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HOUSE BILL 858

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO TAXATION; ENACTING A METHOD FOR DETERMINING THE
VALUE OF RESIDENTIAL PROPERTY FOR PROPERTY TAXATION PURPOSES;
PRESCRIBING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 7-36-21.2 NMSA 1978 is enacted
to read:

"7-36-21.2. [NEW MATERIAL] SPECIAL METHOD OF VALUATION
FOR RESIDENTIAL PROPERTY. --

A. As used in this section:

(1) "change of ownership" means a transfer to
a transferee by a transferor of all or any part of the
transferor's legal or equitable ownership interest in
residential property except for a transfer:

(a) to a trustee for the beneficial use

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1 of the spouse of the transferor or the surviving spouse of a
2 deceased transferor;

3 (b) to the spouse of the transferor
4 that takes effect upon the death of the transferor;

5 (c) that creates, transfers or
6 terminates, solely between spouses, any co-owner's interest;

7 (d) to a child of the transferor;

8 (e) that confirms or corrects a
9 previous transfer made by a document that was recorded in the
10 real estate records of the county in which the real property
11 is located;

12 (f) for the purpose of quieting the
13 title to real property or resolving a disputed location of a
14 real property boundary;

15 (g) to a revocable trust by the
16 transferor with the transferor, the transferor's spouse or a
17 child of the transferor as beneficiary; or

18 (h) from a revocable trust described in
19 Subparagraph (g) of this paragraph back to the settlor or
20 trustor or to the beneficiaries of the trust; and

21 (2) "percent change P" means a percent equal
22 to the annual percentage change in the repeat sales house
23 price index for New Mexico published annually by the office of
24 federal housing enterprise oversight. If the annual figure
25 for the index is not available when the calculation is made,

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1 the most recently available four quarters indices shall be
2 averaged and compared to the average of the same four quarters
3 for the preceding year.

4 B. The value of residential property for property
5 taxation purposes is:

6 (1) if no change of ownership of the property
7 occurred in the year immediately prior to the year for which
8 the value of the property for property taxation purposes is
9 being determined, the value determined for property taxation
10 purposes in the immediately prior year:

11 (a) plus or minus an increment of value
12 determined by multiplying the immediately prior year's value
13 for property taxation purposes by percent change P for the
14 year for which valuation is being determined;

15 (b) plus the value of any physical
16 improvements made to the property during the immediately
17 preceding tax year; and

18 (c) minus the decrease in value of the
19 property from the immediately preceding tax year determined
20 pursuant to Section 7-38-13 NMSA 1978;

21 (2) if a change of ownership of the property
22 occurred in the year immediately prior to the year for which
23 the value of the property for property taxation purposes is
24 being determined, the full consideration received by the
25 transferor as disclosed pursuant to Section 7-38-12.1 NMSA

underscored material = new
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1 1978, plus the value of any physical improvements made to the
2 property during the immediately preceding tax year less any
3 decrease in value occurring during that year; or

4 (3) the value determined pursuant to
5 Paragraph (1) or (2) of this subsection, adjusted pursuant to
6 Section 7-36-21.3 NMSA 1978, if that provision is applicable.

7 C. The county assessor shall enter on the
8 valuation records the valuations determined in accordance with
9 Paragraphs (1) and (2) of Subsection B of this section."

10 Section 2. A new Section 7-36-21.3 NMSA 1978 is enacted
11 to read:

12 "7-36-21.3. [NEW MATERIAL] ADJUSTMENT OF VALUATION OF
13 RESIDENTIAL PROPERTY UNDER CERTAIN CIRCUMSTANCES. --

14 A. If a county assessor determines that the total
15 valuation of residential property for property taxation
16 purposes in the county exceeds the valuation that would have
17 resulted in the absence of the application of Section
18 7-36-21.2 NMSA 1978, he shall apply to the secretary for an
19 order authorizing the assessor to reassess all residential
20 property in the county or to apply a percentage adjustment of
21 valuation to all residential property in the county. This
22 percentage shall be calculated to reduce the valuation of
23 residential property to the value that would have resulted in
24 the absence of the application of Section 7-36-21.2 NMSA 1978.

