

1 HOUSE BILL 332

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PROPERTY TAX; ADDING A NEW USE OF LAND ELIGIBLE FOR  
12 A SPECIAL METHOD OF VALUATION FOR LAND USED PRIMARILY FOR  
13 AGRICULTURAL PURPOSES; CREATING A SPECIAL METHOD OF VALUATION  
14 FOR UNIMPROVED LAND.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 7-36-20 NMSA 1978 (being Laws 1973,  
18 Chapter 258, Section 21, as amended) is amended to read:

19 "7-36-20. SPECIAL METHOD OF VALUATION--LAND USED  
20 PRIMARILY FOR AGRICULTURAL PURPOSES.--

21 A. The value of land used primarily for  
22 agricultural purposes shall be determined on the basis of the  
23 land's capacity to produce agricultural products. Evidence of  
24 bona fide primary agricultural use of land for the tax year  
25 preceding the year for which determination is made of

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1 eligibility for the land to be valued under this section  
2 creates a presumption that the land is used primarily for  
3 agricultural purposes during the tax year in which the  
4 determination is made. If the land was valued under this  
5 section in one or more of the three tax years preceding the  
6 year in which the determination is made and the use of the land  
7 has not changed since the most recent valuation under this  
8 section, a presumption is created that the land continues to be  
9 entitled to that valuation.

10 ~~[B. For the purpose of this section:~~

11 ~~(1) "agricultural products" means plants,~~  
12 ~~crops, trees, forest products, orchard crops, livestock,~~  
13 ~~poultry, captive deer or elk, or fish; and~~

14 ~~(2) "agricultural use" means the:~~

15 ~~(a) use of land for the production of~~  
16 ~~agricultural products;~~

17 ~~(b) use of land that meets the~~  
18 ~~requirements for payment or other compensation pursuant to a~~  
19 ~~soil conservation program under an agreement with an agency of~~  
20 ~~the federal government;~~

21 ~~(c) resting of land to maintain its~~  
22 ~~capacity to produce agricultural products; or~~

23 ~~(d) resting of land as the direct result~~  
24 ~~of at least moderate drought conditions as designated by the~~  
25 ~~United States department of agriculture, if the drought~~

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1 ~~conditions occurred in the county within which the land is~~  
2 ~~located for at least eight consecutive weeks during the~~  
3 ~~previous tax year; provided that the land was used in the tax~~  
4 ~~year immediately preceding the previous tax year primarily for~~  
5 ~~a purpose identified pursuant to this paragraph.~~

6 ~~G.]~~ B. The department shall adopt rules for  
7 determining whether land is used primarily for agricultural  
8 purposes. The rules shall provide that the use of land for the  
9 lawful taking of game shall not be considered in determining  
10 whether land is used primarily for agricultural purposes.

11 ~~[D.]~~ C. The department shall adopt rules for  
12 determining the value of land used primarily for agricultural  
13 purposes. The rules shall:

14 (1) specify procedures to use in determining  
15 the capacity of land to produce agricultural products and the  
16 derivation of value of the land based upon its production  
17 capacity;

18 (2) establish carrying capacity as the  
19 measurement of the production capacity of land used for grazing  
20 purposes, develop a system of determining carrying capacity  
21 through the use of an animal unit concept and establish  
22 carrying capacities for the land in the state classified as  
23 grazing land;

24 (3) provide that land the bona fide and  
25 primary use of which is the production of captive deer or elk

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1 shall be valued as grazing land and that captive deer shall be  
2 valued and taxed as sheep and captive elk shall be valued and  
3 taxed as cattle;

4 (4) provide for the consideration of  
5 determinations of any other governmental agency concerning the  
6 capacity of the same or similar lands to produce agricultural  
7 products;

8 (5) ~~assure~~ ensure that land determined under  
9 the rules to have the same or similar production capacity shall  
10 be valued uniformly throughout the state; and

11 (6) provide for the periodic review by the  
12 department of determined production capacities and  
13 capitalization rates used for determining annually the value of  
14 land used primarily for agricultural purposes.

15 D. The energy, minerals and natural resources  
16 department shall promulgate rules specifying the form and  
17 content of a management plan sufficient to value land described  
18 in Subparagraph (e) of Paragraph (2) of Subsection J of this  
19 section. The rules shall require a description of the land and  
20 specify the conservation and management practices that are  
21 appropriate to preserve and maintain unimproved land in the  
22 state.

23 E. To be eligible for land described in  
24 Subparagraph (e) of Paragraph (2) of Subsection J of this  
25 section to be valued pursuant to this section, the management

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1 plan developed by the landowner shall be approved by the  
2 energy, minerals and natural resources department every ten  
3 years.

4 ~~[E.]~~ F. All improvements, other than those  
5 specified in Section 7-36-15 NMSA 1978, on land used primarily  
6 for agricultural purposes shall be valued separately for  
7 property taxation purposes, and the value of these improvements  
8 shall be added to the value of the land determined under this  
9 section.

10 ~~[F.]~~ G. The owner of the land shall make  
11 application to the county assessor in a tax year in which the  
12 valuation method of this section is first claimed to be  
13 applicable to the land or in a tax year immediately subsequent  
14 to a tax year in which the land was not valued under this  
15 section. Application shall be made under oath, shall be in a  
16 form and contain the information required by taxation and  
17 revenue department rules and shall be made no later than thirty  
18 days after the date of mailing by the county assessor of the  
19 notice of valuation. Once land is valued under this section,  
20 application need not be made in subsequent tax years as long as  
21 there is no change in the use of the land.

22 ~~[G.]~~ H. The owner of land valued under this section  
23 shall report to the county assessor whenever the use of the  
24 land changes so that it is no longer being used primarily for  
25 agricultural purposes. This report shall be made on a form

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1 prescribed by taxation and revenue department rules and shall  
2 be made by the last day of February of the tax year immediately  
3 following the year in which the change in the use of the land  
4 occurs.

