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

		ORIGINAL DATE	02/05/10		
SPONSOR	Sandoval	**LAST UPDATED**	02/08/10	**HB**	263
SHORT TITLE	Property Tax Valuation Limit			**SB**	
				ANALYST	Clifford

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	**FY11**	**FY12**		
		($3,400.0)	Recurring	General Obligation Bond Capacity
		Indeterminate	Recurring	Property tax beneficiaries

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

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

SUMMARY

Synopsis of Bill

In property tax year 2011, House Bill 263 would limit the increase of residential assessments to 5 percent. In subsequent years, residential values could grow no more than 3 percent per year. When a change of ownership occurs, rather than being assessed at its current and correct value, assessed value would increase by no more than 5 percent of the prior year's assessed value in 2011 and 3 percent of the assessed value in subsequent years. The provisions would apply to property tax years 2011 and subsequent. County assessors would be required to re-assess properties annually rather than having the option of re-assessing every other year.

FISCAL IMPLICATIONS

Fiscal impacts are only approximate as the necessary information to calculate precise estimates is not available. In particular, assessment practices under present law are unpredictable because of the constitutional challenge to the 3 percent value limit that is making its way through the courts. See the discussion under "Other Substantive Issues."

Two major sets of fiscal impacts can be identified: (1) Assessed values of all residential properties could <u>increase</u> by up to 2 percent more than under present law in property tax year 2011, and (2) Values of transferred properties would <u>decrease</u> by being limited to increases of no more than 5 percent in 2011 and 3 percent in subsequent years. LFC estimates that the two effects would largely offset each other in tax year 2011. In subsequent years the provisions would decrease the rate of growth of residential property values relative to present law by about 1 percent per year. These impacts would vary widely by location because of different market conditions and assessment practices. Some areas would see little or no effect and others would see larger-than-average changes.

The slower growth of residential taxable values in the future would cause decreases in both operating and debt service tax rates. Thus, although revenues for local governments would be largely held harmless, a shift of tax liability would occur with owners of newly-purchased property paying less and other property owners seeing faster growth of tax liabilities. The amount shifted would be less than one percent of property tax liability per year, but this amount would compound over time

One consequence of the lower growth of 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. Fiscal impacts shown in the table reflect a 1 percent decrease in residential net taxable value in the 2012 property tax year. This impact will increase over time due to the slower rate of growth of the tax base.

SIGNIFICANT ISSUES

The proposal addresses a portion of the "property tax lightning" problem. Lightning refers to the fact that property assessments can increase by no more than 3 percent per year while a property is retained by the same owner but 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. Because of the variability of local housing markets, impacts of tax lightning vary significantly across jurisdictions. TRD provided the table at the end of this review showing the recent history of residential net taxable value by county. House Bill 263 would address the tax lightning problem in the future, but it would not address the existing gap between properties purchased in recent years and those that have had their value growth limited to 3 percent since the 1998 constitutional amendment took effect. In addition, the proposal does not address the disparity in the value of newly-constructed properties vs., existing properties. Newly-constructed properties are assessed at or near their market value; these properties will be permanently assessed at a higher level than similar existing properties.

CONFLICT

Senate Bills 45, 46 139, 160 and 217 and House Bill 132 amend the same section of statute and therefore may conflict with the provisions of House Bill 263.

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.”

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. Possible outcomes include a finding by higher courts that the entire section 7-36-21.2 is unconstitutional. Such an outcome would appear to require that assessors bring all properties to current and correct, increasing values for more than half of the property owners in the state.

TC/svb:mew

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

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