F I S C A L   I M P A C T   R E P O R T

SPONSOR McQueen/ Harper/Lujan | **ORIGINAL DATE** 1/27/2022 | **LAST UPDATED** 2/7/22 | **HB** 71/aHTRC

SHORT TITLE Limit Property Tax Valuation Increase | **SB**

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY22	FY23	FY24	FY25	FY26 et seq		
			$140.0*	$290.0*	Recurring	State General Obligation Bond Fund
			Insignificant increases net of yield control --see Fiscal Impact	Insignificant increases net of yield control --see Fiscal Impact	Recurring	Counties, Municipalities, School Districts Operating
			Small increases --see Fiscal Impact	Small increases --see Fiscal Impact	Recurring	Counties, Municipalities, School Districts GO Bond Revenues
			Insignificant increases net of yield control --see Fiscal Impact	Insignificant increases net of yield control --see Fiscal Impact	Recurring	Special Districts, Including SWCD and Conservancy Districts
			$5,400.0*	$11,200.0*	Recurring	Sum of three rows above

Parenthesis ( ) indicate revenue decreases

* All fiscal impacts are highly uncertain. These estimates assume that assessors would have little or no difficulty verifying occupancy as a principal residence. Current LFC staff interpretation is that the only increase in beneficiary revenues would be attributed to single family residences used as short-term (less than 30 days) rentals and worker dormitories. Impact with this interpretation would be significantly less than reported above.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	$10.0	--	$10.0	Nonrecurring	TRD – ITD
		Significant	Significant	Recurring	County Assessors

Parenthesis ( ) indicate expenditure decreases

SOURCES OF INFORMATION
LFC Files

<u>Responses Received From</u>
Taxation and Revenue Department (TRD) on bill as amended
New Mexico Counties (NMC) on 2020's HB91

SUMMARY

<u>Synopsis of HTRC Amendment</u>

The House Taxation and Revenue Committee Amendment to House Bill 71 clarifies the scope of the properties that would qualify to retain the 3 percent limit on annual value increases. A "principal place of residence" means a residential property that is used as a resident's principal dwelling, whether the property is owned or rented and includes a single dwelling or multi-dwelling or multipurpose property, but not a dwelling that is rented in less than 30-day increments or where the resident has not manifested an intent to make the dwelling a residence or household. Worker dormitories would not qualify for the 3 percent limit. There is some uncertainty whether the amendment would apply to single family second homes owned by out-of-state individuals, partnerships or corporations. The assessors would have difficulty establishing intent to make this second home a residence or household. In practice, the increase to a 10 percent limit may only apply to worker dormitories and registered single family Airbnb or VRBO properties.

<u>Synopsis of Original Bill</u>

House Bill 71 would increase the current 3 percent limit on increases in value currently applicable to all residential properties to 10 percent on residential properties that are not occupied as a principal place of residence. Properties that are occupied as a principal residence would continue to be subject to the 3 percent limitation in value applicable to residential properties under current law.

In more detail, this bill amends Section 7-36-21.2 NMSA 1978 to amend the exceptions to the regular valuation of residential property for property tax purposes. The current exception, which limits the valuation of a property to 103 percent of the value in the prior tax year, or 106.1 percent of the value of the two prior tax years, would be allowed until the 2023 tax year. Starting in the 2024 tax year, if residential property is the principal place of residence the increases maintain the current exception rates stated above. For property that is not a principal place of residence the increase shall not be higher of 110 percent of the value in the prior year or 121 percent of the value in the tax year two years prior to the tax year in which the property is being valued.

The effective date of this bill is not stated. The provisions of the bill are applicable to the 2024 and subsequent property tax years. Adjusted tax payments would begin in November 2024 of FY25.

FISCAL IMPLICATIONS

The effect of the HTRC amendment clarifying the scope of the change is included in the discussion below.

The fiscal effects of the provisions of this bill will vary on a county-by-by county basis. Overall, there will be very moderate cumulative annual increases in obligations for state, municipal, county, and school district debt (GO bonds), but little effect on operating levies because of yield control (Section 7-37-7.1 NMSA 1978). TRD will presumably instruct the assessors to treat these small changes as "valuation maintenance." As a result, operating rates would generally fall proportionally because of yield control. This would result in a very small decrease in obligations of properties that would retain the 3 percent annual limit. Bond capacity would generally increase, but there might be no increase in imposed debt mill levies, but properties newly subject to the 10 percent limit would experience an increase in obligations. Properties subject to the 3 percent annual limit would probably not receive any reduction in obligations on the debt (General Obligation or GOB) portion of the tax bill.

