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HOUSE JOINT MEMORIAL 42

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

FRANK BIRD

A JOINT MEMORIAL

REQUESTING AN AMENDMENT TO THE UNITED STATES CONSTITUTION ON THE
SUBJECT OF JUDICIAL TAXATION.

WHEREAS, separation of powers is fundamental to the United States constitution and the power of the federal government is strictly limited; and

WHEREAS, under the United States constitution, the states are to determine public policy; and

WHEREAS, it is the duty of the judiciary to interpret the law, not to create law; and

WHEREAS, our present federal government has strayed from the intent of our founding fathers and the United States constitution through inappropriate federal mandates; and

WHEREAS, these mandates by way of statute, rule or judicial decision have forced state governments to serve as mere

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1 administrative arms of the federal government; and

2 WHEREAS, federal district courts, with the acquiescence of
3 the United States supreme court, continue to order states to
4 levy or increase taxes to comply with federal mandates; and

5 WHEREAS, these court actions violate the United States
6 constitution and the legislative process; and

7 WHEREAS, the time has come for the people of this great
8 nation and their duly elected representatives in state
9 government to reaffirm, in no uncertain terms, that the
10 authority to tax under the United States constitution is
11 retained by the people who, by their consent alone, do delegate
12 such power to tax explicitly to those duly elected
13 representatives in the legislative branch of government they
14 choose, such representatives being directly responsible and
15 accountable to those who have elected them; and

16 WHEREAS, several states have petitioned congress to propose
17 an amendment to the United States constitution; and

18 WHEREAS, the amendment was previously introduced in
19 congress; and

20 WHEREAS, the amendment seeks to prevent federal courts from
21 levying or increasing taxes without representation of the people
22 and against the people's wishes;

23 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
24 STATE OF NEW MEXICO that congress be requested to prepare and
25 submit to the several states an amendment to the United States

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1 constitution to add a new article providing as follows:

2 "Neither the Supreme Court nor any inferior court of the
3 United States shall have the power to instruct or order a state
4 or a political subdivision thereof, or an official of such a
5 state or political subdivision, to levy or increase taxes."; and

6 BE IT FURTHER RESOLVED that this application constitute a
7 continuing application in accordance with Article V of the
8 United States constitution; and

9 BE IT FURTHER RESOLVED that the legislature of New Mexico
10 also propose that the legislatures of each of the several states
11 comprising the United States that have not yet made similar
12 request apply to congress requesting passage of an appropriate
13 amendment to the United States constitution, and apply to
14 congress to propose such an amendment to the United States
15 constitution; and

16 BE IT FURTHER RESOLVED that copies of this memorial be
17 transmitted to the president and vice president of the United
18 States, the presiding officer in each house of legislature in
19 each of the states in the union, the speaker of the United
20 States house of representatives, the president of United States
21 senate and each member of the New Mexico congressional
22 delegation.

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 4, 1997

Mr. Speaker:

Your VOTERS AND ELECTIONS COMMITTEE, to whom has
been referred

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has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
JUDICIARY COMMITTEE.

Respectfully submitted,

Edward C. Sandoval, Chairman

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FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Coll, Lujan, Nicely, Sanchez

Absent: None

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