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

		ORIGINAL DATE 01/27/10	
SPONSOR	Giannini	**LAST UPDATED**	**HB** 132
SHORT TITLE	Property Values to 2004 Levels & Increases		**SB**
			ANALYST Clifford

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
		($0.0) to ($27,000.0)	Recurring	General Obligation Bond Capacity
		(Indeterminate, probably small)	Recurring	Certain property tax beneficiaries

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

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

SUMMARY

Synopsis of Bill

House Bill 132 would limit the increase in property tax assessed value of residential property when a change of ownership occurs. Rather than being assessed at its current and correct value – generally the market value – the assessed value would equal the lesser of the market value or the value of the property in 2004 increased by no more than 103 percent in each subsequent year. For properties first valued between 2002 and 2011, and for new properties in 2011 and beyond, the value is to be recalculated by multiplying by a "pre-sales ratio" and then limited to no more than 3 percent growth per year. The pre-sales ratio would be calculated by the Tax Department annually using information from its annual Sales Ratio Statistical Summary.

The provisions would apply to property tax years 2011 and subsequent.

FISCAL IMPLICATIONS

Fiscal impacts are only approximate as the necessary information to calculate precise estimates is not available. Three separate sets of impacts can be identified: (1) Assessed values of properties newly-constructed during the period between 2002 and 2011 would be reduced to reflect the value of similar properties already on the tax rolls at the time of construction; (2) Values of existing properties transferred since 2004 would be decreased to reflect their assessed value as of 2004 plus growth of no more than 3 percent per year; and (3) Values of new construction and transferred properties going forward would be limited to increases of no more than 3 percent per year rather than being valued at their current and correct market value.

TRD reports that effects of the two rollback provisions would result in a decrease of statewide net residential taxable value of roughly 8 percent, although the impacts would vary widely by location with some areas seeing little or no effect and others seeing larger changes. Decreases in residential taxable values would cause offsetting increases in both operating and debt service tax rates. Thus, a shift of tax liability would occur with owners of recently-purchased property receiving a tax decrease and other property owners seeing increases. <u>On average</u>, the tax increases would be about 6 percent for the homeowners who have not purchased within the last several years. There would also be a smaller increase for non-residential property owners because of the increase of debt service rates.

LFC estimates the effects of the limit on values going forward would be to reduce the growth rate of residential net taxable value by about 1.5 to 2 percent per year. Using historical growth rates, this would mean a compound growth rate of approximately 6 to 7 percent per year rather than 8 to 9 percent. These effects would compound over time, gradually reducing the tax base relative to what would prevail under present law. This forecast is uncertain, however, because the property tax base under present law may be significantly reduced under court rulings on the constitutionality of present law.

One consequence of the lower residential property tax values would be a decrease of state General Obligation Bond capacity. State General Obligation Bond Capacity is equal to 1% of statewide net taxable value. Maximum fiscal impacts shown in the table are base on an 8 percent reduction of residential net taxable value in the 2011 property tax year. This forecast is uncertain, however, because the property tax base under present law may be significantly reduced under court rulings on the constitutionality of present law. Thus, the actual impacts are uncertain.

TRD notes:

> Reductions in net taxable value required by the proposed measure would likely range from zero to perhaps twenty percent for any particular county. As shown in the illustration below, residential net taxable value increased at very different rates among New Mexico counties between 2004 and 2009. In most cases, the reduction in net taxable value that would result from the proposal would be offset by increases in residential rates that are subject to the yield control statute (Section 7-31-7.1 NMSA 1978). Residential and non-residential debt service rates would also rise in response to net taxable value losses. The non-residential rates would increase because identical rates are applied to residential and non-residential property for debt-service purposes. Rates that are subject to the yield control statutes are calculated separately for residential and non-residential property, however, hence a loss in residential net taxable value would impact “yield controlled” residential rates but not corresponding non-residential rates.

