

1 HOUSE BILL 301

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PROPERTY TAXATION; PROVIDING FOR A ONE-YEAR  
12 EXTENSION ON THE USE OF A SPECIAL METHOD OF VALUATION FOR LAND  
13 THAT A COUNTY ASSESSOR DETERMINES IS NO LONGER BEING USED  
14 PRIMARILY FOR AGRICULTURAL PURPOSES; DECLARING AN EMERGENCY.

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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 this section, "agricultural  
11 use" means the use of land for the production of plants, crops,  
12 trees, forest products, orchard crops, livestock, poultry,  
13 captive deer or elk, or fish. The term also includes the use  
14 of land that meets the requirements for payment or other  
15 compensation pursuant to a soil conservation program under an  
16 agreement with an agency of the federal government.

17 C. The department shall adopt rules for determining  
18 whether land is used primarily for agricultural purposes. The  
19 rules shall provide that the use of land for the lawful taking  
20 of game shall not be considered in determining whether land is  
21 used primarily for agricultural purposes.

22 D. The department shall adopt rules for determining  
23 the value of land used primarily for agricultural purposes.  
24 The rules shall:

- 25 (1) specify procedures to use in determining

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1 the capacity of land to produce agricultural products and the  
2 derivation of value of the land based upon its production  
3 capacity;

4 (2) establish carrying capacity as the  
5 measurement of the production capacity of land used for grazing  
6 purposes, develop a system of determining carrying capacity  
7 through the use of an animal unit concept and establish  
8 carrying capacities for the land in the state classified as  
9 grazing land;

10 (3) provide that land the bona fide and  
11 primary use of which is the production of captive deer or elk  
12 shall be valued as grazing land, and that captive deer shall be  
13 valued and taxed as sheep and captive elk shall be valued and  
14 taxed as cattle;

15 (4) provide for the consideration of  
16 determinations of any other governmental agency concerning the  
17 capacity of the same or similar lands to produce agricultural  
18 products;

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

22 (6) provide for the periodic review by the  
23 department of determined production capacities and  
24 capitalization rates used for determining annually the value of  
25 land used primarily for agricultural purposes.

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

6           F. The owner of the land must make application to  
7 the county assessor in a tax year in which the valuation method  
8 of this section is first claimed to be applicable to the land  
9 or in a tax year immediately subsequent to a tax year in which  
10 the land was not valued under this section. Application shall  
11 be made under oath, shall be in a form and contain the  
12 information required by department rules and must be made no  
13 later than thirty days after the date of mailing by the  
14 assessor of the notice of valuation. Once land is valued under  
15 this section, application need not be made in subsequent tax  
16 years as long as there is no change in the use of the land.

17           G. The owner of land valued under this section  
18 shall report to the county assessor whenever the use of the  
19 land changes so that it is no longer being used primarily for  
20 agricultural purposes. This report shall be made on a form  
21 prescribed by department rules and shall be made by the last  
22 day of February of the tax year immediately following the year  
23 in which the change in the use of the land occurs.

24           H. If, for a taxable year, a county assessor  
25 determines that land valued pursuant to this section is no

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1 longer being used primarily for agricultural purposes, the land  
2 shall continue to be valued pursuant to this section for that  
3 taxable year. The county assessor shall notify the owner of  
4 the land of the county assessor's determination within one  
5 month of that determination. The land shall not be valued  
6 pursuant to this section for a subsequent taxable year unless  
7 use of the land primarily for agricultural purposes resumes.  
8 If use of the land primarily for agricultural purposes resumes  
9 during a subsequent taxable year, the owner of the land may  
10 make application to the county assessor for the valuation  
11 method of this section. The application shall be in the form  
12 and manner required by Subsection F of this section.

13           ~~[H.]~~ I. Any person who is required to make a  
14 report under the provisions of Subsection G of this section  
15 and who fails to do so is personally liable for a civil  
16 penalty in an amount equal to the greater of twenty-five  
17 dollars (\$25.00) or twenty-five percent of the difference  
18 between the property taxes ultimately determined to be due  
19 and the property taxes originally paid for the tax years for  
20 which the person failed to make the required report."

21           **SECTION 2. APPLICABILITY.**--The provisions of this act  
22 apply to the 2014 and subsequent property tax years.

23           **SECTION 3. EMERGENCY.**--It is necessary for the public  
24 peace, health and safety that this act take effect  
25 immediately.

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