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**Report to Revenue Stabilization and Tax Policy Committee of the  
Rural Heritage Task Force (HM81)**

Pursuant to House Memorial 81 (2019 Regular Legislative Session), the Secretary of Taxation and Revenue convened a Rural Heritage Task Force (RHTF) to evaluate New Mexico's approach to taxing lands that are no longer in agricultural production and are not residential or developed lands.

The RHTF held four meetings in the TRD Office of the Secretary on these dates: August 1, 2019; September 12, 2019; October 22, 2019; and November 15, 2019. Agendas, sign-in sheets, and meeting reports for each of the four meetings are enclosed herein.

As requested in HM81, the RHTF included representatives from the Office of the Governor, Office of the Lt. Governor, New Mexico Department of Agriculture, Energy Minerals and Natural Resources Department, New Mexico Acequia Association, New Mexico Association of Conservation Districts, New Mexico Counties and Assessors Affiliate, Western Landowners Alliance, New Mexico Cattlegrowers' Association, New Mexico Farm and Livestock Bureau, New Mexico State University, and other relevant interested stakeholders.

HM81 requested that the RHTF examine and consider the following five topics, and the report of the RHTF is as follows:

**1. Examine how to improve the property tax structure for land parcels that were previously under agricultural production and face drastically increased property taxes when removed from agriculture and are not developed.**

There is consensus of the RHTF on the fact that property tax liability drastically increases when property is removed from agriculture and not developed. However, there was not consensus that this increase in property tax is inappropriate or unwarranted; in other words, there was not consensus that this is a problem that needs to be solved through the property tax code. If this is a problem, there is not consensus as to whether this is a statewide problem and there is concern with a statewide solution to a problem that may only be occurring in some areas of the State. Western Landowners Alliance and the groups it represents believe this to be a statewide problem.

- a) Those who do think this is a problem (those who have supported HB332 (2019 session) and similar measures and some task force members) believe statute should create a new

special method taxed higher than agriculture but lower than current and correct non-residential rates offer the following points in support of the preferential rate for conservation land:

- Keeping land eligible for an agricultural special valuation method is not always feasible. For example, as people age or their equipment becomes obsolete, they may not be able to actively keep agricultural uses going.
- There is a desire to avoid forced sale of land that goes fallow and is then subject to the significantly higher non-residential property tax rate.
- Proponents want to prevent gentrification and unplanned/poorly planned rural sprawl.
- Proponents believe the bill would allow landowners to help protect and preserve watersheds, and expressed concerns that loss of agricultural land and water is irreversible and represents loss of not just land but also cultural heritage.
- There is a concern that ranches are being sold at very high prices to people who want to build high-valued second homes and to oil and gas extraction companies.
- Proponents believe limiting the conservation special valuation method to 160 acres per owner per county ensures it will not be exploited by large landowners to avoid property taxation. The 160-acre limit would not be manipulated because costs of artificially subdividing property are too high.
- The carrying capacity of land varies by and within counties depending on ecological conditions. In many parts of the state, parcels less than 160 acres do not qualify for the agricultural grazing rate due to limited carrying capacity. Even where carrying capacity is slightly higher, the number of livestock that can be grazed on such a small parcel is so limited as not to be economically viable. It is therefore unrealistic for landowners to maintain the agricultural tax rate by leasing to young livestock producers. It also should have little to no impact on New Mexico's livestock industry, while also keeping land available to agricultural use in the future.
- It is not equitable to tax open land, which requires fewer public services, at the same rate as residential land, which requires more public services. Multiple studies have demonstrated that open land, even when taxed at the lowest agricultural rate, provides more in revenue than it requires in county service costs. Studies demonstrate that rural development tends to cost counties more in services than it provides in revenue. In short, rural sprawl tends to cost counties more than it generates in revenue.

b) Those who do not think this is a problem (those who have opposed creating a new special valuation method higher than agriculture and lower than current and correct non-residential and some task force members) offer the following points in opposition to taxing land that falls out of agriculture at a lower than non-residential rate:

- Property taxes are one factor in a landowner's decision to pursue active agriculture. Other factors include generational changes in interest in farming, decreasing parcel sizes due to lots being split through inheritance, costs of equipment, and drought.
- An alternative solution in some cases and in some areas is for those who want to keep an agricultural exemption to lease their land for agricultural purposes. Where feasible, leasing not only keeps agricultural use active but offers ranchers at the beginning of their career a pathway into the business.