LFC staff continue to be uncertain as to the exact scope for the change. Multi-unit rentals would continue to qualify for the 3 percent cap if the all or a majority of units were leased for terms of at least 30-day increments (month-to-month leases). Analysts are equally uncertain regarding the treatment of combined properties with a guest house or room(s) used for short-term rental. In practice, the assessors will have difficulty verifying with the provisions of this bill. Despite the HTRC amendment, there remains some uncertainty and LFC staff urges more definition.

TRD has prepared the following fiscal impact estimate assuming that assessors would have no difficulty verifying use as a principal residence. LFC staff does not concur with this assumption, but consider the TRD estimate presented here to be "up to", since the default position of the assessors would probably be to honor the 3 percent limit unless it could clearly be established that a rental residence was not a principal residence. If LFC staff interpretation of the bill's coverage is correct, then the impact on beneficiaries would be significantly less than reported in the table on page 1.

> "Under current law, assessed values of New Mexico residential properties, including properties not occupied as a principal place of residence, may increase at most by 3% annually in counties where properties are reassessed annually and 6.1% in counties that reassess properties every two years. The proposed legislation amends present law so that for tax years starting 2024, properties that are not used as a principal place of residence must be reassessed at no greater than 10% annually, or by 21% in counties that reassess properties every two years. As a result, properties that are currently assessed at less than market value would be allowed to approach market value assessment much more rapidly if they are not used as primary residence compared to those that are primarily used for residence, which would continue to be limited to 3% annual increases in net taxable value."

> "The amendment to the proposed legislation clarifies the definition of principal place of residence to include any property that is occupied by someone – owner or non-owner – as their principal residence. This includes rental properties that are rented for at least 30 days and properties whose owners have established an intention to use it for their residence."

> "According to the US Census Bureau, the state had 948,473 housing units on July 1, 2019, of which approximately 67.7% were occupied by their owners[1,]. Bernalillo county alone accounted for 31% of the housing units in the state, of which 63% were owner

[1] https://www.census.gov/quickfacts/NM

occupied[2]. About 30% of households in New Mexico are renters, and that translates to approximately 24.5% of housing units[3]. Hence, the valuation increase proposed in this legislation will affect the value of less than 8% of New Mexico's residential properties."

"The Taxation & Revenue Department (Tax & Rev) used information available on the 2020 New Mexico Property Tax Facts published by New Mexico Department of Finance and Administration to estimate the fiscal impact of the proposed legislation[4]. Local impacts of the legislation proposed in this bill will vary widely across the state depending on the local trends in property values, the proportion of residential units in any locality that are used for non-residential purposes, as well as remaining local authority to adjust property tax rates."

"Because the bill will allow the total property tax base to increase, imposed property tax rates will likely decrease, but this will be limited by New Mexico's yield control statute (Section 7-37-7.1 NMSA 1978), and debt-service rate adjustments. The impact presented above assumes that taxable property values will increase at an average rate of 3% per annum between 2020 and 2023 before the differential treatment of properties used as principal residence and those not used for principal residence takes effect."

"Based on the remaining authority on operating rates imposed by counties, it is assumed that about 41% of the effect of an increase in the residential property base is mitigated by the effect of yield control in Bernalillo, and 34% in the rest of New Mexico. Therefore, only about 63% of potential revenue gains associated with higher valuations will be realized by the state and local governments. This effect will vary depending on how willing and able the local administrations are in utilizing their remaining operating rate authority. The gain is mostly to local authorities, with approximately 2.5% going to the state General Obligation Bond (GOB) fund, which is used to make debt service payments on State GOBs."

"Tax & Rev's fiscal impact also assumes that the county assessors will have no difficulty determining whether a property is used (or intended to be used) as a primary residence."

The assessors will consider any valuation increases to be "valuation maintenance". With this assumption, LFC staff have created the following rough chart of impact on operating rates and debt rates for various classes of properties. Impact on debt rates is more speculative than on operating rates, because jurisdictions tend to hold debt rates constant and borrow the amounts that the constant debt rates will allow. Note: the levy is the imposed rates times the net taxable value.

Property Class	Likely Change in Operating Levies	Likely Change in Debt Levies (constant debt rates)
Tax- Advantaged Properties: Owner-occupied residential property (head of family declaration), including where property includes a separate guest house and multifamily/multiunit properties with the majority of units leased for 30 days (month-to-month) or more.	Could be small decrease in taxes due to the action of yield control on non-tax-advantaged properties being gradually brought up to current and correct.	No change in current practice. Valuations generally increase 3% per year. Levies would increase at constant debt rates with increases in 3% limited valuation.
Non-tax-advantaged properties: Short-term rentals (Airbnb, VRBO), second	Depending on ability of assessors to verify occupancy as a principal residence, levies	Levies would increase in the short term as valuations increased. When

