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

ORIGINAL DATE 02/22/13
SPONSOR Sandoval **LAST UPDATED** 03/06/13 **HB** 521/aHJC/aHTRC

SHORT TITLE Property Tax Valuation Increase Limits **SB**

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
	Positive				Recurring	Property Tax

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Finance and Administration (DFA)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 521 replaces Subsection A. This new Subsection provides new valuation limits for the 2014 tax year, and then a separate set of limits for 2015 and subsequent tax years.

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 521 strikes the reference to a single-family dwelling and instead changes the reference to owner-occupied.

Synopsis of Original Bill

House Bill (HB 521) amends Section 7-36-21.2 NMSA 1978, to limit increases in assessed value to certain residential properties for property taxation purposes, and provides for additional limits on increases in value to certain owner-occupied residential properties.

HB 521 requires that residential properties are valued at their current and correct value in accordance with the property tax code subject to certain limitations. In tax year 2014 and subsequent tax years, the cap limit will increase to five percent. If the property is valued every other year, the limit will increase to ten and twenty-five hundredths percent. Otherwise, the property value will be adjusted to ninety percent of the current and correct value of the property for taxation purposes whichever is highest.

Other limitations on increases to a primary residence (single-family dwelling) include:

- A property owned by the same New Mexico resident for 10 years or more, will not exceed ninety five percent of the value after the property has been valued to current and correct in tax year 2014; and
- A property that is owned by the same New Mexico resident for 20 or more years and that person is 65 years of age or older, the value shall not exceed ninety percent of the value after the property has been valued to current and correct in tax year 2014.

The limitations on the increases to value do not apply to a residential property:

- In the first tax year that it is valued;
- That has had any physical improvements except for solar energy systems installed or omitted on the property in the previous year; and
- Whose use or zoning has changed in the year prior to the tax year.

The limitations on increases to residential property values per Section 7-36-21.3 NMSA 1978, do not apply. This section limits increases in value to a single family dwelling owned and occupied by low-income ($32,000 or a formula calculated sum determined in subsection F of this section), owners 65 years of age or older, or disabled ($18,000 or a formula calculated sum determined in subsection F of this section).

All of the provisions related to valuation of a residential property that has changed ownership in the year immediately prior to the tax year have been omitted.

FISCAL IMPLICATIONS

Impacts of the proposal would vary significantly from county-to-county because of regional market variations. Raising the residential properties to ninety percent of the current and correct value and setting the limitation on increases to 5 percent per year could cause a significant increase in residential net taxable value statewide. The resulting increase in net taxable value would generally be offset by reductions in rates that are subject to provisions of Section 7-37-7.1 NMSA 1978, commonly referred to as “yield control”. The yield control statute requires rates to decrease when reassessment occurs, in a manner that prevents reassessment from generating increases in revenue yields. Rates that are subject to yield control consist mostly of operating rates, or rates that generate operating revenues of counties and municipalities. Many of the rates imposed in New Mexico, however, are not subject to the yield control statute, and would not fall as a result of revaluation required by the proposed measure. Rates that are not subject to yield control are typically imposed to repay debt on capital construction projects. Hence some substantial tax increases would likely result from enactment of the proposed bill, primarily as a result of revenue increases associated with debt-service rates.

The Department of Finance and Administration (DFA) reports that “According to the Santa Fe Deputy Assessor, the bill would benefit Santa Fe residents because the number of properties identified as those below 90 percent of the current values is 5,144. Of those properties about

2,900 are not subject to the limitation. The county has approximately 52,233 residential properties. When the valuation adjustment was applied to the 2012 tax year data and filtered through yield control, the mill rate declined and the revenue to the county remained the same. Bernalillo County was the first to recognize the taxing disparity and attempted to correct it by adjusting their values. One large county that may not be in favor is Dona Ana, but according to Gary Perez, former county assessor, the county was at or near 90 percent (current and correct) when he left office about a year ago."

The DFA also reports that, According to the New Mexico Association of Counties' Legislative Liaison, Tasha Young, the association supports this legislation.

SIGNIFICANT ISSUES

The DFA notes that the proposed bill means to create parity between property owners who own similar residential properties, but are paying very different property taxes. The issue is that those who have benefited from the 3 percent (6 and one-tenth percent when valued every other year) valuation growth limitation over several years, pay less in annual property taxes than those who purchased properties within the last year

The Taxation and Revenue Department (TRD) believes that this legislation would eliminate the exception to the limitation on increases applied to the residential properties that changed ownership in the year prior to the assessment year in which values are determined. This technically eliminates current and correct reassessment (Section 7-36-15) of the residential properties upon change in ownership. Worse, it masks widespread increases in taxable value without the verification of an actual sale.

This legislation deleted sales ratio requirements from the statute effectively eliminating any verification that valuations are correct and oversight by the Property Tax Division (PTD) of the Department in county valuation programs. The PTD remains, however, responsible for funding and administering the protest hearings that would arise from this legislation. To ascertain that the result of a sweeping statewide valuation was valid, the Department and the county assessor's offices would need to conduct full sales ratio studies in 2013 and establish valuation models for the properties in each jurisdiction.

This legislation does not address valuation methods for new construction. This omission could create strong property tax disincentives regarding newly constructed housing.

This legislation does not include a way to verify owner occupancy of a primary residence.

This legislation specifies the highest of an annual 5 percent cap on value or 90 percent of current and correct value. The PTD has had the opinion that the State Constitution specifies that there shall be a limitation on residential values although it doesn't say what that limitation should be. Based on this reasoning, an increase from 3.0 percent per year to 5.0 percent per year seems to satisfy the constitutional provision. It is difficult to argue that changing the requirement to giving valuation authorities the ability to impose to 90 percent does the same thing. The primary reason for that is all county assessors employ mass appraisal techniques which have a range of accuracy of 90 percent to 110 percent of current and correct value if employed optimally. Secondly, all mass appraisal techniques require the verification of sales ratio studies, which have been removed from statute in this version of the legislation.

TECHNICAL ISSUES

The TRD believes that the deletion of the sales ratio language in Section 7-36-18 in this proposal causes concern regarding the integrity of the valuation data and makes defending the inevitable valuation protests arising from this legislation much more difficult. It also limits the oversight of valuation activities currently in statute. Monitoring the reappraisal process will likely cause the PTD to conduct and assist the counties with greatly expanded sales ratio studies. Increased valuation protests combined with the assessor's offices revaluation responsibilities will limit informal valuation protest settlements and cause an even greater number of formal hearings. There are approximately 30,000 valuation protests per year, of which approximately 3,000 reach a formal board hearing. This fills the PTD's protest schedule for roughly ten months per year. While the PTD is in the process of filling its existing four vacancies, it would need to hire two full time employees at a likely additional (not including current vacancies) cost of $90,000 per year. We would also have additional board meetings to finance along with legal council to defend us in litigation and oversee the additional productions of decision and orders. The PTD estimates that this would increase protest board costs approximately 50 percent, or, $60,000. Total anticipated cost to accommodate this change at the PTD is $150,000 per year.

The 2014 effective date of this legislation is at odds with the county assessor's ability to perform the massive revaluation necessary before they are required to mail their notices of valuation on April 1, 2014. The common difficulty with many assessors' offices is that while they know the statutorily allowable value for their notices of value, they are not statutorily responsible for knowing the current and correct value of all of the residential parcels in their jurisdictions. Without sales ratio studies that include appraisals on specific properties and mandatory disclosure, this goal will be difficult to reach.

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

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