

HOUSE BILL 377

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; ALLOWING AN AUTHORIZED ENTITY TO USE A  
FIGURE LOWER THAN THE RATE OF INFLATION FOR PURPOSES OF  
CALCULATING THE GROWTH CONTROL FACTOR.

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

**SECTION 1.** Section 7-37-7.1 NMSA 1978 (being Laws 1979,  
Chapter 268, Section 1, as amended) is amended to read:

"7-37-7.1. ADDITIONAL LIMITATIONS ON PROPERTY TAX  
RATES.--

A. Except as provided in Subsections D and E of  
this section, in setting the general property tax rates for  
residential and nonresidential property authorized in  
Subsection B of Section 7-37-7 NMSA 1978, the other rates and  
impositions authorized in Paragraphs (2) and (3) of Subsection  
C of Section 7-37-7 NMSA 1978, except the portion of the rate  
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1 authorized in Paragraph (1) of Subsection A of Section 4-48B-12  
2 NMSA 1978 used to meet the requirements of Section 27-10-4 NMSA  
3 1978, and benefit assessments authorized by law to be levied  
4 upon net taxable value of property, assessed value or a similar  
5 term, neither the department of finance and administration nor  
6 any other entity authorized to set or impose a rate or  
7 assessment shall set a rate or impose a tax or assessment that  
8 will produce revenue from either residential or nonresidential  
9 property in a particular governmental unit in excess of the sum  
10 of a dollar amount derived by multiplying the appropriate  
11 growth control factor by the revenue due from the imposition on  
12 residential or nonresidential property, as appropriate, for the  
13 prior property tax year in the governmental unit of the rate,  
14 imposition or assessment for the specified purpose plus, for  
15 the calculation for the rate authorized for county operating  
16 purposes by Subsection B of Section 7-37-7 NMSA 1978 with  
17 respect to residential property, any applicable tax rebate  
18 adjustment. The calculation described in this subsection shall  
19 be separately made for residential and nonresidential property.  
20 Except as provided in Subsections D and E of this section, no  
21 tax rate or benefit assessment that will produce revenue from  
22 either class of property in a particular governmental unit in  
23 excess of the dollar amount allowed by the calculation shall be  
24 set or imposed. The rates imposed pursuant to Sections 7-32-4  
25 and 7-34-4 NMSA 1978 shall be the rates for nonresidential

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1 property that would have been imposed but for the limitations  
2 in this section. As used in this section, "growth control  
3 factor" is a percentage equal to the sum of "percent change I"  
4 plus V where:

5 (1)  $V = \frac{\text{base year value} + \text{net new value}}{\text{base year value}}$ ,  
6

7 expressed as a percentage, but if the percentage calculated is  
8 less than one hundred percent, then V shall be set and used as  
9 one hundred percent;

10 (2) "base year value" means the value for  
11 property taxation purposes of all residential or nonresidential  
12 property, as appropriate, subject to valuation under the  
13 Property Tax Code in the governmental unit for the specified  
14 purpose in the prior property tax year;

15 (3) "net new value" means the additional value  
16 of residential or nonresidential property, as appropriate, for  
17 property taxation purposes placed on the property tax schedule  
18 in the current year resulting from the elements in  
19 Subparagraphs (a) through (d) of this paragraph reduced by the  
20 value of residential or nonresidential property, as  
21 appropriate, removed from the property tax schedule in the  
22 current year and, if applicable, the reductions described in  
23 Subparagraph (e) of this paragraph:

24 (a) residential or nonresidential  
25 property, as appropriate, valued in the current year that was

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1 not valued at all in the prior year;

2 (b) improvements to existing residential  
3 or nonresidential property, as appropriate;

4 (c) additions to residential or  
5 nonresidential property, as appropriate, or values that were  
6 omitted from previous years' property tax schedules even if  
7 part or all of the property was included on the schedule, but  
8 no additions of values attributable to valuation maintenance  
9 programs or reappraisal programs shall be included;

10 (d) additions to nonresidential property  
11 due to increases in annual net production values of mineral  
12 property valued in accordance with Section 7-36-23 or 7-36-25  
13 NMSA 1978 or due to increases in market value of mineral  
14 property valued in accordance with Section 7-36-24 NMSA 1978;  
15 and

