FISCAL IMPACT REPORT

ORIGINAL DATE 2/10/2020
SPONSOR Lopez **LAST UPDATED** **HB**

SHORT TITLE Property Tax Changes for Certain Persons, CA **SJR** 8

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22	FY23	FY24		
	See Fiscal Impact for discussion of impacts if passed by electorate				Recurring	County Treasurers, School Districts, Municipal Treasurers, State GO bond fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	$125.0 -$150.0		$125.0-$150.0	Non-recurring	General Fund (Secretary of State)

Parenthesis ( ) indicate expenditure decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Office of the Attorney General (NMAG)
Taxation and Revenue Department (TRD)

No Response Received
Association of Counties
Department of Finance and Administration, Local Government Division (DFA/LGD)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 8 proposes an amendment to Article 8 of the Constitution of New Mexico that would require the legislature to exempt between 50 percent and 100 percent of the value of residential property for individuals 70 years of age or older, who have modified gross income of $34 thousand or less and have owned the property for at least 15 consecutive years. The exemption would be 50 percent for a person who is at least 70 years of age and less than 75 years of age, 75 percent for a person 75 years and less than 80, and 100 percent for a person 80 years or older.

The effective date is not specified; 90 days following adjournment (May 20, 2020). The amendment proposed by this resolution shall be submitted at the next general election or at any special election.

FISCAL IMPLICATIONS

This joint resolution has no direct fiscal impact. If the joint resolution is approved by the voters, the legislature would enact enabling legislation in the session following passing. This implementing or enabling legislations would have substantial fiscal impact on advantaged taxpayers. See Fiscal Implications below for more information.

Under Section 1-16-13 NMSA 1978 and the New Mexico constitution, the SoS is required to print samples of the text of each constitutional amendment, in both Spanish and English, in an amount equal to ten percent of the registered voters in the state. The SoS is also required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. The estimated cost per constitutional amendment is $125-$150 thousand depending upon the size and number of ballots and if additional ballot stations are needed.

The underlying premise of this proposed constitutional amendment may be counter to the LFC tax policy principle of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures, revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

Property tax exemption bills are particularly difficult to analyze. Property tax operating rates are subject to adjustment in each jurisdiction based on the amount of new construction and a concept called "valuation maintenance" to account for natural inflation of property values. One certainty of this proposal if authorized by the people is that assessments would decrease and bonding capacity in each jurisdiction would decrease. As TRD notes, there would be a general fund impact from gains attributed to individuals no longer qualifying for the low income property tax credit at 7-2-18 NMSA 1978. Los Alamos and Santa Fe Counties would also experience revenue gains from the implementation of the local option circuit breaker of 7-2-14.3 NMSA 1978. In addition, 7-36-21.3 NMSA 1978 provides property tax valuation freeze for taxpayers over 65 years of age with modified gross income of $32 thousand or less with this limit indexed to inflation based on the 2000 calendar year.

If the joint resolution passes and is approved by the voters, it will have a small impact on beneficiaries and a more substantial effect of shifting tax burden between advantaged and disadvantaged taxpayers.

Note: TRD has provided the following revenue impact table which assumes that the constitutional amendment is approved by the voters and enabling legislation is enacted in the legislative session of 2021, following a vote of the people in the general election in November 2020. The table assumes that the impact would be for assessments effective for the 2021 property tax year and subsequent impacts on 2021 property tax year payments due in November 2021 and March 2022. Note also that the table does not include the effect of bond capacity reductions. TRD has estimated the plausible impact of this proposal on revenue beneficiaries

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2020	FY2021	FY2022	FY2023	FY2024		
--	--	($7,300)	($7,400)	($7,400)	R	County Treasurers
--	--	($400)	($400)	($400)	R	State General Obligation Bonds

And discusses the methodology.

Given census estimates of demographics in New Mexico, home ownership rates in the elderly and home ownership duration, combined with average taxable values for homes and residential millage rates, gives a loss to the counties' tax collections and the repayment of the state's General Obligation bonds. In addition to these bonds, much of the revenue received by the counties is then typically distributed out to school districts, higher education and other political districts. Note that property tax is handled differently than nearly all other tax programs in that it has yield control which adjusts the tax rates (where possible) to make up for these losses. For residential downturns in value, only about 45 percent of that loss of value is realized. Moderate values for yearly property value increases were used based on data from the last 8 years. Taxable values were also adjusted slightly because they cannot increase for many homeowners over 65, as per Section 7-36-21.3 NMSA 1978.