25 B. If a county assessor determines that special

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1 and unusual circumstances have occurred that have caused
2 residential property values for property taxation purposes in
3 the county to increase or decrease to an average level
4 markedly above or below the average level in the immediately
5 preceding tax year, he shall apply to the secretary for an
6 order authorizing the assessor to reassess all residential
7 property in the county or to apply a percentage adjustment of
8 valuation to all residential property in the county. This
9 percentage shall be calculated to reduce or increase the
10 valuation of residential property in the county to the value
11 that would have resulted in the absence of the application of
12 the special and unusual circumstances. "

13 Section 3. A new Section 7-38-12.1 NMSA 1978 is enacted
14 to read:

15 "7-38-12.1. [NEW MATERIAL] PROPERTY TRANSFERS--AFFIDAVIT
16 TO BE FILED WITH COUNTY CLERK--CONFIDENTIALITY--PENALTIES.--

17 A. After January 1, 2000, a county clerk and his
18 employees shall neither accept for recording nor record any
19 deed, real estate contract or memorandum of real estate
20 contract transferring or evidencing the transfer of any
21 interest in real property unless the person presenting the
22 deed, real estate contract or memorandum of real estate
23 contract for recording presents at the same time an affidavit
24 signed and completed in accordance with the provisions of
25 Subsection B of this section.

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1 B. The affidavit required for submission at the
2 time of recording a deed, real estate contract or memorandum
3 of real estate contract shall be in a form approved by the
4 department and signed by the transferors and transferees of
5 any interest in real property transferred by deed or real
6 estate contract. The affidavit shall contain at least the
7 following information:

8 (1) the complete names of all transferors and
9 transferees;

10 (2) the current mailing addresses of the
11 transferors and transferees;

12 (3) the legal description of the real
13 property interest transferred as it appears in the document of
14 transfer; and

15 (4) the full consideration, including money
16 or any other thing of value, paid or exchanged for the
17 transfer.

18 C. Upon receipt of the affidavit required by
19 Subsection A of this section, the county clerk shall place the
20 date of receipt on the original affidavit. The county clerk
21 shall retain the original affidavit as a permanent record and
22 send a copy to the county assessor. The assessor shall index
23 the affidavit copies in a manner that permits cross-
24 referencing to other records in the assessor's office
25 pertaining to the specific property described in the

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1 affidavit. The affidavit and its contents are confidential
2 and shall not be disclosed except:

3 (1) to an employee in the clerk's office or
4 the assessor's office or an employee of the department, if the
5 employee has a demonstrated need for the information in
6 carrying out his official duties;

7 (2) to real estate appraisers certified,
8 licensed or registered in New Mexico who have a demonstrated
9 need for the information in carrying out their duties in
10 accordance with approved standards as defined by the real
11 estate appraisers board;

12 (3) under an order of a court of competent
13 jurisdiction;

14 (4) in connection with a protest pursuant to
15 Section 7-38-21 NMSA 1978; or

16 (5) for statistical purposes if used in a way
17 that the information disclosed is not identifiable or
18 identified as applicable to any property owner or person in
19 possession of the property.

20 D. The affidavit required by Subsection A of this
21 section shall not be required for:

22 (1) a deed that results from the payment in
23 full or forfeiture by a transferee under a recorded real
24 estate contract or recorded memorandum of real estate
25 contract;

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1 (2) a lease of or easement on real property,
2 regardless of the length of term;

3 (3) a deed, patent or contract for sale or
4 transfer of real property in which an agency or representative
5 of the United States, New Mexico or any political subdivision
6 of the state is the named grantor or grantee and authorized
7 transferor or transferee;

8 (4) a quitclaim deed to quiet title or clear
9 boundary disputes;

10 (5) a conveyance of real property executed
11 pursuant to court order;

12 (6) a deed to an unpatented mining claim;

13 (7) an instrument solely to provide or
14 release security for a debt or obligation;

15 (8) an instrument that confirms or corrects a
16 deed previously recorded;

17 (9) an instrument between husband, wife or
18 parent and child with only nominal actual consideration
19 therefor;

20 (10) an instrument arising out of a sale for
21 delinquent taxes or assessments;

22 (11) an instrument accomplishing a partition;

23 (12) an instrument arising out of a merger or
24 incorporation;

25 (13) an instrument by a subsidiary

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1 corporation to its parent corporation for no consideration,
2 nominal consideration or in sole consideration of the
3 cancellation or surrender of the subsidiary's stock;

4 (14) an instrument from a person to a trustee
5 or from a trustee to a trust beneficiary with only nominal
6 actual consideration therefor;

7 (15) an instrument to or from an intermediary
8 for the purpose of creating a joint tenancy estate or some
9 other form of ownership; or

10 (16) an instrument delivered to establish a
11 gift or a distribution from an estate of a decedent or trust.

12 E. Prior to November 1, 1999, the department shall
13 print and distribute to each county clerk affidavit forms for
14 distribution to the public upon request.

