

LFC Requester:

Jennifer Faubion

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: February 6, 2025

Check all that apply:

Bill Number: HB 294

Original Correction
Amendment Substitute

Sponsor: Rep. Kathleen Cates

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Taxation of Certain Agricultural Land

Analysis: Enrique Romero

Phone: 505-537-7676

Email: legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Section 1 of HB 294 amends the Property Tax Code, NMSA 1978, Chapter 7, Articles 35-38, by amending NMSA 1978, Section 7-36-20, providing for a special method of valuation for land used primarily for agricultural purposes. Section 7-36-20 falls within a series of sections that allow county assessors to value certain property for property taxation purposes using a “special method of valuation,” thereby reducing property tax liability. *See* NMSA 1978, § 7-36-15(B) (“Unless a method or methods of valuation are authorized in Sections 7-36-20 through 7-36-33 NMSA 1978, the value of property for property taxation purposes shall be its market value.”).

HB 294 adds to the definition of “agricultural use” the “use of land...pursuant to a land conservation easement.” The bill further requires that the land subject to the conservation easement “contains important habitat area or significant natural, open space or historic resources.” The bill requires that the conservation easement be entered into between a landowner and (1) a state or federal agency, or (2) 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.

Section 2 of the bill amends the affidavit requirements of Section 7-38-12.1 of the Property Tax Code. This section of statute requires that an affidavit be filed with the county assessor when filing certain documents transferring an interest in real property classified as residential property for property taxation purposes, including, now, a conservation easement. The bill also defines “conservation easement” as a “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.”

Section 3 provides that the bill’s provisions apply to taxable years beginning on or after January 1, 2025.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

N/A.

SIGNIFICANT ISSUES

HB294 amends the definition of “agricultural use” to include the use of land pursuant to a conservation easement that protects certain characteristics of the conserved land. “Conservation easements are property interests in land that allow the easement owners to protect, for example, open space, farmlands and unique cultural resources.” 2001 Op. Att’y Gen. No. 01-02. The bill does not appear on its face to restrict the type of conservation easement that would make land subject to the agricultural special method of valuation to an *agricultural* conservation easement, i.e. one that protects farmlands, or land that produces “agricultural products” as that term is defined in the Property Tax Code. *See* § 7-38-12.1 (defining “agricultural products” as “plants, crops, trees, forest products, orchard crops, livestock, poultry, captive deer or elk, or fish”). Instead, the bill contemplates the application of the special method of valuation to conservation easements that protect other conservation goals, including land that “contains important habitat area or significant natural, open space or historic resources.”

Current law requires that “[t]he value of land used *primarily for agricultural purposes* shall be determined on the basis of the land’s capacity to produce agricultural products.” NMSA 1978, § 7-36-20(A). It is unclear how a county assessor might determine the value of land protected by a conservation easement that does not provide conservation of *agricultural* characteristics, thereby maintaining its capacity to produce agricultural products.

Also, certain conservation easements contemplated by HB294 may already qualify for property tax *exemption* under Article VIII, Section 3 of the New Mexico Constitution, rather than reduced tax liability under a special method of valuation. *Pecos River Open Spaces, Inc. v. Cnty. of San Miguel*, 2013-NMCA-029, 495 P.3d 1129, 1130 (holding that conservation of unoccupied and unimproved parcel approximately one-quarter mile from Pecos River was “charitable purpose,” thereby exempting the land from property taxes, given substantial benefit provided to the public; land was important *habitat area and contained significant natural, open space, or historic resources*).

Relatedly, certain conservation easements contemplated by HB294 may also qualify under the New Mexico Land Conservation Incentives Act, NMSA 1978, §§ 75-9-1 to -6 (2003), and the Income Tax Act, NMSA 1978 Chapter 7, Article 2, for additional tax-related benefits. *See* NMSA 1978, § 75-9-2 (“The purpose of the Land Conservation Incentives Act is to encourage private landowners to be stewards of lands that are important habitat areas or contain significant natural, open space and historic resources by providing private landowners with incentives that encourage the protection of private lands for *open space, natural resources, biodiversity conservation, outdoor recreation, farmland and forest land preservation, historic preservation and land conservation purposes*.” (emphasis added)); NMSA 1978, § 7-2-18.10 (“There shall be allowed as a credit against the tax liability imposed by the Income Tax Act, an amount equal to fifty percent of the fair market value of land or interest in land that is conveyed for the purpose of *open space, natural resource or biodiversity conservation, agricultural preservation or watershed or historic preservation* as an unconditional donation in perpetuity by the landowner or taxpayer to a public or private conservation agency eligible to hold the land and interests therein for conservation or preservation purposes.” (emphasis added)).

PERFORMANCE IMPLICATIONS

N/A.

ADMINISTRATIVE IMPLICATIONS

N/A.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB294 is related to multiple bills proposing to amend the Property Tax Code, including HB 28, HB 47, SB 186, and SB 192.

HB 28 proposes other changes to the same section of law, namely, NMSA 1978, § 7-36-20.

HB 47 proposes changes to NMSA 1978, Sections 7-37-5 and -5.1 (property tax exemption for veterans)

SB 186 also proposes changes to the Property Tax Code, specifically by amending existing NMSA 1978, Section 7-36-15, and adding a new special method of valuation for certain multifamily housing in a proposed new "Section 7-36-34".

SB 192 proposes various changes to the Property Tax Code, including changes related to the veteran exemptions and several administrative aspects of the code.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.