DFA reports that some governmental entities have imposed the maximum operating levy authorized by law and their current imposed rate after yield control is also at or near the statutory maximum. These entities would see a decline in their operating revenue if their net taxable value decreases, as could occur under the proposal. Based on the 2009 Certification of Tax Rates, eleven hospitals, two watersheds, DeBaca County, Hidalgo County, City of Vaughn and City of Las Vegas are at the maximum mill rate allowed and remain at or near the same rate after yield control is applied. In addition, eighteen soil and water conservation districts that are not subject to yield control and are imposing the maximum rate allowed by law may see lower operating revenue.

SIGNIFICANT ISSUES

The proposal addresses the "property tax lightning" problem. The lightning refers to fact that, whereas property assessments can increase by no more than 3 percent per year while a property is retained by the same owner, assessed value increases to market value when the property is sold. In addition to creating an unfair system, economic research supports the conclusion that such "acquisition value" property tax systems reduce the rate of turnover of properties, creating inefficiency in the housing market.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bills 45, 46 and 139 amend the same section of statute and are therefore in conflict.

OTHER SUBSTANTIVE ISSUES

Two judges in the Second District Court have ruled that the present law limitation on assessed value increases in section 7-36-21.2 is unconstitutional because it creates a distinction between taxpayers based on when they purchased their house which is not explicitly authorized in the constitution. The 1998 amendment that created subsection B of Article VIII, Section 1 authorizes the legislature to limit annual increases in property value based on "owner occupancy, age or income." It appears that House Bill 132 would make the provisions of the property tax code consistent with the second district court rulings.

TECHNICAL ISSUES

The statute refers to a "prior values median" for each county based on a statistical report being prepared by the Tax Department. As noted by the Tax Department, these data may not be available in many cases. As an alternative the statute might authorize the Tax Department determine a methodology to adjust values to achieve the purposes of the statute.

TRD notes:

> The pre-sales ratio is an average ratio of assessed value to market value prior to when properties are sold. County average pre-sales ratios are calculated annually by the Taxation and Revenue Department. Accurate figures for pre-sales ratios applicable to county appraisal systems are not available prior to tax year 2009, however. In absence of pre-sales ratios for all years prior to 2009, perhaps the values of properties added to tax rolls between 2004 and 2008 could be adjusted to reflect estimated average pre-sales ratios published by the Department in 2009 and successive years.

ADMINISTRATIVE ISSUES

TRD notes:

> Administrative impacts associated with the proposal would accrue primarily to county assessors. Due to their limited staff and computer systems, many counties would experience extreme difficulty in administering provisions of the proposed bill. Assessors would need to identify all sales that occurred in their jurisdictions between 2004 and 2011, as well as new properties added to their tax rolls during the same period. They would also be required to adjust the assessed values of properties in fairly complex ways. The adjustments could easily be required for over one-quarter of any particular county's residential parcels. Parcel counts range from approximately 200,000 in Bernalillo County to several hundred in Harding County.

ALTERNATIVES

Although the proposal is presumably intended to benefit properties that are the principal residence of the owner, the language is not limited to owner-occupied residences. In this sense, it is not clear that the proposal – or present law – is consistent with the constitution.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Consequences of legislative inaction on the residential property value issue are unclear but potentially significant. At a minimum the state faces significant uncertainty entering the 2010 property tax year with numerous protests and refund claims already being filed on the grounds that the present law 3 percent value limitation is unconstitutional. Assuming the issue is eventually appealed to higher courts, the range of possibilities includes a finding that present law limits on residential property values are constitutional, or that they are unconstitutional. In the latter case, the courts could strike down the entire section, or possibly only parts of the section. Potential impacts of HB 132 would vary under these different conditions. One possibility is that the courts could require remedies similar to those in HB 132, in which case the statute itself would have relatively little impact. If however the courts rule the current law is constitutional, then HB 1323 would have the kinds of impacts outlined above. One advantage of the legislature taking action is to reduce this uncertainty.