[2] https://www.census.gov/quickfacts/bernalillocountynewmexico
[3] https://ipropertymanagement.com/research/renting-statistics#new-mexico
[4] https://www.nmdfa.state.nm.us/local-government/budget-finance-bureau/property-taxes/property-tax-facts/

home, owner-occupied, but not as principal residence; worker dormitories.	would increase in the short term, although some portion of the increase in taxable value would be moderated by the decrease in yield-controlled rates. When valuation was at current and correct, market would stabilize and further increases would be moderate.	valuation was at current and correct, market would stabilize. Levies would increase at constant debt rates with increases in current and correct valuation. Bond capacity would increase proportionally to increase in total net taxable value.
Recently purchased or built rental property -- single family, duplex or triplex or multifamily/multiunit.	Initial assessed value depends on purchase or construction costs. Increases are considered "net new value" and rates would not be yield controlled. Over time, depending on ability of assessors to verify occupancy as a principal residence, properties would either be maintained at current and correct or the 3% annual limit would apply. Effects as above after the first year of ownership.	Depending on ability of assessors to verify occupancy as a principal residence, net taxable value would either be maintained at current and correct or the 3% would apply. Levies would increase at constant debt rates with increases in valuation. Effects as above after the first year of ownership.

Note: under this likelihood analysis, new construction would continue to be disadvantaged, as most existing residential property, including most rental units would continue to be tax-advantaged.

This bill partially sustains the LFC tax policy principle of adequacy, efficiency, and equity.

TRD has included an extensive bibliography and source documents related to the provisions of this bill. In particular, refer to New Mexico Property Tax Facts on the Department of Finance and Administration Local Government Division website for additional details. The full list of sources and references is included as an appendix.

Growth rate in residential property net taxable value averaged about 3 percent between the 2001 and 2018 tax years, as shown in Table 2 of this report.

This analysis of revenue effects experienced by revenue beneficiaries is not applicable to increases in taxable values and concomitant increases in tax liability experienced by owners of short-term rental units and individuals owning a non-qualifying second-home in New Mexico. These property owners could experience dramatic increases in taxable value and tax liability. This increase, however, would differ widely depending on location of the property and, more importantly, how long the property had been subject to the 3 percent limitation.

SIGNIFICANT ISSUES

The intent of the language change from last year's bill is to introduce the concept of occupancy as a principal residence. By default, this would only apply the 10 percent limit to second homes, short-term rental properties (VRBO and AirBnB), and some other rental properties such as rooming houses, worker dormitories and other similar properties. As noted above, assessors may have difficulty determining how to assess multifamily rental properties where tenants are not eligible to file declarations of head-of-family or how to assess associated properties such as guest houses used for short-term rental on the same property with a main house occupied as a principal residence. There may be a number of other confusions as well as verification difficulties.

If the assessors rely on the declaration for head-of-family exemption, 67 percent of residential properties in New Mexico are owner-occupied. This reliance will also solve part of the verification problem for second home not used as a principal residence. New Mexico residents are only permitted to designate one residence owned in New Mexico as a principal residence. Out-of-state owners can declare both an out-of-state residence as a principal residence and the New Mexico residence as a principal residence and not violate any rule. This is the area where the assessors will have difficulty.

TRD identifies the critical policy issue of HB71:

> The presumed original intent of the 3 percent limit was to offer protection from rising property taxes to long-time homeowners during times of rapidly rising home values[5]. However, as it applies to all residential property, it also offered protections to high-valued and income producing property. By increasing the limit only on income producing property, the bill attempts to address the inequities that might have resulted from the 3 percent limit between owner-occupied and non-owner-occupied properties that are usually multi-family rental properties or second homes. There is also usually a difference in residential and non-residential property tax rates in each locality. The nonresidential tax rates in large municipalities where multifamily dwelling units tend to be located tend to be higher than residential rates. Multi-family property is classified as residential property and hence is subject to the lower property tax rate.[6] In Albuquerque, for example, the residential rate in tax year 2020 was 42.045 mills; the non-residential rate was 46.826 mills. A property with a net taxable value of $200,000 would therefore be taxed $8,409 when taxed as a residential property, but the tax will be 11.4 percent higher at $9,365 if taxed as a nonresidential property. In Santa Fe, the residential rate was 24.030 mills and the nonresidential rate was 36 percent higher at 32.660. It must however be noted if a higher valuation causes a higher property tax burden on the owners of multi-family property, they might simply pass it on to the lower income renters of the property in the form of a higher rent. The extent to which this burden gets passed on to the renters will ultimately depend on the demand and supply dynamics of such property in any given locality.