- County assessors are concerned with creating a new class of taxpayer, which adds inequity to property taxation.
- The proposal would subject all counties to a new special valuation method that may only be beneficial for a few counties (Taos County, etc.)
- A survey was sent to all assessors and specific outreach was conducted with the Taos County Assessor's Office. The RHTF was not able to substantiate any instance of land being lost or sold as a result of inability to pay property taxes after an agricultural special method was removed. Data is not tracked by assessors on the reason or motivation for which an individual sells or transfers land.
- The proposed special method could erode the tax base and unfairly shift the tax burden to those whose property is still valued current and correct.
- Statute already provides several important protections to help landowners keep their agricultural exemption. An existing drought provision makes it harder to lose the agricultural special method of valuation. Further, although usually an assessor is presumed to be correct (placing the burden of proof on the landowner), in the case of taking away an agricultural special valuation method, the property owner benefits from the presumption of correctness (and the assessor has the burden of proof).
- Representatives of the agricultural community on the RHTF have suggested that HB332 and related legislation should stand apart from the agricultural special method. Their misgiving is that the special method protects a sector output of \$3.38 billion (USDA 2018 New Mexico Annual Bulletin) by requiring "evidence of bona fide primary agricultural use." Further, that allowing non-agricultural uses to be classified as "agriculture" as found in HB332 vitiates the protections afforded to land used primarily for agricultural purposes in the special method.
- There is concern that the 160-acre conservation special method limit for any one owner in any one county could be manipulated through subdividing or forming specialized business entities for ownership purposes.
- County Assessors' offices are not staffed or trained to analyze land management plans. This makes their responsibility to determine and maintain current and correct conservation values problematic. There should be basic conservation requirements written into prospective statute that cite requirements like maintaining fences, irrigation ditches, and controlling invasive species of plants and animals. Since the Assessor is responsible for property valuation, the Assessor is also responsible for classification and would have the same prerogatives after meeting the burden of proof to remove special methods of valuation where appropriate.
- Parcels with water rights are answerable to the Office of the State Engineer. Nothing in the proposed statute should impair that accountability.
- Currently there is a method 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 under the Land Conservation Incentives Act.

- Adapting a new class of taxpayer under the proposed bill, most likely, would not deter the sale of ranches at very high prices to people who want to build high-valued second homes and to oil and gas extraction companies.

Outside the property tax structure, the group was comfortable with an idea to create a mechanism similar to the Low-Income Property Tax Rebate (LIPTR) currently found in Section 7-2-14.3 NMSA 1978. LIPTR allows each county to choose to opt in to the rebate program, and currently two counties use it (Santa Fe and Los Alamos). LIPTR is intended to partially offset a low-income resident's property taxes paid. The rebate is claimed through the low-income person's personal income tax return (reducing State PIT revenue). Then, TRD sends an invoice to each County for the amount of PIT revenue that the State rebated and the County reimburses TRD for the lost PIT revenue. The group believes a new property tax rebate targeted to PIT filers who recently lost an agricultural special method could be created in statute. Under 7-36-20H NMSA 1978 the most severe penalty for parties who fail to report that their lands were not used for agricultural purposes though they were beneficiaries of the special method is 25% of the taxes otherwise due. With resting and drought provisions, this is nearly impossible to enforce. Enforcement likely effects taxes going forward. This assumes that refunds would be consistent with the suits for refund statute (7-38-40 NMSA 1978) which limits filings of suits for refund to January 9<sup>th</sup> of the following tax year.

The main benefit of this mechanism would be that it would allow each county to choose whether or not to opt-in to the rebate's usage. Notably, a county opting in to such a solution would bear the fiscal cost of doing so.

## **2. Examine how to improve the property tax structure for land parcels that are removed from agricultural production to meet resource management objectives.**

RHTF did not reach consensus that this is a problem in need of improvement through the property tax code.

