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HOUSE MEMORIAL 53

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

INTRODUCED BY

Miguel P. Garcia

A MEMORIAL

REQUESTING THE REGULATION AND LICENSING DEPARTMENT TO ADOPT A  
PLAN TO ABOLISH THE LEASING OF LIQUOR LICENSES.

WHEREAS, the Liquor Control Act was enacted in 1981 and  
attempted to make significant changes in the liquor regulation  
policy of the state, including reaffirming that a liquor  
licensee had no property right in its liquor license; and

WHEREAS, Senate Bill 225, enacted as Laws 1981, Chapter  
39, allowed a ten-year period in which liquor licenses  
obtained prior to the effective date of that act could be  
transferred outside of the licensee's local option district or  
a tax credit could be claimed by the licensee against taxes  
owed to the state by the licensee of up to thirty thousand  
dollars (\$30,000) per year, a provision found to be  
unconstitutional in *Chronis v. Rodriguez*; and

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1           WHEREAS, the leasing of liquor licenses is a practice  
2 that results from the concept that, as among private  
3 individuals, there is a certain amount of value vested in a  
4 liquor license and was incorporated into the language of the  
5 law in 1991 when the legislature changed the law to  
6 accommodate the interests of certain liquor licensees; and

7           WHEREAS, the policy of the state should not permit  
8 leasing or subleasing of a liquor license because the public  
9 loses its ability to protest or review a lessee to determine  
10 the character and fitness of that person to operate a license;  
11 and

12           WHEREAS, no notice is required to be posted and no  
13 hearing is required to allow public input on the proposed  
14 lease and so the public is seldom forewarned about the change  
15 in operators of the license; and

16           WHEREAS, leasing of liquor licenses is a vestige of the  
17 property right that was attributed to liquor licenses before  
18 1981 and is not in keeping with the intent of the 1981 law;

19           NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF  
20 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the alcohol  
21 and gaming division of the regulation and licensing department  
22 be requested to develop a plan to abolish the practice of  
23 leasing liquor licenses; and

24           BE IT FURTHER RESOLVED that the policy of the state be  
25 consistent with the intent stated in Laws 1981, Chapter 39,

1 Section 36, which stated that the holder of any license issued  
2 under the Liquor Control Act or any former act has no vested  
3 property right in the license, which is the property of the  
4 state; and

5 BE IT FURTHER RESOLVED that copies of this memorial be  
6 transmitted to the superintendent of regulation and licensing  
7 and the alcohol and gaming division.

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