Section 7-36-21.2 NMSA 1978 of the Property Tax Code, i.e., Articles 35 through 38 of New Mexico Statutes Annotated 1978 (NMSA 1978) requires assessed values of New Mexico residential properties, including properties that are, and are not, occupied by their owners as a principal place of residence, may not be increased by not more than 3 percent annually in counties where properties are reassessed annually and 6.1 percent in counties that reassess properties every two years. The 3 percent or 6 percent assessed value increase limitation does not, however apply to: 1) properties that are assessed for the first time; 2) improvements other than solar systems; 3) cases where changes in use or zoning occur, and, perhaps most important; 4) properties that are sold or otherwise transferred. When residential properties on the tax rolls at less than market value are sold, their assessed values are increased to estimated market value. Representatives of the Taxation and Revenue Department's Appraisal Bureau report that only two counties in New Mexico – Socorro and Luna – currently appraise residential properties on a two-year cycle. The remaining 31 counties appraise on an annual basis."

[5] New homeowners, on the other hand, are subject to tax lightning, where the home is assessed to the current and correct market value when it changes hands, making the new homeowners pay a higher share of property taxes.

[6] Nonresidential property under section 7-35-2G NMSA 1978 is defined as property that is not residential property. Section 7-35-2K NMSA 1978 states that "residential property" means property consisting of one or more dwellings together with appurtenant structures, the land underlying both the dwellings and the appurtenant structures and a quantity of land reasonably necessary for parking and other uses that facilitate the use of the dwellings and appurtenant structures. As used in this subsection, "dwellings" includes both manufactured homes and other structures when used primarily for permanent human habitation, but the term does not include structures when used primarily for temporary or transient human habitation such as hotels, motels and similar structures;

If the provisions of the bill are enacted, non-tax advantaged residential property that is assessed less than market value would be allowed to approach market value assessment much more rapidly than tax-advantaged counterparts that would continue to be limited to 3 percent annual increases in net taxable value. HB71's long-term effect would therefore be to effectively eliminate the three percent valuation increase on non-tax advantaged properties once their assessed values reach market value assuming their annual market value increases did not exceed 10 percent."

Illustration- $500 thousand second home:

Effects of HB71's provisions are illustrated in Table 1, where it is assumed that a hypothetical second home is currently assessed at $500 thousand but whose market value is, say $800 thousand in tax year 2024. Under current law the property would probably be increased annually at a 3 percent rate as is shown in column 2 of Table 1. If HB71 were enacted, the property net taxable value rental residential property would be increased at an annual rate of 10 percent until it reached $800 thousand in 2029 as shown in the table, at which time its value would grow at a rate of 3 percent -- the approximate current statewide average, as illustrated in Table 2 of this report.

Table1: $500,000 Apartment Illustration

	Growth Rate		Tax Liability at 30 Mills	
Tax Year	3%	10%	3%	10%
2024	$500,000	$500,000	$15,000	$15,000
2025	$515,000	$550,000	$15,450	$16,500
2026	$530,450	$605,000	$15,914	$18,150
2027	$546,364	$665,500	$16,391	$19,965
2028	$562,754	$732,050	$16,883	$21,962
2029	$579,637	$805,255	$17,389	$24,158
2030	$597,026	**$829,413**	$17,911	**$24,882**
2031	$614,937	**$854,295**	$18,448	**$25,629**
2032	$633,385	**$879,924**	$19,002	**$26,398**
2033	$652,387	**$906,322**	$19,572	**$27,190**
2034	$671,958	**$933,511**	$20,159	**$28,005**
2035	$692,117	**$961,517**	$20,764	**$28,845**
2036	$712,880	**$990,362**	$21,386	**$29,711**
2037	$734,267	**$1,020,073**	$22,028	**$30,602**
2038	$756,295	**$1,050,675**	$22,689	**$31,520**
2039	$778,984	**$1,082,195**	$23,370	**$32,466**
2040	$802,353	**$1,114,661**	$24,071	**$33,440**

The final two columns in Table 1 indicate the tax liability that would result from the appropriate values assuming a 30 mill, i.e., $30 per $1,000 in net taxable value. The bold print in the lower middle- and right-hand portion of the table illustrate obligations that would occur once the new taxable value rate reverts to 3 percent. As shown in the bottom line of the table, the tax liability of the owners would be $33,400 in 2038 – approximately 38 percent above the value of a property that would occur under present law.