15 F. A person who discloses an affidavit or its
16 contents in violation of the provisions of Subsection C of
17 this section is guilty of a misdemeanor and upon conviction
18 shall be sentenced in accordance with the provisions of
19 Section 31-19-1 NMSA 1978. "

20 Section 4. APPLICABILITY. --The provisions of this act
21 apply to the 2000 and subsequent property tax years.

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
3
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6 March 8, 1999
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8 Mr. Speaker:
9

10 Your TAXATION AND REVENUE COMMITTEE, to whom has
11 been referred
12

13 HOUSE BILL 858
14

15 has had it under consideration and reports same with
16 recommendation that it DO NOT PASS, but that

17 HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE
18 HOUSE BILL 858
19

20 DO PASS, amended as follows:
21

22 1. On page 7, line 23, strike the word "reassees" and
23 insert in lieu thereof the word "reassess".
24
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 CSHB 858

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Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Burpo, Silva

Absent: Stell

J:\99BillsWP\H0858

1 HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
2 HOUSE BILL 858
3 **44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**
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9 AN ACT

10 RELATING TO TAXATION; ENACTING A METHOD FOR DETERMINING THE
11 VALUE OF RESIDENTIAL PROPERTY FOR PROPERTY TAXATION PURPOSES;
12 LIMITING VALUATION INCREASES; REQUIRING DISCLOSURE OF SALES
13 PRICE INFORMATION.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 Section 1. Section 7-36-16 NMSA 1978 (being Laws 1973,
16 Chapter 258, Section 18) is amended to read:

17 "7-36-16. RESPONSIBILITY OF COUNTY ASSESSORS TO
18 DETERMINE AND MAINTAIN CURRENT AND CORRECT VALUES OF
19 PROPERTY. --

20 A. Except as provided in Sections 7-36-21.2 and
21 7-36-21.3 NMSA 1978 county assessors shall determine values of
22 property for property taxation purposes in accordance with the
23 Property Tax Code and the regulations, orders, rulings and
24 instructions of the department. They shall also implement a
25 program of updating property values so that current and
correct values of property are maintained and shall have sole

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responsibility and authority at the county level for property valuation maintenance, subject only to the general supervisory powers of the director.

1 B. The director shall implement a program of
2 regular evaluation of county assessors' valuation activities
3 with particular emphasis on the maintenance of current and
4 correct values.

5 C. Upon request of the county assessor, the
6 director may contract with a board of county commissioners for
7 the department to assume all or part of the responsibilities,
8 functions and authority of a county assessor to establish or
9 operate a property valuation maintenance program in the
10 county. The contract shall be in writing and shall include
11 provisions for the sharing of the program costs between the
12 county and the department. The contract must include specific
13 descriptions of the objectives to be reached and the tasks to
14 be performed by the contracting parties. The initial term of
15 any contract authorized under this subsection shall not extend
16 beyond the end of the fiscal year following the fiscal year in
17 which it is executed, but contracts may be renewed for
18 additional one-year periods for succeeding years.

19 D. The department of finance and administration
20 shall not approve the operating budget of any county in which
21 there is not an adequate allocation of funds to the county
22 assessor for the purpose of fulfilling his responsibilities
23 for property valuation maintenance under this section. If the
24 department of finance and administration questions the
25 adequacy of any allocation of funds for this purpose, it shall
consult with the department, the board of county commissioners
and the county assessor in making its determination of
adequacy.

E. To aid the board of county commissioners in

1 determining whether a county assessor is operating an
2 efficient program of property valuation maintenance and in
3 determining the amount to be allocated to him for this
4 function, the county assessor [~~must~~] shall present with his
5 annual budget request a written report setting forth
6 improvements of property added to valuation records during the
7 year, additions of new property to valuation records during
8 the year, increases and decreases of valuation during the
9 year, the relationship of sales prices of property sold to
10 values of the property for property taxation purposes and the
11 current status of the overall property valuation maintenance
12 program in the county. The county assessor shall send a copy
13 of this report to the department."

14 Section 2. A new Section 7-36-21.2 NMSA 1978 is enacted
15 to read:

16 "7-36-21.2. [NEW MATERIAL] SPECIAL METHOD OF VALUATION
17 FOR RESIDENTIAL PROPERTY. --

18 A. As used in this section:

19 (1) "change of ownership" means a transfer to
20 a transferee by a transferor of all or any part of the
21 transferor's legal or equitable ownership interest in
22 residential property except for a transfer:

23 (a) to a trustee for the beneficial use
24 of the spouse of the transferor or the surviving spouse of a
25 deceased transferor;

(b) to the spouse of the transferor
that takes effect upon the death of the transferor;

(c) that creates, transfers or

1 terminates, solely between spouses, any co-owner's interest;