Other considerations: the Energy Minerals and Natural Resources Department is concerned with the unfunded mandate to review and approve land management plans and lack of staff expertise required for these plans other than those involving forest practices, such as those involving agricultural or wildlife habitat. There is concern that under HB332, the landowner may need only to have a plan approved to meet the conditions of the legislation, but the bill does not clearly specify that the plan be implemented or provide EMNRD funding to monitor or enforce the plans. EMNRD suggested that a property tax valuation method for open space land (or vacant non-residential, non-commercial, non-industrial lands) without land management plan requirements could be a preferable alternative. A number of states, including Montana, have such statutes.

## **3. Examine how potential changes to the property tax structure will impact revenue in New Mexico and determine appropriate criteria for evaluating potential changes.**

The group found consensus on the notion that any proposals should be revenue neutral or revenue positive, but not reduce any entity's revenue. The group does not have consensus on a methodology to estimate the fiscal impacts of HB332 or similar legislation.

Representatives of the Western Landowners Alliance are seeking to create a solution that is revenue positive or neutral and they believe that HB332 would achieve that goal or could be

modified to achieve that goal. Western Landowners Alliance presented an economic study from Colorado State University that examined property tax structures in New Mexico, Colorado, and Utah and concluded that changing the property tax structure could offer significant economic benefits to New Mexico. The study highlighted that leveraging landowner investment in conserving, managing, and restoring land would create jobs, support local land use plans, diversify local economies, enhance ecotourism, protect scenic byways and gateways, and help conserve vital natural resource values, such as water and wildlife. The study compared the effects of the current level of enforcement of agricultural special method eligibility (baseline) with a scenario of stricter enforcement with a scenario that allowed for more diversified land use and management. The study found, "Across all scenarios, agricultural output remains as the most important driver of economic activity in these areas. However, in general, improvements in the local economic outlook can be realized through recognition of a broader portfolio of natural resource benefits within the use value taxation legislation. In sum, in the most likely scenario, we find new improvements in the Colorado state economy of about \$25 million and 250 jobs, in Utah of \$150 million and 1,500 jobs, and in New Mexico about a half billion dollars and 500 jobs per year due to a more comprehensive treatment of natural resource values from rural lands under the tax law. Stricter enforcement of current laws is expected to reduce nonmarket natural resource values and increase the net tax burden to conversion to residential properties. Due to market forces (e.g., the number of farms and ranches currently losing money, located in high growth and high natural amenity areas), in no case is stricter enforcement of current agricultural taxation standards expected to increase agricultural output or jobs in agriculture. In all cases, diversified management constitutes a significant improvement over stricter enforcement, primarily driven by increases in investments in natural resource conservation activities and avoidance of costly conversion of open lands into residential properties."

The Property Tax Division (PTD) estimates that the provisions of HB322 are revenue negative. PTD updated the property tax shift/loss estimates on uncategorized, non-residential (i.e. vacant) land greater than 10 acres. This land was assessed statewide in the first quarter of 2019 at a taxable value of \$670,132,718 and generated a tax obligation of \$21,144,698. There are differing views regarding how much of this property tax revenue would be lost or shifted if the proposed special valuation method for conservation were put into effect. That said, any adoption of the 25% of market value taxation as proposed in HB332 would make the bill revenue negative. For illustration purposes, if 100% of the land were shifted into the new 25% special valuation method, 75% of the assessed value, or \$15,858,523, would be foregone annually. Actual revenue impacts depend on what share of land eligible shifts into this new special valuation method.

The second part of PTD's analysis consisted of calculating the economic contribution of agriculture to New Mexico. PTD concentrated on labor and production because there are reliable statistics on these variables. Information sources include Bureau of Labor Statistics, New Mexico State, IMPLAN software simulations, EGW and the USDA 2017 Agricultural Statistics.

Farm, fish and forestry employment account for 2,780 jobs at an average of \$26,200 per year in New Mexico. This equates to \$72,836,000 per year. Beef cattle ranching employment supports 11,218 jobs conservatively estimated at \$26,200 per year putting \$293,911,600 into the economy. EGW (egw.org) reports farm subsidies in New Mexico aggregate \$102,000,000.