> *"**Tax lightning**" refers to a major increase in a homeowner's assessed property value, immediately after the home is bought, to reflect the current market rate. Until a home changes hands, state law prevents the county assessor from increasing its taxable value by more than 3 percent each year*. *The Santa Fe New Mexican, Feb 20, 2012*

New Mexico Counties Assessors Affiliate Chair provided the following perspective on last year's HB91:

"The argument exists that elimination of multi-family residential properties from the cap might cause apartment complex owners to see a large spike in their tax bills and then pass on that increase through increased rent to financially disadvantaged low-income working, nonworking, or elderly renters with a "claim" to raise rents. "Claim," because most landlords charge what the market will bear regardless of taxes. The argument that rents will go up is unwarranted because it is the market that determines rates not an apartment owner's expenses – the owner will simply make a little less profit. New apartment owners are paying market and yet they can only charge what the market demands. The older apartment owners thus have an advantage and make more profit."

"Again, inequity exists with the current tax lightning legislation. New owners pay taxes on full market value vs. long time property owners whose taxes are based on the imposed substantially lower market rates receiving a 3 percent increase per year (unit current full market value is reached)."

ADMINISTRATIVE IMPLICATIONS

TRD notes that the administrative burden of this bill will be borne by county assessors. TRD will need to make information system changes and create new reports. These changes will represent approximately 80 hours or about 1/2 month and $10 thousand of contractual resources costs for the Information Technology Department (ITD).

The Assessors as a group, though, have some administrative concerns expressed in their comments on last year's HB91:

> "It may be somewhat difficult to differentiate between primary residences and second homes. This may require a declaration or affidavit from the property owner annually. Upon sale, it will be the responsibility of the assessors to determine if the property is the new owner's primary residence, or not, and classify it appropriately accordingly."

The assessors also note that an effective date for 2024 tax year assessments will give the assessors' time to rewrite software and notify property owners.

LFC staff note that the head-of-family exemption pursuant to Section 7-37-4 NMSA 1978 might provide a useful surrogate for this owner-occupied property distinction. Section (E) of 7-37-4 NMSA 1978 allows a head-of-family to claim the exemption in only one county. Amending that section to allow only one property within the county to qualify for the $2,000 exemption would provide a closer surrogate for the provisions of this bill and assuage some of the assessor's concerns.

TRD Property Tax Division will have to develop procedures and forms applicable to all properties where occupancy as a principal residence cannot be verified by the head-of-family declaration. There may be different verification procedures for second homes and for multifamily/multiunit properties.

TECHNICAL ISSUES

TRD suggests that inserting definitions of valuation maintenance and net new value into New Mexico's yield control statute would probably make provisions of the proposed legislation able to achieve their intended objective than otherwise.

It might also be a suitable occasion to clarify whether the head-of- family and the veteran's exemption of $2,000 or $4,000 should apply before or after the assessment ratio of 1/3rd is applied. Similarly, should the 3 percent/10 percent "value" limitation be calculated including or excluding the head-of-family and veteran's exemptions?

LFC staff note that the bill could probably benefit from an additional definition of "principal place of residence". One possibility would be to use the head-of-family exemption declaration as a surrogate for owner-occupancy as a principal residence. This would simplify the assessor's verification problem for most second homes.

The Secretary of TRD is granted the authority to rule/regulate and instruct property tax issues. This authority could be used to clarify the uncertainties identified. However, this effort would be expensive and time-consuming.

OTHER SUBSTANTIVE ISSUES

The Three Percent Limitation

The 3 percent or 6 percent assessed value increase limitation was enacted in the 2000 legislative session in response to gentrification that occurred largely in the City of Santa Fe as new, typically high-income residents, purchased homes primarily on Santa Fe's east side and caused market values and property taxes paid by their owners to increase dramatically and created a condition where some of the residents were "taxed out of their homes" because they could not afford to pay their property taxes. This condition caused an activist, who served on the Governor's property task force intended to address the issue to name the condition "tax lightning" rather than the term "pecuniary externality" used by economists. In economic literature pecuniary externalities, sometimes known as third-party effects, result from changes in market prices in response to shifts in supply and demand. They may be positive or negative. Real or technological externalities, a tern also commonly used in economic literature cause direct resource effect on third parties, pollution from a factory that harms the environment is an example, as is second-hand smoke can be either positive or negative and may be caused by production and consumption activities. These types of externalities are often characterized as a type of market failure and a basis for government intervention in markets.

The extent to which New Mexico residential properties are assessed at less than market value (caused partially by the three percent limitation) is unknown. It is, however, most likely substantial. According to an opinion article in the Santa Fe New Mexican, for example, representatives of Santa Fe County stated that only 8,900 homes are currently assessed at market value, while 26,000 or approximately 75 percent of the total number of residential properties in Santa Fe are assessed at less than market value – apparently due to the 3 percent limitation.

