

County Revenues and Financial Responsibility

Better Informed Public Official (BIPO) Presentation
December 8, 2020

Presenters:

Leandro Cordova, Finance and Administration Director, NMC
Shirley Ragin, DCM for Finance, Bernalillo County

Agenda

- County Revenues and Financial Responsibility (9:30 AM – 10:30 AM)
 - Gross Receipts Tax (GRT) and Property Taxes
 - Capital Outlay and the Infrastructure Capital Improvement Project (ICIP) Process
 - Counties as Fiscal Agents
 - Special Revenue Funds (E911, DWI)

Gross Receipts Tax (GRT)

- Various GRT increments for diverse purposes can be imposed by counties and municipalities. Refer to the Taxation and Revenue Department (TRD) “FYI-C120: County Gross Receipts Tax Local Options” publication found at: <http://www.tax.newmexico.gov/forms-publications.aspx>
- GRT increments are imposed via ordinances and some increments require an election to obtain voter approval.
- TRD must be notified at least three months prior to the effective date (either January 1 or July 1) of the enactment of any GRT ordinance resulting in the imposition of, or changes to, tax rates.
- GRT increments were de-earmarked with HB 479

HB 479 Section 13

- De-Earmark Gross Receipts Tax
- Changes to caps on GRT increments
- Unrestricted Gross Receipts Tax
- Consolidated GRT
- Grandfathered GRT
- Moving Forward with Current Structure
- Changes to Structure Effective July 1, 2019

Gross Receipts Tax (GRT)

- There is a two month lag in cash distribution
 - Which means that receipts reported for July are collected in August and then distributed by TRD to local entities in September.
 - Therefore, a newly imposed GRT increment authorized beginning July 1st won't be distributed until September, which is important to remember for budgeting purposes.
- Restricted GRT increments should be budgeted in the proper Fund(s). For example, increment designated for indigent care should be accounted for in a fund that is only used for allowable indigent expenses

Property Tax Code – New Mexico State Constitution

- New Mexico Constitution
 - Article VIII – Taxation and Revenue
 - Section 1
 - Taxes shall be levied in proportion to value (**ad valorem**), except that annual increases in value of residential property may be limited by owner-occupancy, age or income
 - Section 2
 - Tax rates for operating purposes limited to \$20 per \$1,000 of net taxable value (20 mills) without voter approval
- Section 7-37, NMSA 1978
 - Applies to and governs the imposition of the property tax rates authorized
 - Defines the allocation of the \$20 maximum mill rate
 - \$11.85 – Counties
 - \$ 7.65 – Municipalities
 - \$ 0.50 – School Districts

Property Tax Code – New Mexico State Law

- New Mexico “Property Tax Code” [Sections 7-35 thru 7-38, NMSA 1978]
 - The Code is administered by the Department of Taxation and Revenue
 - Partly administered by the Department of Finance & Administration
 - Section 7-36, NMSA 1978 provides for valuation methods for property taxation
 - Responsibility of county assessors to maintain current and correct values (7-36-16)
 - Add new properties;
 - Add property improvements;
 - Compare to sale price
 - Residential properties limited to annual valuation increase of 3% (7-36-21.2)
 - Based on owner-occupancy;
 - Conflicts with maintaining current and correct values

Yield Control Formula (7-37-7.1 NMSA 1978)

- Statutory intent is to prevent extraordinary tax increases in response to property reassessment
- Newly imposed operating or special levies are NOT subject to yield control the first year of imposition
- As valuations increase/decrease, the rate adjusts to limit tax increase/decrease to approximately the rate of inflation and growth attributed to new construction
- Calculates residential & non-residential properties separately based on aggregate totals
- Does not affect valuation of individual properties
- Applies to operating rates imposed under 7-37-7
- Applies to other operating and special levies authorized outside the Property Tax Code (for example, county hospitals, school district capital projects) unless authorizing statute specifically excluded the application of yield control
- Does not apply to general obligation bond debt mill levy rates