2 (d) to a child of the transferor;

3 (e) that confirms or corrects a
4 previous transfer made by a document that was recorded in the
5 real estate records of the county in which the real property
6 is located;

7 (f) for the purpose of quieting the
8 title to real property or resolving a disputed location of a
9 real property boundary;

10 (g) to a revocable trust by the
11 transferor with the transferor, the transferor's spouse or a
12 child of the transferor as beneficiary; or

13 (h) from a revocable trust described in
14 Subparagraph (g) of this paragraph back to the settlor or
15 trustor or to the beneficiaries of the trust; and

16 (2) "percent change P" means a percent equal
17 to the annual percentage change in the repeat sales house
18 price index for New Mexico published annually by the office of
19 federal housing enterprise oversight. If the annual figure
20 for the index is not available when the calculation is made,
21 the most recently available four quarters indices shall be
22 averaged and compared to the average of the same four quarters
23 for the preceding year.

24 B. Except as provided in Subsection C of this
25 section, the value of residential property for property
26 taxation purposes is:

(1) if no change of ownership of the property
occurred in the year immediately prior to the year for which

underscored material = new
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1 the value of the property for property taxation purposes is
2 being determined, the value determined for property taxation
3 purposes in the immediately prior year:

4 (a) plus or minus an increment of value
5 determined by multiplying the immediately prior year's value
6 for property taxation purposes by percent change P for the
7 year for which valuation is being determined;

8 (b) plus the value of any physical
9 improvements made to the property during the immediately
10 preceding tax year; and

11 (c) minus the decrease in value of the
12 property from the immediately preceding tax year determined
13 pursuant to Section 7-38-13 NMSA 1978;

14 (2) if a change of ownership of the property
15 occurred in the year immediately prior to the year for which
16 the value of the property for property taxation purposes is
17 being determined, the full consideration received by the
18 transferor as disclosed pursuant to Section 7-38-12.1 NMSA
19 1978, plus the value of any physical improvements made to the
20 property during the immediately preceding tax year less any
21 decrease in value occurring during that year; or

22 (3) the value determined pursuant to
23 Paragraph (1) or (2) of this subsection, adjusted pursuant to
24 Section 7-36-21.3 NMSA 1978, if that provision is applicable.

25 C. If a county has a sales-ratio determined
pursuant to Sections 7-36-16 and 7-36-18 NMSA 1978, of less
than eighty-five hundredths, the assessor shall value
residential property for the 2001 property tax year pursuant

1 to Section 7-36-15 NMSA 1978. For subsequent years the
 2 assessor shall value residential property pursuant to
 3 Subsection B of this section unless the county's sales ratio
 4 remains below eighty-five hundredths. In the first property
 5 tax year after a county's sales-ratio has reached or exceeded
 6 eighty-five hundredths and for all property tax years
 7 subsequent to that year, the assessor shall value residential
 property pursuant to Subsection B of this section.

8 D. If the method of valuation specified in this
 9 section is applied to an owner's residential property, the
 10 owner may protest the valuation on the basis that the value
 11 determined exceeds fair market value of the property based on
 12 evidence presented by the owner. The procedures specified in
 13 Sections 7-38-21 through 7-38-29 NMSA 1978 shall apply to
 protests filed pursuant to this subsection.

14 E. The county assessor shall enter on the
 15 valuation records the valuations determined in accordance with
 16 Paragraphs (1) and (2) of Subsection B of this section."

17 Section 3. A new Section 7-36-21.3 NMSA 1978 is enacted
 18 to read:

19 "7-36-21.3. [NEW MATERIAL] ADJUSTMENT OF VALUATION OF
 20 RESIDENTIAL PROPERTY UNDER CERTAIN CIRCUMSTANCES. --

21 A. Except as provided in Subsection C of Section
 22 7-36-21.2 NMSA 1978, if a county assessor determines that the
 23 total valuation of residential property for property taxation
 24 purposes in the county exceeds the valuation that would have
 25 resulted in the absence of the application of Section
 7-36-21.2 NMSA 1978, he shall apply to the secretary for an

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1 order authorizing the assessor to reassess all residential
2 property in the county or to apply a percentage adjustment of
3 valuation to all residential property in the county. This
4 percentage shall be calculated to reduce the valuation of
5 residential property to the value that would have resulted in
6 the absence of the application of Section 7-36-21.2 NMSA 1978.