In addition, the taxpayers who qualify for this new exemption will result in a decrease in the amount claimed under the low-income property tax rebate in Section 7-2-18 NMSA 1978. This rebate reduces state personal income tax revenue. However, since this rebate is invoiced to the counties, the state general fund is unaffected, the reduction in rebate results in a small *decrease* in the liabilities to the counties. At this time, only Santa Fe and Los Alamos counties have enacted the low-income property tax rebate.

This analysis assumes that the proposed amendment to the constitution is passed in November 2020. Because of timing of property tax assessments and personal income tax filings, the earliest these changes are likely to affect the funds are in fiscal year 2022

SIGNIFICANT ISSUES

The analysis for last year's HJR2 is relevant to this bill and highlights other issues:

TRD's methodology for estimated potential revenue impact: "Using federal Adjusted Gross Income as a placeholder for household income … means that nearly all the 16,000+ taxpayers who take the property tax rebate in statute 7-2-18 (which has approximately a $3.4M cost to the state) would qualify for the new exemption. Inflation results in progressively fewer taxpayers qualifying for this rebate. These taxpayers switching to the new exemption results in that state cost being returned to the general fund, but then a loss in property taxes to counties and the state's General Obligation Bond fund, which realizes about 4.5 percent of the loss in local property taxes. An additional 48,000+ taxpayers age 65 and over would also qualify for the new exemption based on federal AGI, if they pay property taxes. Given estimates of home ownership rates in the elderly and average taxable values for homes and residential millage rates, gives an additional loss to the counties and the state General Obligation bond fund. Note that property tax is handled differently than nearly all other tax programs in that it has yield control which adjusts the tax rates (where possible) to make up for these losses. About 60 percent (weighted by value) of the residential property in the state still allows yield control, meaning only about 40 percent of these losses will be realized. Moderate values for yearly property value increases were used based on data from the last 8 years. Taxable values were also adjusted slightly because they cannot increase for homeowners over 65 with income less than $32,000 indexed to the year 2000, as per statute 7-36-21.3."

Note that TRD's fiscal impact table from last year's HJR2 shows significantly greater impact than this proposed constitutional amendment.

Estimated Revenue						**Recurring or Nonrecurring**	**Fund Affected**
FY19	**FY20**	**FY21**	**FY22**	**FY23**	**FY24**		
			($31,600)	($31,900)	($32,100)	Recurring	County Treasurers
			($1,500)	($1,500)	($1,500)	Recurring	State General Obligation Bonds
			$3,000	$2,900	$2,900		General Fund

PERFORMANCE IMPLICATIONS

If this tax abatement is approved by the voters and authorized in enabling legislation in the 2021 legislative session, it will probably not meet the LFC tax policy of accountability. There is no communication of information from the county assessors/treasurers on property tax expenditures. Nor would TRD or DFA/LGD have access to the data from the counties to construct a report to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

In particular, there is no purpose stated in the joint resolution.

ADMINISTRATIVE IMPLICATIONS

There would be little impact on TRD Property Tax Division, but implemented the somewhat complex phases of abatement would be difficult for county assessors. DFA would have some problems adapting the yield control formulae.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Similar to HJR2 of the 2019 Session.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

Does the bill meet the Legislative Finance Committee tax expenditure policy principles?

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

LFC Tax Expenditure	Met?	Comments on Impacts if CA is Approved
Vetted	✘	Similar to previous joint resolutions
Targeted		
Clearly stated purpose	✘	None stated. Implicitly addresses elderly poverty issues.
Long-term goals	✘	None stated
Measurable targets	✘	None stated
Transparent	✘	No reporting required.
Accountable		
Public analysis	✘	Data not available to public
Expiration date	✘	None
Effective		
Fulfills stated purpose	✘	No stated purpose
Passes "but for" test	✘	
Efficient	✘	Not well targeted to address elder poverty issues. What about renters?
Key: ✓ Met ✘ Not Met ? Unclear		

LG/sb