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

**ORIGINAL DATE** 02/05/11
**SPONSOR** Garcia, M. P. **LAST UPDATED** 03/09/11 **HJR** 22/a HVEC

**SHORT TITLE** Property Tax Reduction for Elderly Homeowners **SB**

**ANALYST** Graeser

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

| | FY11 | FY12 | FY13 | 3 Year Total Cost | Recurring or Non-Rec | Fund Affected |
|---|---|---|---|---|---|---|
| **Total** | | $104.0 | | $104.0 | Nonrecurring | General Fund (SOS operating) |

(Parenthesis ( ) Indicate Expenditure Decreases)

**SOURCES OF INFORMATION**
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Attorney General's Office (AGO)

**SUMMARY**

Synopsis of HVEC Amendment

The House Voters and Election Committee Amendment to House Joint Memorial 2 clarifies two points: (1) the $2,000 property tax exemption for low income elderly property owners is in addition to any other property tax exemption the taxpayer or spouse is entitled to (such as homeowners exemptions or veteran's exemption); and (2) only one additional low income elderly property tax exemption is allowed the taxpayer and spouse.

This reduces the estimated fiscal impact from $37 million in total exemptions to $26 million, since husband and wife are entitled to only one exemption. Thus, the exemption would reduce General Obligation capacity statewide by $260,000.

The bill as amended also exacerbates the marriage tax penalty imposed by all features of the tax code. In this case, an unmarried couple who jointly own a house used as principal residence would be entitled to a $2,000 exemption each if both had annual modified gross income less than $15,000.

Synopsis of Original Bill

House Joint Resolution 22 proposes a constitutional amendment to give low-income elderly homeowners a $2,000 reduction in taxable value of a property used as the person's principal residence. Qualified individuals: homeowners occupying their principal residence; age 75 or older; modified gross income of less than $15,000. If the resolution is adopted by the voters, the enabling legislation will make provision to index the income cap for inflation. The question will be presented to the voters at the next general election or special election called for the purpose.

## FISCAL IMPLICATIONS

TRD states, "…the proposed constitutional amendment would not take effect unless approved by the voters. The total population over 75 is approximately 123,000 and an assumed 15 percent of this population or 18,500 is estimated to have income below $15,000. The proposed exemption for this population would reduce net property tax value statewide by $37 million. Tax rates for both debt service and operating purposes would adjust upward holding property tax revenue harmless for this change. Some taxpayers would pay more tax as a result. General Obligation bond capacity, which is equal to 1 percent of net taxable value, would decrease by $370,000."

See "Significant Issues" for further discussion of property tax burden shifts if this CA is approved by the voters.

In the analysis of HJR 12, the Secretary of State has noted costs of conducting elections on constitutional questions:

The SOS notes that, "…in accordance with Section 1-16-4 NMSA 1978, upon receipt of the certified proposed constitutional amendment or other question from the Secretary of State, the county clerk shall include it in the proclamation to be issued and shall publish the full text of each proposed Constitutional amendment or other question in accordance with the constitution of New Mexico."

"Although the county clerk includes the proposed amendments in his/her proclamation, it is the responsibility of the State to pay for the costs associated with the publication per Section 1-16-11 NMSA 1978. The approximate cost per constitutional amendment is $104,000."

"If the requisite number of registered qualified electors is confirmed, the question of recall of the official shall be placed for a special election to be called within ninety days of completion or the next occurring general election. The approximate cost for a statewide special election will be $1,675.541.55; the approximate cost for an all mail-in ballot election will be $1,968,179.31."

