IT FURTHER RESOLVED that the New Mexico legislative
7 council authorize the legislative council service and the
8 legislative finance committee to convene and staff the task
9 force and authorize the legislative council service to contract
10 with the arrowhead center at New Mexico state university to
11 assist with the task force; and

12 BE IT FURTHER RESOLVED that the New Mexico legislative
13 council appoint four members from each house of the legislature
14 with the appropriate ratio of majority and minority members and
15 a representative from the New Mexico tax research institute,
16 the taxation and revenue department, the department of finance
17 and administration, the New Mexico association of counties and
18 its assessors affiliate, the New Mexico municipal league, the
19 realtors association of New Mexico, members of the public with
20 knowledge of property tax law, the higher education department,
21 the public education department and others who have working
22 knowledge of the issues arising from the value limitation on
23 residential property and the Property Tax Code; and

24 BE IT FURTHER RESOLVED that the property tax limitation
25 task force report its progress and present its findings and

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1 proposed legislation to the revenue stabilization and tax
2 policy committee on or before October 31, 2010; and

3 BE IT FURTHER RESOLVED that copies of this memorial be
4 transmitted to the co-chairs of the New Mexico legislative
5 council; the directors of the legislative council service and
6 the legislative finance committee; the secretaries of taxation
7 and revenue, finance and administration, higher education and
8 public education; the directors of the arrowhead center at New
9 Mexico state university and the county assessors group; the
10 executive directors of the New Mexico tax research institute,
11 the New Mexico association of counties and the New Mexico
12 municipal league; and the executive vice president of the
13 realtors association of New Mexico.

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