Types of Tax Property Tax Rates

- **Operating Mill Levies** – generates recurring revenue which pays for
 - Examples – salaries & benefits, contractual services, equipment & supplies, insurance, fuel -- the entity's day-to-day operations.
- **Special Mill Levies** – generates revenue for school district capital projects, operation & maintenance of county hospitals, and operation of special taxing districts
 - Examples – water & sanitation, arroyo flood control authorities, soil & water conservation districts
- **Debt Mill Levies** – pays the principal and interest on indebtedness, which is incurred generally for acquiring or constructing capital facilities.
 - Example – General Obligation (GO) Bond issuances

Key Responsibilities

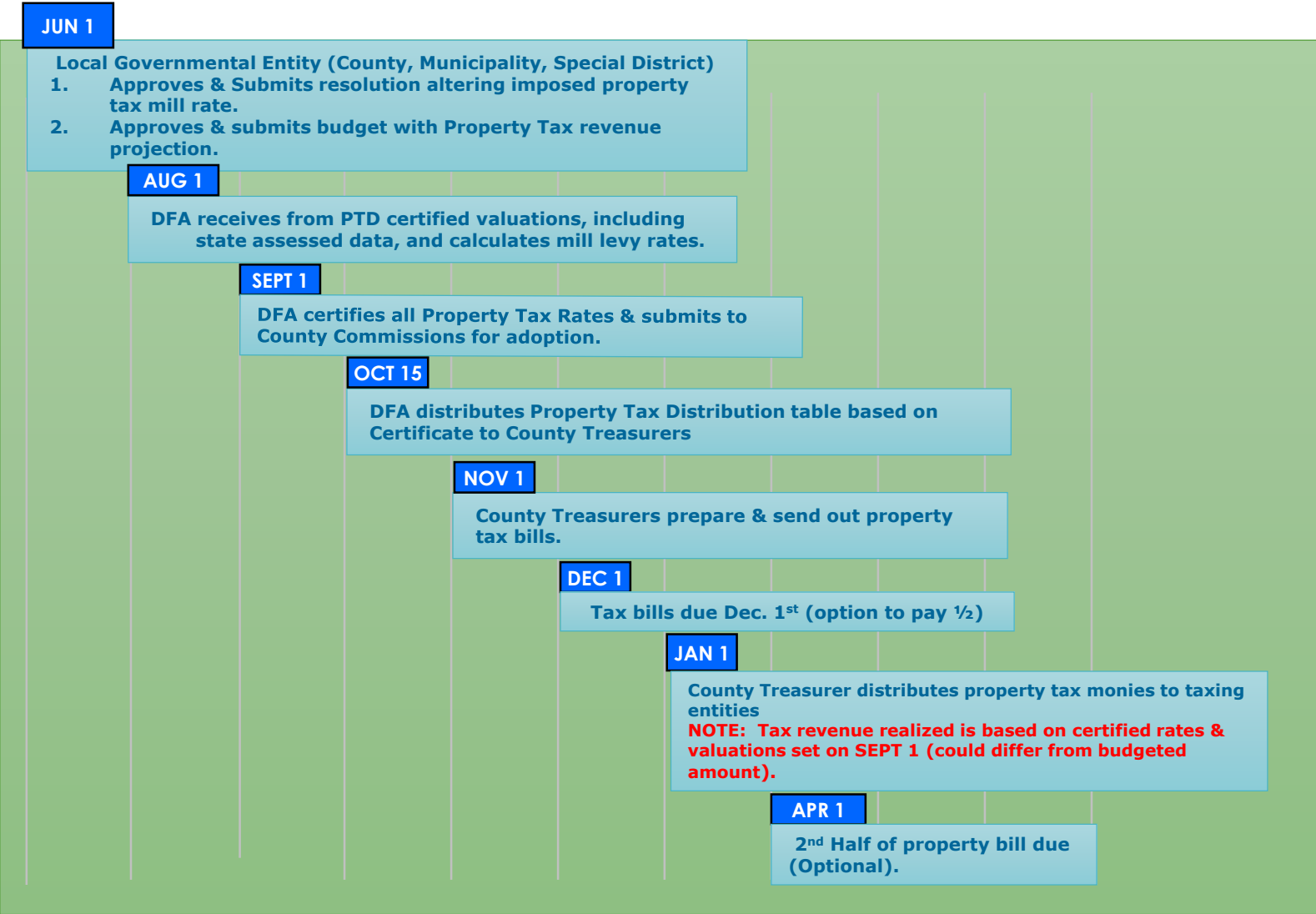
- **Local level**

- **County Assessor:** maintain current and correct values, report to PTD and DFA, prepare property tax schedule
- **County Treasurer:** bill, collect and distribute property taxes
- **Governing Bodies of Local Taxing Entities:** impose property tax rates as allowed by law
 - Major governmental units (county, municipality, school district)
 - Other governmental units (public improvement districts, soil & water conservation districts, water & sanitation districts, flood control authorities, hospital districts, college districts)

- **State level**

- **TRD: Property Tax Division and Oil & Gas Bureau** (determine & certify property valuations)
- **DFA: Local Government Division** (prepares tax certificates by September 1st) and **State Board of Finance** (calculates state general obligation bond debt mill levy rate)
- **Public Education Department** (certifies all school district mill levy rates to DFA by August 15th)
- **Higher Education Department** (certifies all university branch & community college mill levy rates to DFA by August 15th)
- **Livestock Board** (imposes livestock mill levy rates)
- **NM Soil & Water Conservation Commission** (coordinates with soil & water conservation districts to provide mill levy rates to DFA)

