

1 SENATE BILL 330

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Peter Wirth

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10 AN ACT

11 RELATING TO PROPERTY TAXATION; INCLUDING THE USE OF LAND THAT
12 IMPROVES THE CAPACITY OF THE LAND TO SUPPORT AGRICULTURE OR
13 PROVIDES ECOLOGICAL SERVICES FOR PUBLIC BENEFIT AS AN
14 AGRICULTURAL USE OF LAND.

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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]~~ As used in this section,
11 "agricultural use" means the use of land:

12 (1) for the production of plants, crops,
13 trees, forest products, orchard crops, livestock, poultry,
14 captive deer or elk, or fish ~~[The term also includes the use of~~
15 ~~land];~~

16 (2) that meets the requirements for payment or
17 other compensation pursuant to a soil conservation program
18 under an agreement with an agency of the federal government; or

19 (3) that, pursuant to an agreement with an
20 agency of the state or federal government or as required by
21 state or federal law, improves the capacity of the land to
22 support agriculture or provides ecological services for public
23 benefit through land management practices that promote soil and
24 water conservation, forest and rangeland health and critical
25 wildlife habitats, and, in one or more of the three years

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1 preceding the year in which the determination is made, the land
2 was used as described in Paragraph (1) or (2) of this
3 subsection.

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

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

11 The rules shall:

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

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

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

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1 taxed as cattle;

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

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

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

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

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

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

20 SECTION 2. APPLICABILITY.--The provisions of this act
21 apply to property tax years beginning on or after January 1,
22 2016.