Annual cash receipts for crop and livestock sales total \$2.95 billion. The sum of these four revenue sources total \$3.4 billion annually. That is the traceable result of the direct spending, which creates further activity in the local economy. The indirect benefits include business to business transactions of \$1.2 billion and induced effects include household to business activity of \$1.0 billion. The total for these \$5.6 billion, indicating an economic multiplier of 1.64. It can be assumed that any economic activity related to conservation purposes would offset a loss in agricultural economic activity to some extent.

#### **4. Consider how potential property tax changes impact open space, conservation, and agricultural productivity.**

Some task force members expect that creating a new special valuation method for conservation purposes could slow the loss of open land by keeping costs of ownership affordable, particularly in areas of the state where development pressures and land values are high.

Some members of the group are concerned that the new special method could be expected to increase the rate at which New Mexico is losing agricultural land by removing the property tax incentive to keep agricultural production active. Further, some who oppose the provisions of HB332 expressed concern that a new special valuation method for conservation purposes could increase land speculation by allowing a lower tax liability in areas experiencing development pressure without benefit of economic activity contributing to the local economy.

#### **5. Develop recommendations for changes to property tax structure that would allow landowners to implement appropriate and publicly beneficial resource management processes.**

Some task force members note that current statute (Section 7-36-20(B) NMSA 1978) and rules (3.6.5.27 NMAC) allow landowners to implement publicly-beneficial resource management processes within the current property tax structure (such as participating in the Conservation Reserve Program and resting land to preserve its production capacity).

Some members of the task force recommend no change to the property tax structure. As an alternative, Section 7-2-14.3 NMSA 1978 could be amended to allow counties to opt into a program that expands the existing Low-Income Property Tax Rebate (LIPTR) to provide property tax relief for agricultural lands/open space preservation. The costs of such a solution would be borne by counties that chose to opt in and allow each county to assess the policy depending on specific agricultural and economic conditions in that county.

New Mexico has a number of established natural resource management priorities. The state water plan, for instance, includes the following goals and objectives:

- a) Reduce the risk of catastrophic wildfire.
- b) Reduce intensity of runoff from flood flows.
- c) Reduce erosion and stream incision; protect adjacent groundwater.
- d) Restore or maintain hydrology to enhance floodplain connection and dissipation of flood energy associated with overbank flows and improve ecosystem benefits such as instream flows.

- e) Restore or maintain riparian areas and wetlands to more effectively filter pollutants and provide water during dry seasons and prolonged drought.
- f) Enhance the economic benefits of healthy river systems, such as fishing and recreational boating.
- g) Protect wildlife habitat.
- h) Protect or improve endangered species habitat and ecosystem health.
- i) Protect human health and natural resources.
- j) Protect or improve water quality.

Some task force members note that these resource management goals may or may not converge with the State's goals and requirements for economic development, local governance, and cultural preservation.

Under current New Mexico laws and guidelines, land in active agricultural production, enrolled in the federal Conservation Reserve Program, resting of land to maintain its capacity to produce agricultural products or resting of land as the direct result of at least moderate drought conditions as designated by the United States Department of Agriculture, if the drought conditions occurred in the county within which the land is located for at least eight consecutive weeks during the previous tax year; provided that the land was used in the tax year immediately preceding the previous tax year primarily for a purpose identified pursuant to this paragraph (Section 7-36-20 NMSA 1978) is eligible for the agricultural special method of valuation. Vacant land that does not meet these criteria is taxed based on market value, which varies widely from area to area. In some cases, this can make a landowner's decision difficult. For example:

- a) Forest health improvements to reduce risk of fire and improve watersheds:  
Landowners of forested parcels who wish to remove non-commercial trees while leaving larger, fire-resistant trees can maintain their agricultural special valuation if grazing continues or they plan on harvesting forest products. This is a best management practice for maintaining forest and watershed health but does not technically qualify as "agriculture" for property tax purposes unless this management is to eventually harvest forest products or is grazed. The high cost of non-commercial thinning and forest management coupled with high property tax and zero income from the property makes it cost-prohibitive for landowners to maintain forests in healthy condition. The other option for landowners would be to harvest and sell the more mature, fire-resistant trees while leaving the small-diameter, fire-prone trees in place in order to qualify as "agricultural". HB332 would allow landowners to manage for forest health under a management plan approved by the state without risking an increase in property tax. Many states have such programs in place and the Energy, Minerals and Natural Resources Department, Forestry Division already oversees such a program, which some assessors will accept for property tax purposes while others will not.