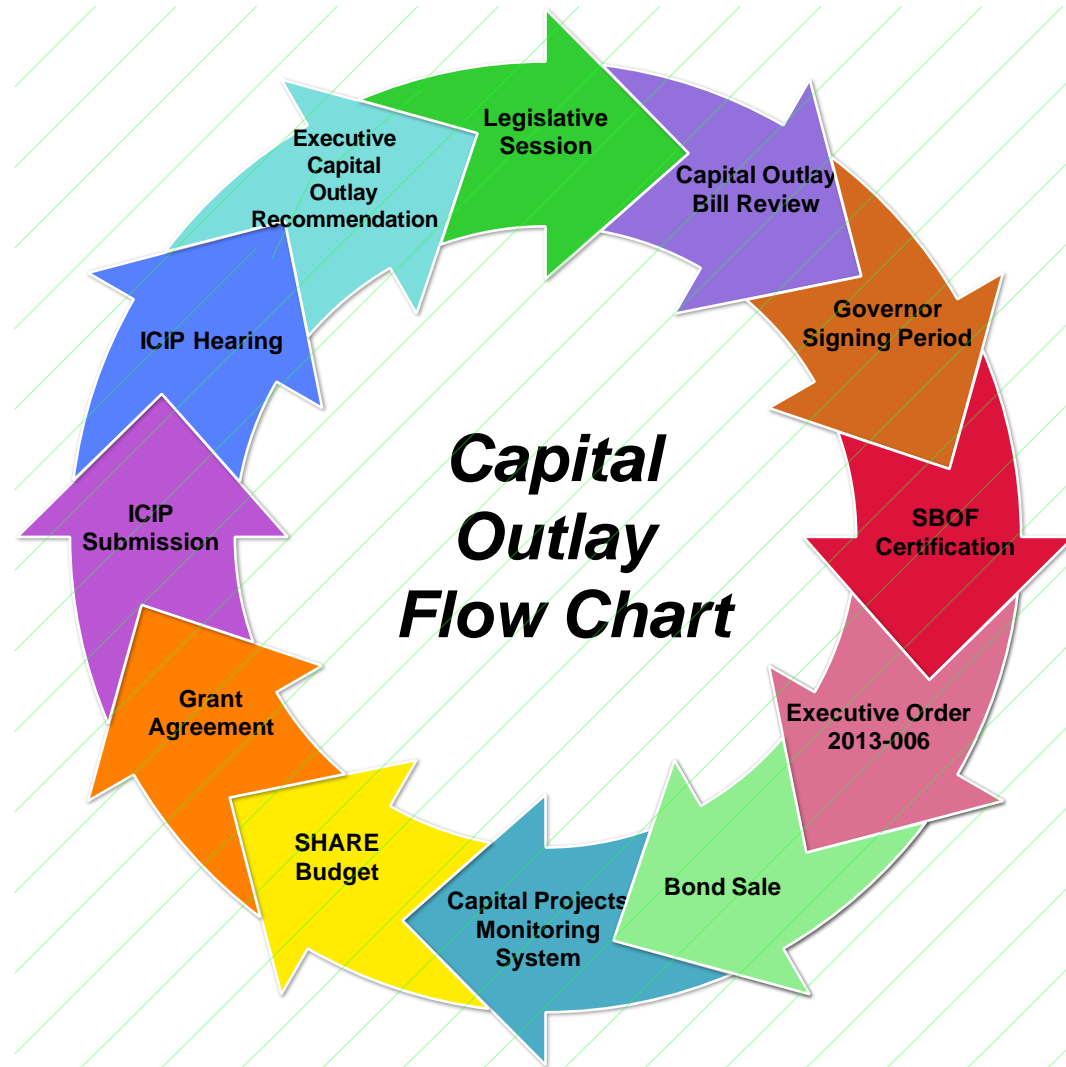
DFA Property Tax Timeline



Infrastructure Capital Improvement Plan (ICIP)

- State statute §6-4-1 NMSA 1978 all state agencies and higher education institutions must submit their Infrastructure Capital Improvement Plans by July 1st
- Executive Order 2012-023 requires agencies to submit a five-year ICIP to provide critical and comprehensive information to the executive and legislature so they can make informed decisions regarding assistance and funding for capital projects
- Local Infrastructure Capital Improvement Plans are not mandatory but used to make funding decisions. (Local governments include municipalities, counties, special districts and tribal entities.)

Capital Outlay Flow Chart



Capital Outlay

- Types of Projects
- Administered by the State (DFA)
 - Alterations, replacements, repairs, remodeling of buildings and systems
 - New construction
 - Non-structural improvements to land (grading, drainage, landscaping)
 - Land or water rights acquisition
 - Equipment having a useful life of 10 years or more

Capital Outlay Request Considerations

- Public Health & Safety
- Does the project fund a project mandated by federal, state or agency mandates that cannot be delayed?
- Will the funds complete the project or a functional phase of the project?
- Does the project support a necessary function of governance (education, public safety, health care)?
- Economic Development—maintain or advance the state's economy?
- Leverage other funds, resources or partnering?
- Does the project lower out-year operating costs?
- Are the operating costs including in the operating budget request?

