

1 SENATE BILL 393

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Roberto "Bobby" J. Gonzales

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10 AN ACT

11 RELATING TO PROPERTY TAX; AMENDING THE DEFINITION OF
12 "AGRICULTURAL USE" IN A SPECIAL METHOD OF VALUATION FOR LAND
13 USED PRIMARILY FOR AGRICULTURAL PURPOSES.

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

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

18 "7-36-20. SPECIAL METHOD OF VALUATION--LAND USED
19 PRIMARILY FOR AGRICULTURAL PURPOSES.--

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

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

9 B. For the purpose of this section:

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

13 (2) "agricultural use" means the:

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

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

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

22 (d) resting of land as the direct result
23 of at least moderate drought conditions as designated by the
24 United States department of agriculture, if the drought
25 conditions occurred in the county within which the land is

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

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

10 D. The department shall adopt rules for determining
11 the value of land used primarily for agricultural purposes.
12 The rules shall:

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

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

23 (3) provide that land the bona fide and
24 primary use of which is the production of captive deer or elk
25 shall be valued as grazing land and that captive deer shall be

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1 valued and taxed as sheep and captive elk shall be valued and
2 taxed as cattle;

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

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

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

14 E. All improvements, other than those specified in
15 Section 7-36-15 NMSA 1978, on land used primarily for
16 agricultural purposes shall be valued separately for property
17 taxation purposes, and the value of these improvements shall be
18 added to the value of the land determined under this section.

19 F. The owner of the land shall make application to
20 the county assessor in a tax year in which the valuation method
21 of this section is first claimed to be applicable to the land
22 or in a tax year immediately subsequent to a tax year in which
23 the land was not valued under this section. Application shall
24 be made under oath, shall be in a form and contain the
25 information required by department rules and shall be made no

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1 later than thirty days after the date of mailing by the
2 assessor of the notice of valuation. Once land is valued under
3 this section, application need not be made in subsequent tax
4 years as long as there is no change in the use of the land.

5 G. The owner of land valued under this section
6 shall report to the county assessor whenever the use of the
7 land changes so that it is no longer being used primarily for
8 agricultural purposes. This report shall be made on a form
9 prescribed by department rules and shall be made by the last
10 day of February of the tax year immediately following the year
11 in which the change in the use of the land occurs.

12 H. Any person who is required to make a report
13 under the provisions of Subsection G of this section and who
14 fails to do so is personally liable for a civil penalty in an
15 amount equal to the greater of twenty-five dollars (\$25.00)
16 or twenty-five percent of the difference between the property
17 taxes ultimately determined to be due and the property taxes
18 originally paid for the tax years for which the person failed
19 to make the required report."