5 ~~[H.]~~ I. Any person who is required to make a report  
6 under the provisions of Subsection [G] H of this section and  
7 who fails to do so is personally liable for a civil penalty in  
8 an amount equal to the greater of twenty-five dollars (\$25.00)  
9 or twenty-five percent of the difference between the property  
10 taxes ultimately determined to be due and the property taxes  
11 originally paid for the tax years for which the person failed  
12 to make the required report.

13 J. As used in this section:

14 (1) "agricultural products" means plants,  
15 crops, trees, forest products, orchard crops, livestock,  
16 poultry, captive deer or elk or fish; and

17 (2) "agricultural use" means the:

18 (a) use of land for the production of  
19 agricultural products;

20 (b) use of land that meets the  
21 requirements for payment or other compensation pursuant to a  
22 soil conservation program under an agreement with an agency of  
23 the federal government;

24 (c) resting of land to maintain its  
25 capacity to produce agricultural products;

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1                   (d) resting of land as the direct result  
2 of at least moderate drought conditions as designated by the  
3 United States department of agriculture, if the drought  
4 conditions occurred in the county within which the land is  
5 located for at least eight consecutive weeks during the  
6 previous tax year; provided that the land was used in the tax  
7 year immediately preceding the previous tax year primarily for  
8 a purpose identified pursuant to this paragraph; or

9                   (e) the use of land that is in  
10 compliance with a management plan developed by the landowner  
11 and approved by the energy, minerals and natural resources  
12 department that will achieve agriculture and natural resource  
13 management priorities identified by that department, including:  
14 1) forest management practices that reduce risks to timber  
15 resources and agricultural water supplies; 2) restoration of  
16 soil health and agricultural productivity; 3) water resource  
17 conservation; 4) protection of wildlife habitat; and 5)  
18 protection of sensitive lands, including erosive soils,  
19 wetlands and riparian areas."

20           SECTION 2. A new section of the Property Tax Code,  
21 Section 7-36-20.1 NMSA 1978, is enacted to read:

22           "7-36-20.1. [NEW MATERIAL] SPECIAL METHOD OF VALUATION--  
23 CONSERVATION OF UNIMPROVED LAND--RECAPTURE.--

24           A. The value of unimproved land used primarily to  
25 conserve the unimproved land pursuant to qualified guidelines

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1 shall be valued at twenty-five percent of the current and  
2 correct value. Eligibility for the method of valuation  
3 provided by this section is limited to unimproved land that had  
4 been valued pursuant to Section 7-36-20 NMSA 1978 in the  
5 immediately preceding five property tax years but is no longer  
6 eligible to be valued pursuant to that section and is  
7 unimproved land that is:

8 (1) greater than ten acres but no more than  
9 one hundred sixty acres; or

10 (2) ten acres or less with a water right for  
11 agricultural purposes appurtenant to the land.

12 B. Improvements on land, other than those specified  
13 in Subsection C of Section 7-36-15 NMSA 1978 or for purposes  
14 other than for agricultural or conservation management  
15 purposes, create a presumption that the land is not used  
16 primarily to conserve the unimproved land. Land used for a  
17 residential or commercial purpose is not eligible for valuation  
18 pursuant to this section.

19 C. The taxation and revenue department shall, in  
20 consultation with the energy, minerals and natural resources  
21 department, promulgate rules for determining whether land is  
22 used primarily to conserve the unimproved land pursuant to  
23 qualified guidelines. The rules shall:

24 (1) ensure that management practices are  
25 appropriate to conserve and maintain the unimproved land; and

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1                   (2) require that the guidelines shall, at a  
2 minimum, maintain or increase the productivity of the land,  
3 rangeland, watershed and forest health, wildlife habitat or  
4 soil and water conservation.

5                   D. All improvements on land, other than those  
6 specified in Subsection C of Section 7-36-15 NMSA 1978, shall  
7 be valued separately for property taxation purposes, and the  
8 value of the improvements shall be added to the value of the  
9 land determined pursuant to this section.

10                  E. The special method of valuation pursuant to this  
11 section shall be claimed in order to be allowed. The owner of  
12 the land shall make application to the county assessor in a tax  
13 year in which the valuation method of this section is first  
14 claimed to be applicable to the land or in a tax year  
15 immediately subsequent to a tax year in which the land was not  
16 valued under this section. Application shall be made under  
17 oath and shall be in a form, and contain the information,  
18 required by taxation and revenue department rules. The  
19 application shall be made no later than thirty days after the  
20 date of mailing by the county assessor of the notice of  
21 valuation. Once land is valued under this section, an  
22 application shall be resubmitted and claimed:

23                   (1) in a tax year immediately subsequent to a  
24 tax year in which a change of use or a change in ownership  
25 occurs; or

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1 (2) five years after the tax year in which the  
2 last application was made and granted.

3 F. The owner of land valued pursuant to this  
4 section shall report to the county assessor whenever a change  
5 of ownership or the use of the land changes so that it is no  
6 longer being used primarily to conserve the unimproved land  
7 pursuant to qualified guidelines. The report shall be made by  
8 the last day of February of the tax year immediately following  
9 the year in which the change of ownership or change in the use  
10 of the land occurs.

11 G. As used in this section, "qualified guidelines"  
12 means guidelines for conservation and management practices that  
13 are appropriate to conserve and maintain the unimproved land;  
14 to maintain or increase the productivity of the land; and to  
15 support rangeland, watershed and forest health, wildlife  
16 habitat or soil and water conservation."

17 **SECTION 3. APPLICABILITY.**--The provisions of this act  
18 apply to the 2020 and subsequent property tax years.