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## FISCAL IMPACT REPORT

**SPONSOR** Cates **LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 1/25/2025  
**BILL**  
**SHORT TITLE** Valuation of Resting Land in Drought **NUMBER** House Bill 28  
**ANALYST** Faubion

### REVENUE\* (dollars in thousands)

| Type         | FY25                           | FY26                           | FY27                           | FY28                           | FY29                           | Recurring or Nonrecurring | Fund Affected     |
|--------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|---------------------------|-------------------|
| Property Tax | Indeterminate but minimal loss | Indeterminate but minimal loss | Indeterminate but minimal loss | Indeterminate but minimal loss | Indeterminate but minimal loss | Recurring                 | Local Governments |

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

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

| Agency/Program | FY25             | FY26    | FY27   | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|----------------|------------------|---------|--------|-------------------|---------------------------|---------------|
| DFA            | No fiscal impact | \$124.8 | \$64.2 | \$189.07          | Recurring                 | General Fund  |
| <b>Total</b>   | No fiscal impact | \$124.8 | \$64.2 | \$189.07          | Recurring                 | General Fund  |

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Department of Finance and Administration (DFA)

Department of Agriculture (NMDA)

#### Agency Analysis was Solicited but Not Received From

Taxation and Revenue Department (TRD)

## SUMMARY

### Synopsis of House Bill 28

House Bill 28 extends the authority to determine drought conditions to qualify a property to be valued for property tax purposes as land used for agricultural purposes to the New Mexico Department of Agriculture, a conservancy district, or a soil and water conservation district.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

## FISCAL IMPLICATIONS

This bill would likely result in more properties qualifying, and therefore receiving valuation, as agricultural use properties. Agricultural use properties are taxed based on the value of their products, not the underlying land value at market rate, typically resulting in much lower property tax valuations. This bill could result in lower tax revenue from property tax, primarily affecting rural local governments and schools as the primary recipients of property tax revenue from agricultural properties. The fiscal impact is indeterminate without information on the number of newly qualifying properties but is likely to be minimal. Additionally, most taxing entities will be able to adjust the property tax mill rates of the district (yield control) to offset any loss of revenue from a reduction of property valuation as a result of this bill.

## SIGNIFICANT ISSUES

The U.S. Department of Agriculture (USDA) has consistent definitions for what constitutes drought throughout the United States and is an authority on the matter nationwide. Allowing the state Department of Agriculture or smaller conservancy or soil and water conservation districts the authority to determine drought conditions introduces the possibility of uneven and inconsistent parameters. It could also create perverse incentives for local jurisdictions to over-determine drought to give property owners in their districts tax breaks that are not warranted.

The New Mexico Department of Agriculture notes the following:

The special method of valuation under Section 7-36-20 NMSA 1978 is intended to maintain the continued use of agricultural lands in active production. For lands to qualify for the special valuation method, there must be a bona fide primary agricultural use of the land and the capacity to produce agricultural products. Section 7-36-20 NMSA 1978 currently allows for the resting of lands to count as agricultural use if it is “the direct result of moderate drought conditions as designated by the United States department of agriculture” and “drought conditions occurred in the county within which the land is located for at least eight consecutive weeks during the previous tax year.”

Technically, the USDA does not make direct drought declarations but relies on the United States Drought Monitor maps for its programs. The U.S. Drought Monitor is produced jointly by the National Drought Mitigation Center at the University of Nebraska-Lincoln, National Oceanic and Atmospheric Administration (NOAA), and USDA. Technical experts update drought maps on a weekly basis based on a number of drought indicators, including meteorological data, soil moisture levels, water resource measurements, and vegetation conditions. NMDA participates in the New Mexico drought monitor working group, which meets monthly to inform and advise modifications to the current drought map. The U.S. Drought Monitor does not always reflect water shortages for irrigators, who may experience prolonged and significant reductions to their water supply even when local meteorological conditions do not indicate drought.

NMDA does not currently make drought designations and does not have an independent process or methodology to do so. There are forty-seven soil and water conservation districts and at least four conservancy districts across the state. If HB 28 is enacted, there could potentially be fifty-plus distinct methodologies to determine drought for the purposes of Section 7-36-20 NMSA 1978.

## **ADMINISTRATIVE IMPLICATIONS**

The state Department of Agriculture currently does not conduct drought analysis or publish any kind of drought determination. This would added to its scope of work and may require additional software, data, or personnel.

The Department of Finance and Administration's Local Government Division notes this bill would increase its operating costs to consider determinations from other governmental agencies regarding land's production capacity and to periodically review production capacities and capitalization rates to ensure accurate valuations.

## **TECHNICAL ISSUES**

This bill would go into effect in May 2025, in the middle of a property tax year and well after the county assessors conduct valuation assessments and send out notices of valuation. This could present challenges in implementation and result in tax contests. It is recommended to implement this change for property tax year 2026.

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