

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR  
HOUSE JOINT MEMORIAL 47

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

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 authorize the legislative council service and the  
5 legislative finance committee to convene and staff the task  
6 force; and

7 BE IT FURTHER RESOLVED that the New Mexico legislative  
8 council appoint four members from each house of the legislature  
9 with the appropriate ratio of majority and minority members, a  
10 representative from the New Mexico tax research institute, the  
11 taxation and revenue department, the department of finance and  
12 administration, the New Mexico association of counties and its  
13 assessors affiliate, the New Mexico municipal league, the  
14 realtors association of New Mexico, the higher education  
15 department and the public education department and two members  
16 of the public with knowledge of property tax law; and

17 BE IT FURTHER RESOLVED that the property tax limitation  
18 task force report its progress and present its findings and  
19 proposed legislation to the revenue stabilization and tax  
20 policy committee on or before October 31, 2010; and

21 BE IT FURTHER RESOLVED that copies of this memorial be  
22 transmitted to the co-chairs of the New Mexico legislative  
23 council; the directors of the legislative council service and  
24 the legislative finance committee; the secretaries of taxation  
25 and revenue, finance and administration, higher education and

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1 public education; the executive directors of the New Mexico tax  
2 research institute, the New Mexico association of counties, the  
3 county assessors group and the New Mexico municipal league; and  
4 the executive vice president of the realtors association of New  
5 Mexico.

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