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

ORIGINAL DATE 02/01/10
SPONSOR Boitano **LAST UPDATED** **HB**

SHORT TITLE Residential Property Valuation Limits **SB** 217

ANALYST Clifford

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
		($30,000.0)	Recurring	General Obligation Bond Capacity

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

SUMMARY

Synopsis of Bill

Senate Bill 217 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 the prior year increased by no more than 3 percent in each subsequent year. Counties would be given the option of rolling back their residential property values to 2001 and limiting value growth to no more than 3 percent. Regardless of whether they have adopted the local option to rollback values, counties would be required to roll back the values of properties newly-constructed since 2001 by using the ratio of the average assessed value to market value of properties in the county during the year of construction and limiting growth to 3 percent thereafter.

FISCAL IMPLICATIONS

Fiscal impacts are only approximate as the necessary information to calculate precise estimates is not available. **In particular, this forecast is uncertain because the property tax base under present law may be significantly changed under court rulings on the constitutionality of present law.** See the discussion under “Other Substantive Issues.” The fiscal impacts in the table assume that present law provisions remain in effect.

Residential taxable value would decrease due to two major changes: (1) Assessed values of properties newly-constructed from 2001 to the present would decrease as they are rolled back and multiplied by the ratio of assessed value to market value; and (2) Values of 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 when transferred. LFC estimates that rolling back the value of properties newly constructed between 2001 and 2010 would reduce residential net taxable value by between 5 and 10 percent statewide. Limiting value increases when homes are transferred or newly-constructed would reduce the rate of growth of future values by about 1.5 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.

Decreases in residential taxable values would cause offsetting increases 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 recently-purchased property receiving a tax decrease and other property owners seeing increases. <u>On average</u>, the tax <u>increases</u> would be about 5 to 10 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. Meanwhile, those who have purchased homes in the last few years would see tax <u>reductions</u> averaging about 10 to 15 percent.

Using historical growth rates, the reduced rate of growth due to the limit on properties when transferred 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 it would be under present law.

One consequence of the higher 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 one-time 7 percent increase in residential net taxable value in the 2011 property tax year plus a slower rate of growth going forward.

These impacts do not reflect any changes due to the local option to rollback values of existing homes. If a local jurisdiction passes such an option, values would be further reduced.

TRD provided the attached table showing the rate of growth of residential values by county.

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, 139 and House Bill 132 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." Possible decisions by the courts include overturning all of the current statute, overturning only a portion as it relates to revaluation upon sale or leaving the statute intact. Fiscal impacts shown assume the current statute as a baseline. If the courts find present law unconstitutional and strike down the entire statute, one possibility is that all properties would have to be brought to current and correct. This outcome would be similar to that required in SB 139 at least for 2011. If the courts find a portion of the law unconstitutional and requires that all value growth be limited to 3 percent, then the effects of SB 217 are smaller than those shown in the table.

TECHNICAL ISSUES

TRD notes:

> Based on the Second Judicial District courts' decisions in the Dzur and Wang cases, an exception to the valuation limits cannot be based on anything other than owner-occupancy, age, or income. The exception in current statute for change of use or zoning, so long as the property remains residential property, would appear to be unconstitutional.
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> It would be difficult for many counties to reassess properties to current and correct levels within one year. Many are on a two-year appraisal cycle and are not equipped to reassess immediately.
>
> Due to limited resources, the Department would also likely experience difficulty reassessing properties in counties that do not reassess to 92 percent of market value in 2011 as required by the proposed bill.

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 the entire present law limiting on residential property values is unconstitutional, a finding that only a portion of the law is unconstitutional or a decision not to overturn any portion of present law. 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