Illustration: Residential Net Taxable Values Among New Mexico Counties, 2004 -2009 Tax Years

County	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*% Increase*
Bernalillo	7,266,947,636	7,720,730,828	8,410,708,983	9,285,156,037	10,018,143,796	10,448,788,165	43.8
Catron	27,248,593	29,794,947	32,628,331	35,978,706	41,099,262	45,862,503	68.3
Chaves	331,805,712	359,024,498	372,949,489	418,443,699	457,193,916	494,211,777	48.9
Cibola	85,501,750	85,967,537	88,563,082	88,108,541	91,746,422	97,155,043	13.6
Colfax	249,450,710	270,952,564	282,755,944	302,296,132	324,710,721	341,603,100	36.9
Curry	238,555,249	252,897,149	273,155,508	307,743,938	332,712,862	358,155,938	50.1
DeBaca	8,724,032	8,992,625	9,366,986	10,010,459	10,555,671	11,038,687	26.5
Dona Ana	1,428,829,120	1,620,891,170	1,768,040,005	2,047,994,756	2,287,677,885	2,421,999,531	69.5
Eddy	299,066,094	312,357,628	333,132,695	361,347,727	377,403,025	410,359,887	37.2
Grant	256,532,412	273,822,776	310,791,410	319,356,167	330,544,420	345,714,308	34.8
Guadalupe	22,557,717	23,908,971	23,642,957	24,667,289	24,894,468	26,623,069	18.0
Harding	3,469,113	3,537,794	3,627,170	3,825,735	4,312,302	4,238,913	22.2
Hidalgo	17,028,255	16,855,534	17,799,723	19,376,890	19,385,573	20,070,037	17.9
Lea	233,518,361	250,146,621	261,453,875	443,977,548	321,456,075	363,554,576	55.7
Lincoln	437,133,733	481,697,527	514,076,879	596,722,602	645,221,134	724,708,841	65.8
Los Alamos	520,368,060	558,090,257	590,694,760	622,840,580	632,261,630	613,670,270	17.9
Luna	140,214,352	153,656,484	164,459,494	186,744,286	201,683,968	214,391,005	52.9
McKinley	198,732,340	210,524,700	219,073,850	235,968,181	243,329,070	255,444,981	28.5
Mora	40,131,293	43,074,290	44,365,757	46,287,728	49,189,728	55,121,747	37.4
Otero	426,009,696	463,965,506	484,500,471	538,950,160	566,262,129	587,585,032	37.9
Quay	44,358,773	48,185,990	53,233,763	62,484,755	67,613,834	74,556,775	68.1
Rio Arriba	303,250,959	333,031,953	342,524,897	368,355,524	390,237,716	420,553,571	38.7
Roosevelt	91,735,072	95,110,645	99,015,002	104,965,443	110,586,305	115,146,250	25.5
San Juan	688,355,210	746,280,486	810,460,909	933,067,914	1,004,143,191	1,123,109,175	63.2
San Miguel	242,753,189	259,344,932	268,658,887	291,786,686	296,473,387	321,127,099	32.3
Sandoval	1,220,143,881	1,373,558,950	1,631,727,293	2,001,646,645	2,271,349,747	2,450,497,081	100.8
Santa Fe	3,228,093,490	3,637,538,338	4,034,418,956	4,477,871,022	4,774,246,948	4,993,911,798	54.7
Sierra	116,562,320	123,839,169	127,179,234	131,304,605	140,873,865	152,899,365	31.2
Socorro	93,884,957	98,632,395	101,684,400	110,390,580	111,920,787	118,184,577	25.9
Taos	470,340,851	530,638,015	574,527,859	663,888,261	715,702,461	773,646,902	64.5
Torrance	105,175,332	105,077,369	109,834,093	127,918,330	133,634,274	140,741,891	33.8
Union	23,786,193	23,796,649	24,017,637	26,432,656	28,576,864	29,599,643	24.4
Valencia	535,657,508	569,885,440	613,291,328	696,322,888	754,593,127	817,403,424	52.6
Totals	19,395,921,963	21,085,809,737	22,996,361,627	25,892,232,470	27,779,736,563	29,371,674,961	51.4

Information source: rate certificate files issued by the New Mexico Department of Finance and Administration

TC/svb

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity****: taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc