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

| | | | | | |
|---|---|---|---|---|---|
| | | **ORIGINAL DATE** | 1/28/19 | | |
| **SPONSOR** | Garcia, MP | **LAST UPDATED** | | **HJR** | 2 |
| **SHORT TITLE** | Property Tax Exemption For Certain Seniors, Ca | | | **SB** | |
| | | | | **ANALYST** | Graeser |

Note: 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.

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

| | FY19 | FY20 | FY21 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|---|---|
| **Total** | | | $200.0 | $200.0 | NR | Sect of State Operating |

Parenthesis ( ) indicate expenditure decreases

In previous years, the Secretary of State's Office has indicated that constitutional ballot questions must be adequately advertised and the ballots prepared and has quoted these estimates of additional operating budget impact.

**SOURCES OF INFORMATION**
LFC Files

Responses Received From
New Mexico Attorney General (NMAG)
Taxation and Revenue Department (TRD)
Department of Finance and Administration/Local Government Division (DFA/LGD)

**SUMMARY**

Synopsis of Bill

House Joint Resolution 2 proposes an amendment to Article 8 of the Constitution to create an exemption from property tax for people that are 75 years of age or older who have an annual household income of $15,000 or less. This exemption would include the community or joint property of married individuals. HJR 2 requires that those seeking the exemption would be responsible for proving their eligibility. The constitutional amendment also requires the $15,000 income ceiling be adjusted for inflation.

There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends. The joint resolution would be presented to the voters at the next general election in November 2020, or a special election prior to that date. Any enabling legislation should conform to the regular property tax year which begins January 1 each year.

## FISCAL IMPLICATIONS

This bill creates or expands a tax expenditure with a cost that is difficult to determine but likely significant. LFC has serious concerns about the significant risk to state and local revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. The committee recommends the bill adhere to the LFC tax expenditure policy principles for vetting, targeting, and reporting or be held for future consideration.

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 $32,000 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.

**REVENUE (dollars in thousands)**

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

Parenthesis ( ) indicate revenue decreases

TRD's methodology for estimated potential revenue impact: "Using federal Adjusted Gross Income as a placeholder for household income (see Policy Issues below) 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 states' General Obligation Bond fund, which realizes about 4.5% 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% (weighted by value) of the residential property in the state still allows yield control, meaning only about 40% 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."

## SIGNIFICANT ISSUES

TRD points out that there is no definition given for "household income" in the proposed constitutional amendment. If the resolution is approved by the voters, the implementing legislation would have to provide a definition. Previous versions of this proposal have used modified gross income, as defined in the Income Tax Act, as the income concept. For the purpose of TRD's impact estimate presented above, the Federal Adjusted Gross Income was used. If, for example, New Mexico taxable income was used instead, significantly more taxpayers would qualify.

LFC staff note that the elderly population in general might be equally harmed by the provisions of this constitutional amendment as would be helped. Because of yield control, operating rates would adjust upwards because of negative valuation maintenance triggered by the exemption. Similarly, debt rates would increase slightly so that the required level of debt service on general obligation bonds were met. Elderly citizens living in rental housing might have rents increased to account for the increase in operating and debt rates caused by the exemption for low-income elderly homeowners.

## PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability might not be met unless TRD or DFA/LGD were required in the enabling legislation to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers claiming the exemption and other information to determine whether the exemption is meeting its purpose.

## ADMINISTRATIVE IMPLICATIONS

The provisions of the constitutional amendment if implemented would increase the administrative burden on county assessors significantly, depending on the number of properties covered by the exemption.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HJR-3 proposes a similar property tax exemption for low-income disabled homeowners.
SN-220 proposes an increase from $32,000 to $35,000 as the base income ceiling for the property tax freeze at 7-36-21.3 NMSA 1978.

## WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

**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

Arguably, the provisions of this proposed constitutional amendment abridge all five of the LFC tax policy principles.

## OTHER SUBSTANTIVE ISSUES

7-36-21.3 NMSA 1978 provides a property tax valuation freeze for low-income owners sixty-five years of age or older or disabled. Subsection I of that section provides that the $32,000 income ceiling be indexed to inflation, with a base year of 2000.

| | CPI | 7-36-21.3B |
|---|---|---|
| 2000 | 173.7 | $32,000 |
| 2020 | 264.2 | $47,900 |
| 2021 | 270.7 | $48,700 |
| 2022 | 276.9 | $49,900 |
| 2023 | 283.3 | $51,000 |

It is unclear if county assessors or TRD's property tax decision which exerts control over county assessors have properly implemented the indexing of this freeze income limit.

LG/gb