Executive Order 2013-006

- Executive Order 2013-006 was established on May 2, 2013 to address the following
 - Better oversight and management of the State's capital outlay appropriations
 - Lack of audits or findings raise concerns about a grantee's ability to be a good steward of capital outlay funds thereby increasing the risk of fraud, waste and abuse
 - Independent audits provide the best assessment of grantees' accounting methods
 - Oversight of grantees' accounting methods is needed to safeguard appropriations and assets

Sample Fiscal Agent Agreement

ALTERNATIVE FISCAL AGENT
ATTACHMENT (X)

STATE OF NEW MEXICO
STATE AGENCY NAME
FUND 89200 CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is made and entered into as of this [] day of [], 20[], by and between the XXX, (Address), hereinafter called the “Department”, and (Entity), hereinafter called the “Grantee”, by the (Name of Fiscal Agent), authorized agent. This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of (xx), Chapter (xx), Section (xx), Subsection (x), Paragraph (x), the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, the Grantee contracted with (xx) for capital outlay fiscal agency services as set forth in the attached Exhibit (x); and

WHEREAS, the Grantee requests (xx) act as the authorized agent for capital outlay projects awarded by the New Mexico legislature and administered by the Department.

WHEREAS, the Department recognizes, and will contract with the Grantee through its authorized agent, (xx); and

WHEREAS, the Department: successor agency, may enter into grants and contracts as appropriated by law.

