How does yield control work?

Section 7-37-7.1 NMSA 1978 ("Additional limitations on property tax rates") is commonly referred to as the "yield control statute" because it limits revenue yields that result when property values are increased due to reassessment. Yield control reduces certain property tax rates from the tax rate as originally imposed ("imposed rates") to the rates actually applied against reassessed property ("yield controlled rates"). It is applied separately to residential and non-residential properties. Since the rate of increase of property value on reassessment is typically different for residential and non-residential property, the separate application of yield control to each gives rise to different yield controlled rates on residential and nonresidential properties in the same jurisdiction. Yield control applies only to taxes imposed for certain purposes, a listing of which is attached as Table 1. In general, yield control does not apply to debt service levies.

The statute is somewhat difficult to understand because it employs text to describe some fairly complex mathematical relationships. The statute identifies a "Growth Control Factor" as a limit on the percentage by which total revenue generated by a property tax imposition may grow from year-to-year. The Factor is the sum of two components:
1. The annual increase in the implicit price deflator for state and local purchases of goods and services, as identified by the U.S. Department of Commerce (this component is limited by statute to a maximum of 5 percent); and
2. The percentage increase in property value attributable to new construction and improvements to existing property.

No increase in revenue is allowed for any addition to values attributable to valuation maintenance or reappraisal programs.

In order to limit the revenue yielded by the new property values, the statute mandates that tax rates be adjusted. The result in a district in which reappraisals have increased values is that property tax rates are reduced so that, when applied to the new property values including the reappraised values, they yield only the limited revenue growth allowed. In short, rates are adjusted downward in the same proportion that reappraisals have increased total values.

The following simplified example illustrates the core components of the yield control mechanism. Start with the following assumptions:
- Residential properties are reassessed in Catron County, and reassessment increases the taxable value of existing properties by 20% -- from the existing $30 million to $36 million.
- No inflation has occurred in the past year;
- No new construction has occurred in the county during the past year;
- The county currently imposes a property tax rate of 10 mills to fund operations, and
- The county's "actual" and "imposed" rates (see below) are identical, i.e. assume there has been no adjustment for yield control in the past.

Results:
- Since the rate is 10 mills or $10 per $1,000 in taxable value, the county receives $300,000 in revenue annually prior to reassessment ($30 million x $10/$1,000).

- Without yield control, reassessment would cause revenues to increase by 20% to $360,000 ($36million x $10/$1,000) and owners of existing residential property would experience increases in their property tax bills averaging 20%.
- Yield control would decrease the residential rate by 20% -- the same percentage as the increase in property values due to reassessment -- to 8.333 mills or by 1.6667 mills (20% of 8.333 mills). This would limit total revenue yields to $300,000, or $36 million x $8.333/1,000. Thus, under these assumptions, yield control would reduce rates by the same percentage as property values have increased due to reassessment and the net revenue yielded by the tax would be the same.

Even though there would be no change in tax obligations for owners of existing property on average, impacts of yield control on particular property owners will vary:
- Owners of properties whose taxable value did not increase or increased by less than 20 percent would have a reduction in their tax bills because their rates would decrease by more than their value increased.
- Owners of property whose assessed value increased by exactly 20 percent would experience no change in tax obligations, because the rate reduction would exactly offset their increase in assessed value.
- Owners of property whose assessed value increased by more than 20 percent due to reassessment would face a tax increase.

This discussion illustrates one of the advantages of the yield control process. By limiting the increase in a taxpayer's liability that results from the reassessment process, yield control allows assessors to perform their job – bringing all properties as close as possible to their true market value – with less concern about the possible resistance they may meet from taxpayers objecting to their higher tax liability. One result should be a more equitable property valuation process, i.e. more properties being valued at their true market value.

In practice, several additional factors make the operation of yield control more complicated than the simple example above.

Treatment of New Construction:
The first year property is added to the tax base, it is not subject to yield control, i.e. it is taxed at the imposed tax rates not the yield controlled rates. In the example, if we assume that new construction in Catron County increases taxable value by $1.5 million, the $1.5 million would be added to the existing base and subject to the 10 mill imposed rate in effect at the time it was added to the base. Hence new construction would increase the county's operating revenues by 5% or $15,000. This treatment of new construction can be justified because the county's cost of providing infrastructure and public services will increase because of the new construction. New property is subject to yield control in all years after the first year it appears on the tax rolls.

Treatment of inflation:
In order to allow for increased costs of providing infrastructure and public services, the yield control formula is adjusted to allow revenue yields to increase by the amount of annual inflation. In the example, if we assume that inflation is 3 percent, Catron County's pre-existing property value of $30 million would first be increased by 3 percent – to $30.9 million – and the result is then compared with the reassessed value of $36 million. The result is an increase of 16.5 percent, rather than the 20 percent of the simple

example. Thus, imposed rates would be adjusted down by 16.5 percent, so that total resulting revenue would grow by 3 percent, rather than the zero growth of the simple example.

Is the 3% limitation on value increase of certain properties a mandatory increase or is this subject to local assessor discretion?

