

New Mexico

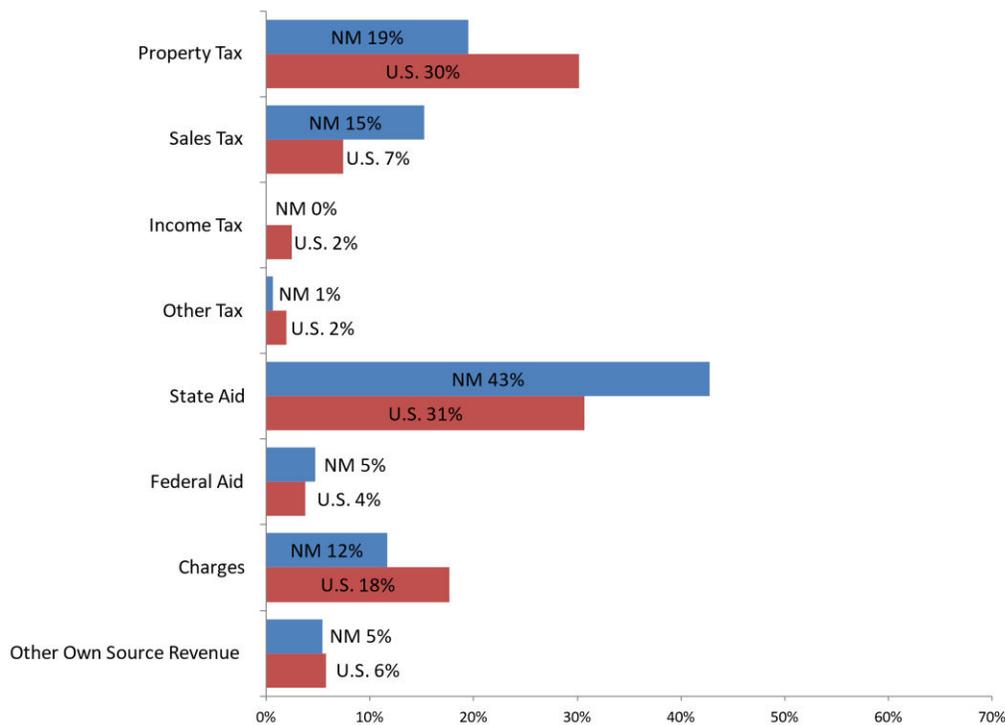
Highlights

Local governments in New Mexico rely less heavily on property taxes than do most other states (figure NM-1). This is because both the state and local governments greatly depend on a broad-based sales tax (known as the gross receipts tax), there is a large amount of untaxable land, and the school finance system is very centralized. In 2019, New Mexico had the third-highest percentage of K-12 revenue from state sources, at 70 percent. Only Vermont and Hawaii were higher (NCES 2020).

New Mexico has a classified property tax system with three classes of property. Taxable value is 33 1/3 percent of market value.

The state makes use of a unique property tax levy cap, known as yield control. The growth in property tax revenues may not exceed the lesser of a calculated growth factor or 5 percent from the previous year, plus new property. The levy limit is calculated separately for residential and nonresidential properties, which results in different tax rates for each property type. The Department of Finance and Administration sets the rates for each of the local government entities for residential and nonresidential property within each county.

Figure NM-1
Sources of Local General Revenue, New Mexico and U.S., 2019



Source: U.S. Census via Significant Features of the Property Tax

Property Tax Reliance

In 2019, property tax as a percent of state and local revenue was second lowest in New Mexico compared to any other state (table NM-1).

Table NM-1
Selected New Mexico Property Tax Statistics, 2019¹

	New Mexico	U.S. Average	Rank (of 51) <i>1 is highest</i>
Per capita property tax	\$884	\$1,758	46
Property tax percentage of personal income	2.0%	3.1%	43
Total property tax as percentage of state-local revenue	7.3%	16.6%	50
Median owner-occupied home value ²	\$171,400	\$217,500	34
Median real estate taxes paid for owner-occupied home ²	\$1,371	\$2,471	40
Effective tax rate, median owner-occupied home ³	0.8%	1.1%	35

Sources: [U.S. Census via Significant Features of the Property Tax](#), American Community Survey

¹ All revenue numbers in this table include the state government as well as local governments.