Applying the Anti-donation Clause to Capital Outlay

- The NM Constitution prohibits public entities from donating to private entities
- Private entity **own** a publicly-financed capital asset, but they can **operate** them **if** certain conditions are met
- When there is a private operator, the market rental value of the public asset must be **appraised** to determine the fair market value of the asset
- Private operators can pay fair market rent in cash or in services
- If payment is made in services, the tenant has to be selected in compliance with the **Procurement Code** and the lease term has to be limited to the Procurement Code contract term limit
- The lease/operating agreement must have a “menu” of services to be provided and the value that each service will count towards rent. The value of each service must be demonstrated to be at fair market value

Special Revenue Funds

- Fire Protection
- Recreation
- Emergency Medical Services (EMS) Fund
- Environmental intergovernmental grants
- Law Enforcement Protection
- Corrections
- Lodgers' tax
- E-911
- DWI Funds
- PILT / Secure Rural Schools

Special Revenues

- CANNOT BE USED FOR GENERAL OPERATIONS
- Special revenues distributed by LGD/Budget & Finance Bureau
 - County Detention Facility Reimbursement Act,
 - Forest Reserve, Secure Rural Schools Act reauthorized
 - Taylor Grazing Act distributions
 - Law Enforcement Protection Fund (LEPF),
- Other Special Revenues
 - General Obligation (GO) Bond proceeds to be used for purposes approved by the voters
 - Revenue Bond proceeds
 - Loan proceeds

Local DWI Program

- The 1993 New Mexico Legislature enacted Laws of 1993, Chapter 65. A portion of the law created the Local DWI Grant Program Act, compiled as Sections 11-6A-1 through 11-6A-6, NMSA 1978, as amended
- The LDWI Program is funded by a 45% alcohol excise tax
- FY19 Fund was approximately \$16.8 Million - **\$11.7 Million to Counties**
- Distribution is formula driven by statute
- Application process for grants
 - Yearly application process to request the funds
 - 10% in-kind match required
 - Funds are awarded by the statewide DWI Grant Council
- Quarterly reports due to LDWI staff, including reimbursement requests and documentation of activities
- The local programs are audited every three years

Local DWI Program

- The LDWI Program funds eight areas
 - Prevention
 - Enforcement
 - Screening
 - Domestic Violence (alcohol related)
 - Treatment
 - Compliance Monitoring & Tracking
 - Coordination, Planning & Evaluation
 - Alternative Sentencing

E-911 Bureau

- A fifty-one (\$0.51) cents surcharge on all cell phones, and land lines
- Average Annual Revenues Are Approximately \$ 13.5 Million
- Fiscal Year 2019 Budget was \$16,875,429
- Grants awarded from E-911 funds primarily for
 - Equipment
 - Training
 - Maintenance
- Emergency Dispatch GRT – County Increment

Lodgers Tax

- Lodgers Tax is also known as Occupancy Tax
- Allows an optional tax revenue for municipalities or counties on persons using commercial lodging accommodations.
 - Not all Counties have imposed the tax
- Statutes and Rules for Lodgers Tax Enacted in 1969, the Lodgers' Tax Act (Sections 3-38-13 through 3-38-25, NMSA 1978) Enacted in 1996, Lodgers Tax Quarterly Report (Rule 2 NMAC 105.2) Two Source Documents for Guidance

Revenue Sources From the State

- Gross Receipts Tax (GRT)
- Gasoline Tax
- Motor Vehicle Fees
- Small County Assistance
- Fire Protection Allotment
- Law Enforcement Protection (LEPF) Allotment
- Emergency Medical Services (EMS) Allotment