***Only the specific additional cost for advertising the constitutional amendment is included in the operating budget table above, assuming that the question is presented to the voters at the next general election, not at a special election called for the specific issue.***

## SIGNIFICANT LEGAL ISSUES

The AGO notes an ambiguity in the text of the proposed constitutional amendment:

> The proposed constitutional amendment provides that "enabling legislation…shall include a provision to index the modified gross income of a person". While statutes could define the economic equation for indexing, the amendment does not and may not be intelligible to lay persons. Further, the amendment's stated purpose of indexing is to account for inflation, yet there is no provision for indexing the threshold limit of $15,000, so the threshold may be unreasonably low in 30 years and will require a constitutional amendment to change it.

Future need for constitutional amendment to this provision could be avoided by making the threshold limit a percentage of property value or by relating the threshold limit to the national poverty guidelines.

[LFC note: clearly the intent of the “indexing” instruction is to allow the implementing legislation to propose a formula to index the threshold limit of $15,000 modified gross income for inflation.]

**SIGNIFICANT ISSUES**

Article XIII, Section 5 [Head of family and veteran exemptions.] exempts from taxation the property of each head of the family in the amount of two thousand dollars ($2,000) and exempts from taxation the property of every honorably discharged member of the armed forces of the United States in the sum of $4,000 each year. The proposed low-income elderly exemption is comparable to these existing exemptions. The value of the proposed $2,000 exemption ranges from about $36 to a maximum of about $80, depending on residence location.

This proposal to trigger a tax benefit based on a stated value of modified gross income is conventional, but can impose significant distortions. Suppose a person had a modified gross income $10 above the maximum threshold – i.e. at the beginning of the program, $15,010. That additional $10 in income keeps the taxpayer from receiving $36 to $80 in tax benefits. This is either unfair or will encourage taxpayers who almost qualify based on age, income and homeownership to understate income – particularly of the less well documented forms of income listed in definition of modified gross income.

The value of the proposed reduction in taxable value creates a reduction in tax of something less than the stated tax rate (for example, 25 mills or $25 per $1,000 in taxable value) times the exemption amount. Because of the action of yield control, operating rates are adjusted to account for the reduction in aggregate total valuation. This reduction in aggregate taxable value will result in somewhat higher operating property tax rates for all taxpayers, including the beneficiaries of the exemption. In effect, a portion of the property tax burden will be shifted from low-income elderly taxpayers to other classes of taxpayers. Revenues distributed to the beneficiaries (schools, cities, counties, special districts) will be roughly unchanged.

As noted by TRD, the state debt limit – which is 1% of taxable value – would decrease by less than $.5 million. Local city, county, school district and special district debt limits would also decrease by very small margins.

This proposed exemption seems to duplicate many features of the existing low-income elderly property tax rebate of 7-2-18 NMSA 1978. Pursuant to this section, low-income homeowners and renters 65-years of age and older pay no more than the tabled amount of property tax. Any property tax in excess of the table amount is rebated, up to a maximum of $250 per couple.

ELDERLY HOMEOWNERS' MAXIMUM PROPERTY TAX LIABILITY TABLE

| Taxpayers' Modified Gross Income | | Property Tax Liability |
|---|---|---|
| Over | But Not Over | |
| $ 0 | $ 1,000 | $ 20 |
| 1,000 | 2,000 | 25 |
| 2,000 | 3,000 | 30 |
| 3,000 | 4,000 | 35 |
| 4,000 | 5,000 | 40 |
| 5,000 | 6,000 | 45 |
| 6,000 | 7,000 | 50 |
| 7,000 | 8,000 | 55 |
| 8,000 | 9,000 | 60 |
| 9,000 | 10,000 | 75 |
| 10,000 | 11,000 | 90 |
| 11,000 | 12,000 | 105 |
| 12,000 | 13,000 | 120 |
| 13,000 | 14,000 | 135 |
| 14,000 | 15,000 | 150 |
| 15,000 | 16,000 | 180 |

**POSSIBLE QUESTIONS**

Wouldn’t a new look at revising and indexing the Elderly Property Tax Rebate be a more efficient means of addressing elderly poverty rather than shifting burden between low income elderly and all other taxpayers?

LG/bym:mew