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FISCAL IMPACT REPORT

ORIGINAL DATE 02/12/10

SPONSOR HTRC LAST UPDATED _____ HJM 47/HTRCS

SHORT TITLE Property Tax Limitation Task Force SB _____

ANALYST Clifford

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
None	None	None		
None	None	None		

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses received from:

- Taxation and Revenue Department (TRD)
- Department of Finance and Administration (DFA)
- Public Education Department (PED)
- Higher Education Department (HED)

SUMMARY

Synopsis of HTRC Substitute

House Taxation and Revenue Committee Substitute for (HJM47) would create a property tax limitation task force to address issues arising from administration of the property tax. The Legislative Council Service and the Legislative Finance Committee would be responsible for convening and staffing the task force. The task force would consist of four members from each house of the legislature, and a representative from the New Mexico Tax Research Institute, the Taxation and Revenue Department, the Department of Finance and Administration, the New Mexico Association of Counties, the New Mexico Municipal League, the Realtors Association of New Mexico, two members of the public with knowledge of property tax law, the Higher Education Department, the Public Education Department. The task force would report findings and proposed legislation to the interim Revenue Stabilization and Tax Policy Committee by October 31, 2010.

FISCAL IMPLICATIONS

No direct fiscal impacts would result from the memorial.

SIGNIFICANT ISSUES

Among other points, the Memorial notes the following:

- New Mexico voters approved a constitutional amendment in 1998 requiring a limitation on annual residential property value increases.
- The legislature enacted section 7-36-21.2 and 7-36-21.3 in 2000 to implement the constitutional amendment.
- Section 7-36-21.2 limits value if no change of ownership occurred in the previous year.
- When a property changes owners, 7-36-21.2 increases its assessed value to current and correct value. In some counties where market values have increased more than 3 percent per year, assessed values of properties that have changed ownership since 2002 have increased substantially.
- Newly-constructed homes are valued much differently than older homes that come under the value limitation.
- Two district court cases have determined that section 7-36-21.2 is unconstitutional, resulting in increased tax protests and a case pending before the Court of Appeals.
- The rate-determining process lacks transparency.
- The Property Tax Division lacks the necessary resources to share information with county assessors.
- Although some tax rates are subject to yield control, not all rates are.

OTHER SUBSTANTIVE ISSUES

The proposal appears to be in response to 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.

Because of the variability of local housing markets, impacts of tax lightning vary significantly across jurisdictions.

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.”

ADMINISTRATIVE ISSUES

TRD notes:

The extent of administrative cost imposed on the Taxation and Revenue Department (TRD) would depend on the degree to which the task force required assistance of the Department. TRD could easily expend .25 FTE in assisting the task force. The associated salary and expenses could total \$20,000.

RELATIONSHIP

HJR 12 proposes to amend the Constitution to prevent property values from rising when properties are transferred. HB 132, SB 45, SB 46, SB 139, SB 160 and SB 217 would amend the residential property tax limit in present law.

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/mt