NM Taxation and Revenue Department

The screenshot displays the website for the Taxation & Revenue Department of New Mexico. The page is titled "Overview" under the "Municipal & County Governments" section. The navigation bar includes links for HOME, FORMS & PUBLICATIONS, FILL, PRINT & GO, TAX RESOURCES, NEWS & ALERTS, CONTACT US, and ABOUT US. A secondary navigation bar lists BUSINESSSES, INDIVIDUALS, TAX PROFESSIONALS, GOVERNMENTS, ONLINE SERVICES, ALL NM TAXES, and JOBS. The breadcrumb trail shows: Home > Government > Municipal & County Governments > Overview. The left sidebar contains a menu with items: Governments, Local Government Distributions (RP500), Types of Taxes, Request for Taxpayer Listing (RP455), Tribal Governments, Municipal & County Governments (selected), Overview (selected), Forming Tax Increment Districts, Municipal Annexations, Enactment Rate Tables, Municipal Incorporations, Property Tax Rebate for Personal Income Tax, Local Option Taxes, Tax Analysis, Research & Statistics, and Tax Analysis, Research, & Statistics. The main content area features the heading "Overview" and the text: "New Mexico has 33 counties and many more municipalities as political subdivisions within the state. The best interests of all New Mexicans demand that transactions and communications between and among various governments, commissions, boards, councils and other entities be as smooth and rapid as we can make them. Working together, we can maximize our efforts. This section will offer information on the key interactions municipal and county governments are likely to have with the Taxation and Revenue Department." Below this is a "Links" section with a link to "Gross Receipts Tax Distributional Reports".

TAXATION & REVENUE
NEW MEXICO

NM Taxation & Revenue Department MVD New Mexico

HOME FORMS & PUBLICATIONS FILL, PRINT & GO TAX RESOURCES NEWS & ALERTS CONTACT US ABOUT US

BUSINESSSES INDIVIDUALS TAX PROFESSIONALS GOVERNMENTS ONLINE SERVICES ALL NM TAXES JOBS

Home > Government > Municipal & County Governments > Overview

Governments

Local Government Distributions (RP500)

Types of Taxes

Request for Taxpayer Listing (RP455)

Tribal Governments

Municipal & County Governments

Overview

Forming Tax Increment Districts

Municipal Annexations

Enactment Rate Tables

Municipal Incorporations

Property Tax Rebate for Personal Income Tax

Local Option Taxes

Tax Analysis, Research & Statistics

Tax Analysis, Research, & Statistics

Overview

New Mexico has 33 counties and many more municipalities as political subdivisions within the state.

The best interests of all New Mexicans demand that transactions and communications between and among various governments, commissions, boards, councils and other entities be as smooth and rapid as we can make them. Working together, we can maximize our efforts.

This section will offer information on the key interactions municipal and county governments are likely to have with the Taxation and Revenue Department.

Links

[Gross Receipts Tax Distributional Reports](#)

Gross Receipts Tax (GRT) Resources

- Helpful Resources
 - TRD website: <http://www.tax.newmexico.gov/Default.aspx>
 - County Gross Receipts tax information page: <http://www.tax.newmexico.gov/gross-receipts-taxes.aspx>
 - County Gross Receipts tax Local Options Publication: <http://www.tax.newmexico.gov/forms-publications.aspx>
 - County Gross Receipts tax enactment date tables: <http://www.tax.newmexico.gov/Government/enactment-date-tables.aspx>

Property Tax Resources

- Helpful resources:
 - Property Tax Quick Facts –DFA/LGD Website
http://nmdfa.state.nm.us/Property_Tax_Facts.aspx
 - Property tax certificates by tax year:
http://nmdfa.state.nm.us/Certificate_of_Property_Tax.aspx
 - Property tax revenue estimate form:
http://nmdfa.state.nm.us/Property_Tax_Revenue_Estimate.aspx
 - Inflation factor for property tax rate setting:
http://nmdfa.state.nm.us/Inflation_Factor_for_Property_Tax_Rate_Settings.aspx

Key Terms

- **Assessed Value** – This is the “valuation for property taxation purposes” and is the county assessor’s estimate of a property’s value.
- **Taxable Value** – This is the assessed value multiplied by the tax ratio of one-third (1/3rd or 33%) as established by statute.
- **Net Taxable Value** – This is the taxable value minus head-of-family and veteran exemptions.
- **Mill Levy** - Mill Levy or tax rate is defined as that rate that is applied for each one thousand dollars (\$1,000) of net taxable value of both residential and nonresidential property allocated to the governmental entity.
- **Maximum Authorized** – Statute authorizes various local governmental entities to impose mills levy rates up to the maximum limits allowed in applicable statute.
- **Increments** - Mill Levy (tax rate) increments – The governing body may impose a new or add/subtract increments to the existing mill levy after it determines that additional/reduced revenue is needed for general operating purposes.