

<b>LFC Requester:</b>	<b>Jennifer Faubion</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

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**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** Feb 6, 2025 *Check all that apply:*  
**Bill Number:** HB 294 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Kathleen Cates **Agency Name and Code** State Land Office - 539  
**Short Title:** TAXATION OF CERTAIN AGRICULTURAL LAND **Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	None	None		Land Maintenance Fund

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	No Fiscal Impact	No Fiscal Impact	No Fiscal Impact			Land Maintenance Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

House Bill 294 (“HB 294”) amends Section 7-36-20, which currently provides a special method of property tax valuation for agricultural land on the basis of that land’s capacity to produce agricultural products, to add language providing that the use of land for conservation easements is considered “agricultural use” under the Section.

Specifically, HB 294 adds language providing that, as used in Section 7-36-20, “agricultural use” includes use of land:

- 1) Pursuant to a land conservation easement;
- 2) Over a landowner’s land that contains:
  - a. Important habitat area; or
  - b. Significant natural, open space or historic resources;
- 3) Entered into:
  - a. Between a landowner and an agency of the state or federal government; or
  - b. Between a landowner and a land trust accredited by the land trust accreditation commission (or, if that commission no longer exists, a national land trust accreditation organization that is recommended by the energy, minerals and natural resources department).

HB 294 also amends Section 7-38-12.1 to require that when a “conservation easement deed” is recorded with a county clerk, the transferor or transferee of that conservation easement file an affidavit with the county clerk. HB 294 would further amend Section 7-38-12.1 to define a “conservation easement” as “a legal agreement entered into between a landowner and a land trust or state or federal agency to permanently limit the use of the landowner’s land to conservation of the land in the land’s natural and undeveloped state.” Currently, Section 7-38-21.1 only requires the filing of such an affidavit when a deed, real estate contract, or memorandum of real estate contract for residential property is filed for recording.

The affidavit must be on a form approved by the New Mexico Department of Taxation and Revenue and must include the names and mailing addresses of the transferor(s) and transferee(s), the legal description of the real property interest being transferred, the full consideration given for the transfer and the terms of the transfer, and the value and description of personal property that is included in the transfer price.

#### **FISCAL IMPLICATIONS**

None noted with respect to the State Land Office, as the legislation does not apply to state trust lands.

The Commissioner of Public Lands (“Commissioner”) is the chief executive officer of the New Mexico State Land Office established under Article V, Section 1 and Article XIII, Section 2 of the New Mexico Constitution. The Commissioner is designated under New Mexico law to carry out the state’s trust duties under the New Mexico Enabling Act (Act of Congress of June 20, 1910, 36 Stat. 557, Ch. 310, § 10).

The mission of the State Land Office is to use state trust lands (granted by the federal government) to raise revenue for New Mexico public schools, hospitals, universities and other public institutions. The agency manages about nine million acres of surface lands and 13 million acres of mineral estate. Since 2019, the State Land Office has earned over \$11 billion for its 21 state land trust beneficiaries. These earnings reduce the tax burden on New Mexicans by providing financial support for public services that would otherwise have to be raised through taxes.

As “state property,” state trust lands are not subject to property tax (Art. VIII, Sec. 3 of the New Mexico Constitution). Agricultural lessee on state trust lands may be subject to property tax related to *personal* improvements on the land that are not owned by the state, but the land itself is not taxable. As such, the proposed changes in HB 294 regarding how land is valued for the purpose of a conservation easements would not have a fiscal impact on the State Land Office.

## **SIGNIFICANT ISSUES**

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 28, 2025 Regular Session, also amended Section 7-36-20 to add language to the portion of the Section providing that land being rested in response to drought is considered “agricultural land” which expands which agencies or other organizations may designate the drought causing the resting of that land. There does not appear to be any conflict between HB 294 and HB 28.

Senate Bill 394, 2023 Regular Session, proposed to enact a new section of the Property Tax Code to value unimproved land used primarily for conservation under a qualified management plan at 25% of the taxable value. Senate Bill 394 was postponed indefinitely.

In an Agency Bill Analysis for Senate Bill 394, 2023 Regular Session, the State Land Office stated: The bill may duplicate efforts of the Land Conservation Incentives Act, Section 75-9-1 et. seq.; the fifty percent tax credit for certain conveyances of real property under Sections 7-2-18.10 and 7-2A-18.9; the Natural Heritage Conservation Act, Section 75-10-1; Qualified conservation contributions under § 170(b)(1)(E) of the federal income tax code; a full exemption from property taxes for certain land preserved in its natural state, pursuant to *Pecos River Open Spaces v. County of San Miguel*, 2013-NMCA-29; the USDA Conservation Reserve Program; the NRCS Soil and Water Conservation Assistance program; the NRCS Conservation Stewardship Program; and the New Mexico Forest Stewardship Program, among others.

Senate Bill 393, 2023 Regular Session, proposed amending the definition of “agricultural use” in Section 7-36-20 to include use of the land under a “natural resources conservation

program” in an agreement with state or federal authorities, rather than only soil conservation programs in agreement with the federal government. Senate Bill 393 was postponed indefinitely.

## **TECHNICAL ISSUES**

Section 7-36-20, as currently written and amended in HB 294, provides that the “value of land used primarily for agricultural purposes shall be determined on the basis of the land’s capacity to produce agricultural products.” Agricultural products are defined as “plants, crops, trees, forest products, orchard crops, livestock, poultry, captive deer or elk, or fish.” The Section, as currently written and amended, further directs the New Mexico Taxation and Revenue Department to adopt rules for determining the value of land primarily used for agricultural purposes, specifically requiring that those rules address various aspects of a given parcel of lands capacity to produce specific agricultural products.

Although HB 294 adds the use of land for conservation easements as an “agricultural purpose” under Section 7-36-20, it is unclear how land used for such conservation easements should be valued. HB 294 does not amend the basis for the valuation of “agricultural land” and would provide that land used for conservation easements would be valued on the basis of that land’s capacity to produce agricultural products. The added definition concerning conservation easements focuses on land with “important habitat area or significant natural, open space or historic resources.” Because the focus of the added language is on land that may or may not be used for significant production of “agricultural products” as defined in the Section, it is unclear if the intention of bill is for such land to be valued by its capacity to produce agricultural products or some other method.

## **OTHER SUBSTANTIVE ISSUES**

### **ALTERNATIVES**

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

### **AMENDMENTS**