7 B. Except as provided in Subsection C of section
8 7-36-21.2 NMSA 1978, if a county assessor determines that
9 special and unusual circumstances have occurred that have
10 caused residential property values for property taxation
11 purposes in the county to increase or decrease to an average
12 level markedly above or below the average level in the
13 immediately preceding tax year, he shall apply to the
14 secretary for an order authorizing the assessor to reassess
15 all residential property in the county or to apply a
16 percentage adjustment of valuation to all residential property
17 in the county. This percentage shall be calculated to reduce
18 or increase the valuation of residential property in the
19 county to the value that would have resulted in the absence of
20 the application of Section 7-36-21.2 NMSA 1978. "

21 Section 4. A new Section 7-38-12.1 NMSA 1978 is enacted
22 to read:

23 "7-38-12.1. [NEW MATERIAL] PROPERTY TRANSFERS--AFFIDAVIT
24 TO BE FILED WITH ASSESSOR. --

25 A. After January 1, 2000, a county clerk and his
employees shall neither accept for recording nor record any
deed, real estate contract or memorandum of real estate
contract transferring or evidencing the transfer of any

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1 interest in real property unless the person presenting the
2 deed, real estate contract or memorandum of real estate
3 contract for recording presents at the same time an affidavit
4 signed and completed in accordance with the provisions of
5 Subsection B of this section.

6 B. The affidavit required for submission at the
7 time of recording a deed, real estate contract or memorandum
8 of real estate contract shall be in a form approved by the
9 department and signed by the transferors and transferees of
10 any interest in real property transferred by deed or real
11 estate contract. The affidavit shall contain at least the
12 following information:

13 (1) the complete names of all transferors and
14 transferees;

15 (2) the current mailing addresses of the
16 transferors and transferees;

17 (3) the legal description of the real
18 property interest transferred as it appears in the document of
19 transfer; and

20 (4) the full consideration, including money
21 or any other thing of value, paid or exchanged for the
22 transfer.

23 C. Upon receipt of the affidavit required by
24 Subsection A of this section, the county clerk shall place the
25 date of receipt on the original affidavit. The county clerk
shall send the original affidavit to the county assessor to be
retained as a permanent record and shall keep a copy for proof
of compliance. The assessor shall index the affidavits in a

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1 manner that permits cross-referencing to other records in the
2 assessor's office pertaining to the specific property
3 described in the affidavit. The affidavit and its contents
4 are part of the valuation record of the assessor.

5 D. The affidavit required by Subsection A of this
6 section shall not be required for:

7 (1) a deed that results from the payment in
8 full or forfeiture by a transferee under a recorded real
9 estate contract or recorded memorandum of real estate
10 contract;

11 (2) a lease of or easement on real property,
12 regardless of the length of term;

13 (3) a deed, patent or contract for sale or
14 transfer of real property in which an agency or representative
15 of the United States, New Mexico or any political subdivision
16 of the state is the named grantor or grantee and authorized
17 transferor or transferee;

18 (4) a quitclaim deed to quiet title or clear
19 boundary disputes;

20 (5) a conveyance of real property executed
21 pursuant to court order;

22 (6) a deed to an unpatented mining claim;

23 (7) an instrument solely to provide or
24 release security for a debt or obligation;

25 (8) an instrument that confirms or corrects a
deed previously recorded;

(9) an instrument between husband, wife or
parent and child with only nominal actual consideration

1 therefor;

2 (10) an instrument arising out of a sale for
3 delinquent taxes or assessments;

4 (11) an instrument accomplishing a partition;

5 (12) an instrument arising out of a merger or
6 incorporation;

7 (13) an instrument by a subsidiary
8 corporation to its parent corporation for no consideration,
9 nominal consideration or in sole consideration of the
10 cancellation or surrender of the subsidiary's stock;

11 (14) an instrument from a person to a trustee
12 or from a trustee to a trust beneficiary with only nominal
13 actual consideration therefor;

14 (15) an instrument to or from an intermediary
15 for the purpose of creating a joint tenancy estate or some
16 other form of ownership; or

17 (16) an instrument delivered to establish a
18 gift or a distribution from an estate of a decedent or trust.

19 E. Prior to November 1, 1999, the department shall
20 print and distribute to each county clerk affidavit forms for
21 distribution to the public upon request. "

22 Section 5. APPLICABILITY. --The provisions of Sections 1
23 through 3 of this act apply to the 2001 and subsequent
24 property tax years.

25 Section 6. EFFECTIVE DATE. --The effective date of the
provisions of this act is July 1, 1999.

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HTRC/HB 858

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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

March 15, 1999

Mr. President:

Your WAYS & MEANS COMMITTEE, to whom has been referred
HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 858, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Carlos R. Cisneros, Chairman

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 1 Against

Yes: 7

No: Rawson

Excused: Carraro

Absent: None

H0858WM1

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