² The statistics for [median owner-occupied home value](#) and [median real estate taxes paid for owner-occupied home](#) are five-year average statistics for years 2015-2019.

³ Calculated as the median real estate tax paid on owner-occupied homes as a percent of the median owner-occupied home value.

Administration and Assessment

Historically, New Mexico relied primarily on local property taxes to fund public school capital expenditures; provide municipal and county capital and operating funds; and to supply funding for community colleges, county hospitals, and other special taxing districts. For counties, the property tax on average is their largest source of revenue; for municipalities, it is on average the second-largest source of revenue. The state gets almost no revenue from the current property tax system.

New Mexico imposes its property tax on real and personal property but exempts tangible personal property of individuals.

Starting in 1979, in a period of significant underassessment and broad reassessment efforts, New Mexico created a statutory provision to reduce or increase imposed mill rates formulaically in an effort to limit tax yields when valuation growth and reassessment cause taxable values to increase. Conversely, the formula (known as “yield control” but never actually called that in law) also provides for mill rates to be raised when tax yields are not keeping up with rising government costs. The formula provides for some inflationary growth using the price deflator index for state and local government purchases of goods and services. Yield control does not apply to debt service impositions or to property subject to

one of four special or in-lieu property taxes, such as the Oil and Gas Production Equipment Ad Valorem Tax.

In 1978, the agency responsible for overseeing statewide property tax administration became the Property Tax Division (PTD) of the newly-created Taxation and Revenue Department (TRD). The Department of Finance and Administration (DFA) and Office of the State Engineer have roles in setting the tax rates each year.

Only certain centrally assessed properties are directly assessed by the Property Tax Division, whereas most commercial and residential property is valued and assessed by counties. The assessors carry the bulk of the valuation burden. County treasurers bill and collect property taxes based on the tax schedule prepared by the county assessors, with input from the PTD on state-valued properties.

Article VIII, Sec. 1 of the state constitution requires that taxes generally shall be equal and uniform for the same class. A 1971 amendment provided that different methods of valuation are allowed for different kinds of property, and a 1998 amendment ordered the legislature to limit the annual increase in valuation of residential property based on owner occupancy, age, or income.

Properties producing oil or natural gas have been taxed since 1959 under the Oil and Gas Ad Valorem Production Tax, not the Property Tax Code.

Under the present regime, residential properties should be valued at current and correct values; however, increases in taxable value for primary residences are limited to 3 percent per year pursuant to legislation following the 1998 amendment (table NM-2).

Limits on Property Taxation

Since 1933, the New Mexico Constitution has limited the combined operating levies of the four principal units of government (state, counties, municipalities, school districts), at first to twenty dollars per thousand dollars of net taxable value (\$20/\$1,000). The state determines the allocation of the split limit among governmental bodies, and the allocations have changed over the years. The state stopped levying its own operating rate in 1980. Since 1986, the split has been \$11.85/\$1,000 for counties, \$7.65/\$1,000 for municipalities, and \$0.50/\$1,000 for school districts.

In addition to the rate limit described above, New Mexico has a levy limit known as yield control and an assessment limit. The assessment limit limits the increase in taxable value for residential property to the greater of: (1) 3 percent more than the taxable value in the prior year; or (2) 6.1 percent more than the taxable value of the property two years prior.

Property Tax Relief and Incentives

New Mexico provides several forms of property tax relief. For 2009 and later, an assessment freeze is granted for low-income disabled or elderly homeowners under which the property's valuation is frozen at its 2009 value, or the value in the tax year in which the owner's 65th birthday occurs if that is after 2009. The state also offers several exemptions: heads of families are allowed a \$2,000 exemption of the

taxable value of the property, veterans are allowed a \$4,000 exemption, and disabled veterans are allowed a full exemption from the property tax. Finally, there is a state-funded circuit breaker for low-income elderly who are either renters or owners, with a local option and an additional county option property tax rebate for low-income taxpayers.

Property tax incentives for economic development include enterprise zone and tax increment financing programs.

Table NM-2
New Mexico Property Tax Features, 2020

Feature	New Mexico	Count for 50 states plus DC
Statewide classification of real property	Yes	25
Assessment of property primarily by county	Yes	31
Limits on property tax rates or levies	Yes	45
Limits on the rate of growth of assessed value	Yes	18
Circuit breaker property tax relief program	Yes	31

Sources: Significant Features of the Property Tax

Key Property Tax History

The state still operates under the Property Tax Code enacted by the legislature in 1973. In the early 1970s, the state took responsibility for funding operations of all public schools through the school funding formula. A few years later, the state also relieved the school districts of their no-longer-necessary authority to levy property taxes for operating purposes, except for a \$0.50/\$1,000 levy. School districts continue to levy taxes for capital improvement.