Section 7-36-21.3 NMSA provides a 3 percent limit on valuation increases for single-family owner-occupied homes. This provision was enacted by Laws 2000, chapter 10, Section 2, (House Bill 366). As its name suggests, this section provides a limit on *increases* in assessed value only on certain classes of property. It does not eliminate the responsibility of county assessors to determine and maintain current and correct values of property (Section 7-36-16 NMSA 1978). Hence assessors are still required to evaluate properties and to make necessary adjustments to bring them closer to market value. The following scenarios are all part of the re-assessment process:

- Property other than single-family owner-occupied homes should be increased or decreased in value by whatever amount is necessary to bring that property to its correct market value.
- The value of single-family owner-occupied property whose value has decreased should be reduced by the full amount of the decrease.
- The value of single-family owner-occupied homes that have increased in value may not be increased by more than 3 percent.

The 3% limitation is thus not a mandatory increase. However, since property tax values in many markets are now substantially below current market values, many assessors may be routinely increasing such values by 3 percent.

Calculation of "remaining authority":
The New Mexico Constitution limits rates that may be imposed without voter approval to a total of 20 mills. New Mexico statutes allocate the 20-mill limit as follows: 11.85 mills to counties, 7.65 mills to municipalities, and .5 mills to school districts. The difference between the statutory limits listed above and rates imposed to date by each taxing entity is commonly called "remaining authority". Hence if a county has imposed 8 mills it is said to have "remaining authority" of 3.85 mills, or 11.85 mills less the 8 mills that have been imposed.

In addition to a list of rates that are subject to yield control, the following tables present imposed rates, yield controlled or "actual" rates and remaining authority for each county and municipality as of the 2006 property tax year. In addition, the table presents a calculation of the additional revenue that could be generated in each community if the remaining authority were imposed. This amount is calculated by multiplying the remaining tax rate authority times the net taxable value in each jurisdiction as of the 2006 property tax 7year.

As an example in reading the tables, Santa Fe County has imposed the maximum 11.85 operating rate and therefore has no remaining rate authority. The City of Santa Fe has imposed 2.817 mills and therefore has 4.833 mills of remaining authority. If imposed on all properties during the 2006 tax year, the remaining authority would have generated approximately $14.2 million in operating revenues. This reflects that fact that net taxable value in Santa Fe was approximately $2.9 billion.

Table 1: Property Tax Rates Subject to Yield Control Statute (Section 7-37-7.1 NMSA 1978)

Description	Statutory Reference
Municipal Flood Control – 5 mill maximum to construct dikes, dams, etc.	Sec 3-41-2
Municipal Parking District – 6 mill maximum	Sec 3-51-14
Special Hospital District 4.25 mill maximum	Sec 4-48A-16
County Hospitals – operating and maintaining – 6.50 mill maximum –includes UNM Hospital	Sec 4-48B-12
County Hospitals – 4.25 to 6.50 mill depending on county class	Sec 4-48-15
County Flood Control – 1.5 mill maximum	Sec 4-59-2
Community Service District – 10 mill maximum	Sec 4-54-4
Small Counties Assistance – 8.85 mill maximum.	Sec 4-61-2
Economic Advancement Districts – 2 mill maximum.	Sec 6-19-4
Low-Income Property Tax Rebate –County Option –1 mill maximum.	Sec 7-2-14.5
County Operating Rates --11.85 mill maximum.	Section 7-37-7A.
Municipal Operating Rates --7.65 mill maximum.	Section 7-37-7A
School District Operating Rates --.5 mill maximum.	Section 7-37-7A
Copper Ad Valorem Tax	Sec 7-39-8
College District Operation – 5 mill maximum	Sec 21-2a-5
Public School Capital Improvements – 2 mill maximum	Sec 22-25-7
Public School Buildings – 10 mill maximum	Sec 22-26-7
Albuquerque Metropolitan Flood Control -.5 mill maximum	Sec 72-16-22
Las Cruces Metro Flood Control -.5 mill maximum	Sec 72-17-22
Flood Control Districts -- 2 mill maximum	Sec 7-18-20
Southern Sandoval County Flood Control	Sec 7-19-22
Artesian Conservancy Districts	Sec 73-1-21
Soil and Watershed Conservation Districts	Sec 73-20-17
Solid Waste Authority	Sec 73-20-46
County Boards of Horticultural Commissioners	Sec 76-3-2
Livestock Code	Sec 77-2-16

Additional Notes:
1) Information displayed above was compiled from House Bill 948, (HB-948) introduced in the 2003 New Mexico legislative session. HB-948 proposed to eliminate the yield control statute, and thus contained all statutory references to it. The legislature did not approve the proposal.
2) Property tax levies imposed under the Education Technology Equipment Act (6-15A-1 to 6-15A-16 NMSA 1978) are not subject to the yield control statutes. Under the act, school districts are allowed to create debt without voter permission to enter into lease-purchase agreements to acquire educational technology equipment. For additional details, please see "How New Mexico Public Schools are Funded" – New Mexico Public Education Department, School Budget and Finance Analysis Bureau – available on the Public Education Department website.