Tax Shifting

Because of the uncertainty regarding the ability of the assessors to verify occupancy as a principal residence for rental residential property, the increased limit might apply to apartment buildings and other multi-family residences. Opponents of legislation similar to the proposed bill have expressed concern regarding whether the measure would cause multi-family property owners to increase rents and therefore shift portions of the increase in taxes associated with the proposal to pay higher rents than they otherwise would. There is no easy way to quantify the issue. It should be noted, however, that the ability to shift tax burdens similar to the ones that would result from the proposal are fairly closely associated with monopoly power possessed by the rental property owners. As an example, consider what would likely occur if the proposed measure affected a multi-family rental property located in a small town where the subject property was the only rental property within miles of the town. Its owners could easily raise rental rates because they have no competition from neighboring properties. Hence the degree of shifting is closely related to market conditions. As long as entry into the affected market is relatively free, shifting is unlikely to be extensive.

Regressive Effects

A progressive tax is one whose rate increases with its base or item taxed and therefore low-income taxpayers. A regressive tax has the opposite effect on low-income taxpayers. A regressive tax has the opposite effect and benefits high-income taxpayers and harms low-income taxpayers. Whether HB71's provisions would make the New Mexico property tax system more or less regressive is uncertain. If, for example, the owners of a multi-family property subject to the increased limit had sufficient market power to raise rents on low-income taxpayers, the effect of the measure would be regressive. If the burden is shifted to high-income renters the effects of the measure would be progressive.

Property Classification and Yield Control

It should be noted that nonresidential tax rates in large municipalities where multifamily dwelling units tend to be located tend to be higher than residential rates. The rate differences are a result of the state's yield control statute (Section 7-37-7.1 NMSA 1978). In Albuquerque, for example, the residential rate in tax year 2018 is 41.751 mills; the nonresidential rate is 46.833 mills. A property whose net taxable value totaled say $200 thousand would therefore be taxed at $9,367 if taxed as a nonresidential property, but $8,350 if taxed as a residential one – over a $1,000 difference. In Santa Fe, the residential rate is 24.583 mills residential vs 32.900 on nonresidential property, a difference of 8.317 mills. Hence multifamily property owners currently pay a lower tax than they would due to the fact that they are classified as residential rather than non-residential (commercial) property.[7]

New Mexico Residential Property Growth Rates in Recent Years

TRD has prepared the following chart showing residential net taxable value growth by county:

[7] Nonresidential property under section 7-36-2G NMSA 1978 is defined as "property that is not residential property." Section 7-35-2 NMSA 1978: states that "residential property" means property consisting of one of more dwellings together with appurtenant structures, the land underlying both the dwellings and the appurtenant structures and a quantity of land reasonably necessary for parking and other uses that facility of the dwellings and appurtenant structures…"

Table 2: New Mexico Residential Property Net Taxable Value Growth Rates by County, 2007 to 2018