16 (e) reductions to nonresidential  
17 property due to decreases in annual net production values of  
18 mineral property valued in accordance with Section 7-36-23 or  
19 7-36-25 NMSA 1978 or due to decreases in market value of  
20 mineral property valued in accordance with Section 7-36-24 NMSA  
21 1978; and

22 (4) "percent change I" means:

23 (a) a percent not in excess of five  
24 percent that is derived by dividing the annual implicit price  
25 deflator index for state and local government purchases of

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1 goods and services, as published in the United States  
2 department of commerce monthly publication entitled "survey of  
3 current business" or any successor publication, for the  
4 calendar year next preceding the prior calendar year into the  
5 difference between the prior year's comparable annual index and  
6 that next preceding year's annual index if that difference is  
7 an increase, and if the difference is a decrease, the "percent  
8 change I" is zero. In the event that the annual implicit price  
9 deflator index for state and local government purchases of  
10 goods and services is no longer prepared or published by the  
11 United States department of commerce, the department shall  
12 adopt by regulation the use of any comparable index prepared by  
13 any agency of the United States; or

14 (b) a numerical figure that an entity  
15 authorized to set or impose a rate or assessment requests, in a  
16 manner prescribed by the department of finance and  
17 administration; provided that the numerical figure is less than  
18 the amount prescribed pursuant to Subparagraph (a) of this  
19 paragraph.

20 B. If, as a result of the application of the  
21 limitation imposed under Subsection A of this section, a  
22 property tax rate for residential or nonresidential property,  
23 as appropriate, authorized in Subsection B of Section 7-37-7  
24 NMSA 1978 is reduced below the maximum rate authorized in that  
25 subsection, no governmental unit or entity authorized to impose

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1 a tax rate under Paragraph (2) of Subsection C of Section  
2 7-37-7 NMSA 1978 shall impose any portion of the rate  
3 representing the difference between a maximum rate authorized  
4 under Subsection B of Section 7-37-7 NMSA 1978 and the reduced  
5 rate resulting from the application of the limitation imposed  
6 under Subsection A of this section.

7 C. If the net new values necessary to make the  
8 computation required under Subsection A of this section are not  
9 available for any governmental unit at the time the calculation  
10 must be made, the department of finance and administration  
11 shall use a zero amount for net new values when making the  
12 computation for the governmental unit.

13 D. Any part of the maximum tax rate authorized for  
14 each governmental unit for residential and nonresidential  
15 property by Subsection B of Section 7-37-7 NMSA 1978 that is  
16 not imposed for a governmental unit for any property tax year  
17 for reasons other than the limitation required under Subsection  
18 A of this section may be authorized by the department of  
19 finance and administration to be imposed for that governmental  
20 unit for residential and nonresidential property for the  
21 following tax year subject to the restriction of Subsection D  
22 of Section 7-38-33 NMSA 1978.

23 E. If the base year value necessary to make the  
24 computation required under Subsection A of this section is not  
25 available for any governmental unit at the time the calculation

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1 must be made, the department of finance and administration  
2 shall set a rate for residential and nonresidential property  
3 that will produce in that governmental unit a dollar amount  
4 that is not in excess of the property tax revenue due for all  
5 property for the prior property tax year for the specified  
6 purpose of that rate in that governmental unit.

7 F. For the purposes of this section:

8 (1) "nonresidential property" does not include  
9 any property upon which taxes are imposed pursuant to the Oil  
10 and Gas Ad Valorem Production Tax Act, the Oil and Gas  
11 Production Equipment Ad Valorem Tax Act or the Copper  
12 Production Ad Valorem Tax Act; and

13 (2) "tax rebate adjustment" means, for those  
14 counties that have an ordinance in effect providing the  
15 property tax rebate pursuant to the Income Tax Act for the  
16 property tax year and that have not imposed for the property  
17 tax year either a property tax, the revenue from which is  
18 pledged for payment of the income tax revenue reduction  
19 resulting from the provision of the property tax rebate, or a  
20 property transfer tax, the estimated amount of the property tax  
21 rebate to be allowed with respect to the property tax year, and  
22 for any other governmental unit or purpose, zero; provided that  
23 any estimate of property tax rebate to be allowed is subject to  
24 review for appropriateness and approval by the department of  
25 finance and administration."

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SECTION 2. APPLICABILITY.--The provisions of this act apply to assessments or rates imposed for taxable years beginning on or after January 1, 2014.

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.