In 1977, the legislature placed a 10 percent limit on the year-to-year increase in the valuation of residences. The valuation-increase limitation was repealed in 1979 and replaced with “yield control,” which is a statutory formula designed to unlink tax increases from valuation increases. By controlling the increase in revenue (the yield) hitherto connected with valuation increases, homeowners collectively would not be punished by a jump in taxes as a result of periodic equalization of valuations. Valuation of undervalued individual properties, however, could rise dramatically. Because yield control originally applied to nonresidential as well as residential property in a taxing jurisdiction, its rate-reducing impact was diluted.

In 1981, residential property began to be classified separately. Yield control was amended to apply only to residential property, thus concentrating all the tax-suppression benefits on residential property

owners. (Somewhat later, yield control was extended separately to nonresidential property.) That same year, the legislature also enacted a special method for valuation of residential property. Essentially all residential property valuations had to be rolled back to 1975 price levels.

In 1983, the special method for valuing residential property was adjusted to require 1975 price level valuation for tax years 1982 through 1985 and a 1980 level for tax years 1986 through 1990. Yield control was expected to defuse the 1986 valuation bump.

In 1985, the legislature tired of trying to legislate valuations and repealed the special method, allowing the general “current and correct” standard to prevail. By regulation, “current and correct” value for the current year means, for properties acquired (newly constructed or purchase of an existing structure) in the year before the current year, the property’s market value in the year of acquisition. For a property that did not change ownership, it means the property’s market value in the prior year; or if the county is using a two-year reappraisal cycle, two years prior.

Several attempts were made during the 1990s to introduce a California-style acquisition value system in New Mexico. Generally, this valuation regime assesses a property at its market value in the year it was built or purchased. Because basing a residence’s value on its acquisition value was clearly contrary to Article VIII, Sec. 1 of the state constitution, that section was amended in 1998 to *require* that annual increases in valuations of residential property be limited. The limit, which may be conditional, is to be applied either statewide or county by county to classes of residential property taxpayers based on owner occupancy, age, or income.

In 2000, two statutory limitations were enacted to meet the new constitutional mandate. The narrower limitation provides a 0 percent limit on the year-to-year valuation increase for owner-occupied single-family housing belonging to a person aged 65 or older whose modified gross income is \$18,000 or less. In 2003, blind or permanently disabled owner-occupants of the same income level also became eligible, and the income ceiling was indexed for inflation. In 2008, the income ceiling was boosted to \$32,000 (and adjusted for inflation in succeeding years) for both the elderly and the disabled.

The more general limitation caps annual increases in taxable value to no more than 3 percent. The limitation does not apply to residences in the first year of valuation or to valuation changes from physical improvements of the property or from zoning changes. Valuation reverts to its current and correct value when the property changes hands.

In 2014, the New Mexico Supreme Court upheld the acquisition-value assessment component of New Mexico’s assessment limitation that requires revaluation at market value when a property changes hands (McKay 2014). The plaintiffs and other critics of the law refer to this mechanism as “tax lightning” because it can produce sudden property tax spikes for new buyers (Kiehne 2014). Three homeowners who purchased property in Bernalillo County in 2007 brought the challenge, arguing it violated the uniformity clause of the state constitution. The Supreme Court upheld the legislature’s “authority to draw lines which would include the power to impose the cap but with certain conditions” (Zhao v. Montoya 2014; McKay 2014). The legislature rejected legislation to remove acquisition value assessment in the 2015 and 2016 sessions (New Mexico Legislature).