County	2018/17	17/16	16/15	15/14	14/13	13/12	12/11	11/10	10l09	09/08	08/07	Average	Median
Bernalillo	4.0%	4.3%	3.8%	2.6%	3.0%	1.8%	1.4%	1.8%	-3.3%	4.1%	7.3%	2.8%	3.0%
Catron	1.8%	1.4%	0.4%	2.6%	-0.2%	8.2%	27.1%	5.4%	3.9%	10.4%	12.5%	6.7%	3.9%
Chaves	2.7%	2.1%	3.4%	3.6%	3.5%	4.8%	1.8%	3.6%	4.7%	7.5%	8.5%	4.2%	3.6%
Cibola	-0.8%	2.2%	1.8%	0.8%	6.1%	3.8%	4.6%	0.1%	7.3%	5.6%	5.8%	3.4%	3.8%
Colfax	1.8%	1.7%	1.2%	1.8%	1.0%	0.5%	4.9%	-2.6%	4.9%	4.9%	6.9%	2.5%	1.8%
Curry	3.3%	0.7%	4.9%	5.4%	2.6%	8.0%	3.9%	10.3%	6.5%	7.1%	7.5%	5.5%	5.4%
De Baca	3.3%	3.9%	4.6%	5.4%	7.1%	4.2%	3.8%	4.7%	5.5%	4.4%	5.2%	4.7%	4.6%
Dona Ana	4.2%	3.5%	3.2%	3.2%	1.9%	1.4%	2.2%	0.1%	4.3%	5.5%	10.5%	3.6%	3.2%
Eddy	4.0%	6.4%	7.6%	6.1%	6.9%	6.3%	4.8%	5.6%	6.5%	8.0%	4.3%	6.0%	6.3%
Grant	2.6%	3.2%	1.0%	0.6%	2.9%	3.1%	0.9%	2.5%	5.7%	4.4%	3.4%	2.8%	2.9%
Guadalupe	3.3%	2.0%	2.8%	4.1%	1.2%	4.7%	-0.1%	7.0%	-2.1%	6.5%	0.9%	2.8%	2.8%
Harding	7.5%	1.9%	0.5%	4.8%	2.1%	3.3%	1.0%	5.2%	-1.6%	-1.7%	11.3%	3.1%	2.1%
Hidalgo	4.5%	1.2%	1.8%	2.8%	2.2%	6.6%	1.4%	14.0%	16.0%	3.4%	0.0%	2.4%	2.2%
Lea	3.2%	5.3%	8.2%	6.4%	8.5%	5.9%	4.3%	4.3%	5.1%	11.6%	12.0%	6.8%	5.9%
Lincoln	3.1%	1.4%	2.6%	3.0%	1.9%	-0.8%	5.0%	2.6%	2.2%	11.0%	7.5%	3.6%	2.6%
Los Alamos	4.7%	4.1%	1.7%	1.7%	-4.9%	-1.0%	0.2%	1.4%	-3.1%	-3.0%	1.5%	0.3%	1.4%
Luna	0.9%	5.0%	0.8%	1.8%	1.0%	0.6%	2.4%	4.6%	1.3%	5.9%	7.4%	2.9%	1.8%
McKinley	-1.8%	-0.3%	0.6%	0.0%	0.5%	0.3%	0.7%	1.6%	0.8%	4.7%	3.0%	0.9%	0.6%
Mora	0.5%	2.8%	5.0%	2.9%	5.0%	3.0%	2.8%	5.1%	3.8%	10.8%	5.9%	4.3%	3.8%
Otero	2.6%	2.7%	3.0%	2.9%	3.1%	3.6%	4.1%	5.2%	5.0%	3.6%	4.8%	3.7%	3.6%
Quay	-3.9%	8.8%	3.3%	9.1%	-19.4%	1.7%	5.6%	3.5%	5.1%	9.3%	7.6%	2.8%	5.1%
Rio Arriba	0.8%	-2.5%	2.3%	1.1%	1.8%	3.2%	8.9%	1.8%	0.6%	7.2%	5.6%	2.8%	1.8%
Roosevelt	3.6%	4.0%	4.2%	3.5%	6.7%	5.2%	4.5%	4.8%	5.1%	4.0%	5.1%	4.6%	4.5%
San Juan	1.8%	2.5%	2.7%	2.7%	3.1%	3.7%	3.7%	6.3%	0.7%	-6.6%	22.1%	3.9%	2.7%
San Miguel	2.8%	2.8%	0.9%	6.1%	1.5%	4.9%	0.7%	1.6%	4.8%	7.7%	1.6%	3.2%	2.8%
Sandoval	4.2%	3.4%	2.1%	1.3%	2.0%	0.7%	-0.8%	-3.3%	0.5%	7.3%	11.9%	2.7%	2.0%
Santa Fe	3.8%	4.5%	4.1%	-0.3%	-6.2%	-1.4%	2.0%	0.4%	3.2%	4.4%	6.2%	1.9%	3.2%
Sierra	1.7%	0.6%	1.5%	0.2%	1.1%	2.0%	3.2%	4.3%	4.7%	7.9%	6.8%	3.1%	2.0%
Socorro	2.3%	2.7%	1.2%	2.4%	2.5%	3.1%	-0.1%	3.0%	3.3%	5.3%	1.4%	2.5%	2.5%
Taos	2.0%	2.0%	3.7%	0.7%	1.7%	2.2%	1.2%	1.9%	2.0%	7.5%	7.2%	2.9%	2.0%
Torrance	0.8%	1.5%	0.4%	2.3%	1.3%	4.0%	5.5%	4.4%	2.2%	5.1%	4.3%	2.9%	2.3%
Union	1.0%	2.3%	5.3%	3.1%	5.0%	2.2%	3.3%	1.9%	4.9%	3.5%	7.5%	3.6%	3.3%
Valencia	2.9%	3.1%	1.8%	2.5%	1.9%	3.0%	2.5%	3.4%	1.7%	7.7%	7.7%	3.5%	2.9%
Average	2.4%	2.8%	2.8%	2.9%	1.8%	3.1%	3.6%	2.7%	3.4%	5.6%	6.7%%	3.4%	2.9%

Source: calculated from data in Property Tax Rate Certificates published by the NM Department of Finance & Administration Local Government Division

Somewhat duplicating TRD's table 2 from last year's HB91 analysis, LFC staff compared growth of housing value determined from American Community Survey data to growth of net taxable value by county. Included in this analysis was a similar determination of average duration of ownership of residential properties. For the state as a whole, the 2010 mean was about 13 years. By 2018, this duration had increased to 14 years.

