AN ACT

RELATING TO TAXATION; CLARIFYING PROVISIONS OF THE PROPERTY TAX CODE RELATING TO AGRICULTURAL LANDS; DECLARING AN EMERGENCY.

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

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

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

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

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1   agricultural purposes during the tax year in which the

2   determination is made. If the land was valued under this

3   section in one or more of the three tax years preceding the

4   year in which the determination is made and the use of the land

5   has not changed since the most recent valuation under this

6   section, a presumption is created that the land continues to be

7   entitled to that valuation.

8   B.   For the purpose of this section, "agricultural

9   use" means the use of land for the production of plants, crops,

10   trees, forest products, orchard crops, livestock, poultry,

11   captive deer or elk, or fish. The term also includes the use

12   of land:

13   (1) that meets the requirements for payment or

14   other compensation pursuant to a soil conservation program

15   under an agreement with an agency of the federal government; or

16   (2) for the lawful taking of game pursuant to

17   licenses or permits issued by the director of the department of

18   game and fish pursuant to Chapter 17 NMSA 1978.

19   C.   The department shall adopt [regulations] rules

20   for determining whether [or not] land is used primarily for

21   agricultural purposes. The rules shall provide that the method

22   of harvest of animals or agricultural products shall not be a

23   factor in determining whether land is used primarily for

24   agricultural purposes.

25   D.   The department shall adopt [regulations] rules

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1   for determining the value of land used primarily for

2   agricultural purposes. The [regulations] rules shall:

3   (1) specify procedures to use in determining

4   the capacity of land to produce agricultural products and the

5   derivation of value of the land based upon its production

6   capacity;

7   (2) establish carrying capacity as the

8   measurement of the production capacity of land used for grazing

9   purposes, develop a system of determining carrying capacity

10   through the use of an animal unit concept and establish

11   carrying capacities for the land in the state classified as

12   grazing land;

13   (3) provide that land classified as

14   agricultural, based on the production of captive deer or elk or

15   the lawful taking of game pursuant to licenses or permits

16   issued by the director of the department of game and fish

17   pursuant to Chapter 17 NMSA 1978, shall be valued as grazing

18   land, and that captive deer and elk shall be valued and taxed

19   as cattle;

20   [(3)] (4) provide for the consideration of

21   determinations of any other governmental agency concerning the

22   capacity of the same or similar lands to produce agricultural

23   products;

24   [(4)] (5) assure that land determined under

25   the [regulations] rules to have the same or similar production

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1   capacity shall be valued uniformly throughout the state; and

2   [(5)] (6) provide for the periodic review by

3   the department of determined production capacities and

4   capitalization rates used for determining annually the value of

5   land used primarily for agricultural purposes.

6   E.   All improvements, other than those specified in

7   Section 7-36-15 NMSA 1978, on land used primarily for

8   agricultural purposes shall be valued separately for property

9   taxation purposes and the value of these improvements shall be

10   added to the value of the land determined under this section.

11   F.   The owner of the land must make application to

12   the county assessor in a tax year in which the valuation method

13   of this section is first claimed to be applicable to the land

14   or in a tax year immediately subsequent to a tax year in which

15   the land was not valued under this section. Application shall

16   be made under oath, shall be in a form and contain the

17   information required by department [regulations] rules and must

18   be made no later than the last day of February of the tax year.

19   Once land is valued under this section, application need not be

20   made in subsequent tax years as long as there is no change in

21   the use of the land.

22   G.   The owner of land valued under this section

23   shall report to the county assessor whenever the use of the

24   land changes so that it is no longer being used primarily for

25   agricultural purposes. This report shall be made on a form

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1   prescribed by department [regulations] rules and shall be made

2   by the last day of February of the tax year immediately

3   following the year in which the change in the use of the land

4   occurs.

5   H.   Any person who is required to make a report

6   under the provisions of Subsection G of this section and who

7   fails to do so is personally liable for a civil penalty in an

8   amount equal to the greater of twenty-five dollars ($25.00) or

9   twenty-five percent of the difference between the property

10   taxes ultimately determined to be due and the property taxes

11   originally paid for the tax [year or] years for which the

12   person failed to make the required report."

13   Section 2. SAVING CLAUSE.--Nothing in this 2005 act shall

14   affect the authority of the state game commission or the

15   director of the department of game and fish.

16   Section 3. EMERGENCY.--It is necessary for the public

17   peace, health and safety that this act take effect immediately.

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