Recent Developments

In 2019, the state enacted school funding legislation in response to an order from the New Mexico District Court in a case that consolidates litigation brought against the state in 2014: *Yazzie v. State of New Mexico* and *Martinez v. State of New Mexico* (*Yazzi and Martinez v. State of New Mexico*). Both lawsuits claim the state's funding is inadequate and inequitable. The consolidated case went to trial in 2017 after the state court denied the state's motion to dismiss the cases. In a July 2018 ruling, New Mexico District Court Judge Sarah Singleton found the state's education finance system in violation of New Mexico's constitution and gave the state a deadline of April 15, 2019 to take "immediate steps to ensure that New Mexico schools have the resources necessary to give at-risk students the opportunity to obtain a uniform and sufficient education that prepares them for college and career" (SchoolFunding.Info). The legislature met the deadline passing legislation that raises teacher salaries and provides funding for under-performing schools and at-risk students. The state lauded the reforms, but plaintiffs believe the reforms fall short (Associated Press 2019).

In April 2021, New Mexico passed the Tax Fairness Reform Bill (HB 290). The bill expands income tax credits for low-income and working families. An earlier version of the legislation would have removed a property tax exemption for second homes to help offset the cost of the expansion.

New Mexico's legislature considered a bill to put a measure on the ballot to increase the veterans' property tax exemption from \$4,000 to \$6,000 effective 2023. Ultimately, HJR 3 died in chamber. The exemption amount has not been adjusted since 2005 and changing the amount requires a constitutional amendment.

While more than half of states had made up pandemic-related revenue losses by February 2021, New Mexico was among the 18 states still experiencing revenue losses. Tax collections were down 2.5 percent from March 2020 to February 2021 (Rosewicz, Theal, and Fall 2021).

Resources

Associated Press. 2019. "Plaintiffs in School-Funding Lawsuit Renew Concerns." *U.S. News and World Report*, June 28. www.usnews.com/news/best-states/new-mexico/articles/2019-06-28/plaintiffs-in-school-funding-lawsuit-renew-concerns.

Ernst & Young. 2012. "New Mexico Business Tax Competitiveness and Simulations of Selected Tax Policy Changes." New Mexico Tax Research Institute. (January). www.nmtri.org/resource/resmgr/imported/New%20Mexico%20Business%20Tax%20Competitiveness%20Study%202012.pdf.

Kiehne, Emil J. 2014. "New Mexico Supreme Court Upholds 'Tax Lightning' Statute." New Mexico Appellate Law Blog. July 1.

McDonald, Brian, Lee Reynis, Jim Peach, and Chuck Wellborn. 2016. "New Mexico Taxes and Economic Development." White paper. University of New Mexico.

http://bber.unm.edu/media/publications/NM_Taxes_and_ED_Final_2016_PDF.pdf.

McKay, Dan. 2014. "State High Court Upholds Property Assessment Policy." *Albuquerque Journal*, July 1.

www.abqjournal.com/423281/state-high-court-upholds-property-assessment-policy.html.

National Center for Education Statistics (NCES). 2018. *2018 Digest of Education Statistics*, Table 235.20.

https://nces.ed.gov/programs/digest/d18/tables/dt18_235.20.asp?current=yes.

New Mexico Legislature. Bill Finder. www.nmlegis.gov/Legislation/Bill_Finder.

New Mexico Tax Research Institute. 2014. "Fiscal Impacts of Oil and Natural Gas Production in New Mexico, Preliminary Report." (January).

www.nmtri.org/resource/resmgr/imported/Fiscal%20Impacts%20of%20OGAS%20in%20NM%20Prelim%20Final%20Jan%202014.pdf.

New Mexico Voices for Children. 2014. *Citizen's Guide to New Mexico's Tax System: How the State Collects Money and Why It Matters*.

www.nmvoices.org/wp-content/uploads/2014/02/citizen-tax-guide-2014-update-web.pdf.

Pew Charitable Trusts. 2017. "How States are Improving Tax Incentives for Jobs and Growth." (May).

Robbins, Vicki. 2016. "New Mexico Named Best State for Business Property Taxes." *POER Report*, November.

Roseweicz, Barb, Justin Theal, and Alexandre Fall. 2021. "State Tax Revenue Passes a Recovery Milestone." Pew Charitable Trusts. (May 7).

<https://www.pewtrusts.org/en/research-and-analysis/articles/2021/05/07/state-tax-revenue-passes-a-recovery-milestone>.

SchoolFunding.Info. "New Mexico." <http://schoolfunding.info/litigation-map/new-mexico/>.

Significant Features of the Property Tax. www.lincolninst.edu/research-data/data-toolkits/significant-features-property-tax. Lincoln Institute of Land Policy and George Washington Institute of Public Policy.

Publication Date

May 2021, data updated February 2022