Geographic Area Name	Average Annual Change Median Housing Value	Average Annual Change Taxable Value	Taxable Value in Excess of Increase in Housing Value	2010 Mean Tenancy (years)	2018 Mean Tenancy (years)
Bernalillo County	0.36%	2.34%	1.98%	11	13
Catron County	2.83%	5.97%	3.14%	16	20
Chaves County	2.94%	3.60%	0.66%	13	15
Cibola County	1.88%	4.42%	2.54%	18	17
Colfax County	0.51%	1.74%	1.23%	16	15
Curry County	3.30%	-0.57%	-3.86%	12	12
De Baca County	3.77%	4.72%	0.95%	19	18
Doña Ana County	0.40%	2.89%	2.48%	11	13
Eddy County	6.34%	6.35%	0.01%	14	14
Grant County	0.17%	2.59%	2.43%	14	15
Guadalupe County	1.72%	2.82%	1.10%	19	17
Harding County	2.10%	2.78%	0.68%	21	17
Hidalgo County	-1.06%	2.72%	3.78%	18	17
Lea County	4.44%	5.88%	1.44%	14	14
Lincoln County	2.73%	2.54%	-0.18%	13	13

Los Alamos County	-0.21%	1.03%	1.24%	14	14
Luna County	-1.02%	2.11%	3.12%	12	13
McKinley County	-0.89%	-0.13%	0.77%	18	18
Mora County	-0.50%	3.64%	4.14%	21	21
Otero County	0.45%	3.57%	3.12%	12	13
Quay County	1.28%	2.58%	1.30%	15	15
Rio Arriba County	2.40%	2.01%	-0.39%	18	19
Roosevelt County	2.31%	4.80%	2.49%	13	13
Sandoval County	0.46%	1.51%	1.05%	11	14
San Juan County	0.08%	2.87%	2.79%	14	15
San Miguel County	1.58%	2.95%	1.37%	15	18
Santa Fe County	-0.40%	1.56%	1.96%	12	14
Sierra County	2.37%	2.03%	-0.34%	15	14
Socorro County	-1.35%	2.27%	3.63%	16	17
Taos County	1.36%	2.04%	0.68%	17	18
Torrance County	2.52%	2.33%	-0.18%	14	16
Union County	-1.52%	3.27%	4.79%	16	15
Valencia County	0.58%	2.57%	1.99%	13	16
New Mexico	0.65%	2.31%	1.66%	13	14

Source: Taxable value columns calculated from data in Property Tax Rate Certificates published by the NM Department of Finance & Administration Local Government Division. Housing value columns calculated from data published by American Community Survey available from Census.gov.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

All of the current disadvantages of the property tax system will continue. This bill does not reverse all of the problems caused by the 3 percent limitation, but, as mentioned by the New Mexico Counties Assessors Affiliate Chair in the review of last year's HB91, this is a good start.

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.

Additional Information Sources:

Santa Fe New Mexico New Mexican Articles Related to HB71

"Taxing inequities: Effects of cap on residential property increases vex policymakers" Santa Fe New Mexican, February 9, 2019 February 9, 2019:
https://www.santafenewmexican.com/news/local_news/taxing-inequities-effects-of-cap-on-residential-property-increases-vex/article_1440b04e-4515-5d91-927b-8bf67f99f8f5.html

"Smith criticizes cap on property valuation increases" Santa Fe New Mexican, February 11, 2019:
https://www.santafenewmexican.com/news/legislature/smith-criticizes-cap-on-property-valuation-increases/article_2b61250c-586d-5efb-b891-f4f557c1f967.html

"Luján intended to ease burden on homeowners" Santa Fe New Mexican, Feb 9, 2019
https://www.santafenewmexican.com/news/local_news/luj-n-intended-to-ease-burden-on-homeowners/article_53b18a63-700f-50bd-a982-fa098f670961.html

"House committee debates bill eliminating tax break for apartments," February 26, 2009
https://www.santafenewmexican.com/news/legislature/house-committee-debates-bill-

eliminating-tax-break-for-apartments/article_99643a2b-751b-5cf6-92da-d3cd66d2a59.html

"OUR VIEW A fix for an inequitable property tax system?" Santa Fe New Mexican, Feb 19, 2019
https://www.santafenewmexican.com/opinion/editorials/a-fix-for-an-inequitable-property-tax-system/article_3993f3c1-90c8-552f-9242-c276efb1c939.html

NM Taxation & Revenue Department

Fiscal Impact Reports:
http://www.tax.newmexico.gov/legislative-updates-proposed-legislation.aspx

Yield Control:
http://www.nmdfa.state.nm.us/Yield_Control_Formula.aspx
http://www.tax.newmexico.gov/property-tax-reports.aspx,
See "Yield control FIR" and "A Technician's Guide".

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