Notably, Section 7-36-20 NMSA 1978 and 3.6.5.27 NMAC currently allow an owner to manage his or her land to maintain its capacity to produce, including to produce forest products. Statutes and rules also allow for the use of non-commercial trees (firewood) for subsistence use. WLA is concerned that interpretations of that statute vary among assessors, but the Assessors' affiliate is not aware of varying interpretations. PTD believes that County Assessors review all applications fairly and then evaluate individual

activities evidencing bona fide primary agricultural use. Those applicants uniformly receive an agricultural special method valuation.

b) Voluntary fallowing programs and water resource management:

As the state contemplates increasing water shortage and its obligations to deliver water out of state, one solution actively being explored is voluntary fallowing. However, when land doesn't meet agricultural production requirements it becomes taxable at the higher vacant land rate. Similarly, it is sometimes necessary to remove livestock grazing from riparian areas to restore vegetation, stream banks, and wildlife habitat. This in turn slows flooding, increases water infiltration, raises water tables, and improves water quality, all of which benefit both the public and agricultural productivity.

Landowners have expressed fear that if they do this, they will lose their agricultural property tax status. An option is needed to support rather than discourage landowner cooperation with the state in meeting critical water needs. At this point, this fear has not been substantiated by the RHTF. In response to this expressed fear, County Assessors have stated that as long as land is used primarily for agricultural purposes, then property will be assessed based on its capacity to produce subject to the existing protections of resting the land and allowances for drought. Income valuation practices will continue to be guided by services such as the New Mexico crop and livestock reporting services, the cooperative extension service, agricultural services of state universities and the USDA.

c) Removal of domestic sheep to protect bighorn sheep from disease:

In most cases, agricultural production is compatible with the needs of wildlife. There are instances, however, in which the two may conflict. One example cited by WLA is a landowner who has a parcel in the middle of a bighorn sheep reintroduction area. The parcel could be small enough that it doesn't make sense to put cattle on it, so the best option to keep property taxes low would be to graze domestic sheep. However, domestic sheep can transmit disease to wild sheep, and this would conflict directly with state wildlife management objectives and investments. Legislation such as HB332 would allow landowners an opportunity in this type of situation to cooperate with the state through an approved management plan without risk of increased property tax liability.

d) Activities to protect endangered species:

Every time another species is added to the threatened and endangered species list it has an impact on agriculture, oil and gas development, housing development, and other parts of the state's economy. In some cases, landowners are required by federal law to accommodate species needs. In other cases, landowners take voluntary actions to help conserve and recover species, which benefits all sectors as well as the wildlife. If a landowner cooperates with the federal government in supporting critical wildlife needs by limiting or removing agricultural production from a portion of their land, they should not have to fear a dramatically increased property tax liability for doing so. HB332 would allow landowners to develop and implement a state-approved management plan to support species needs while having an assurance in return that their property tax liability will not increase dramatically as a result of that cooperation.



The group did not reach consensus on a solution to these and similar issues. The Western Landowners Alliance believes its solution, as represented in HB332, will solve a statewide problem. Others on the task force continue to believe that a statewide statutory change in the property tax code is not an appropriate solution to what may or may not be a statewide or regional problem.

A number of states have property tax options designed specifically for the sake of wildlife and other publicly-beneficial natural resource values that require a state-approved natural resource management plan. EMNRD, however, expressed concern that the requirement in HB332 to review and approve land management plans could result in an unfunded mandate and HB332 does not require that the conservation practices be implemented. Without upfront funding, most landowners would likely be unable to implement those practices.

In summary, the participants in the RHTF did not find consensus as to whether a change in the current property tax system is warranted at this time, or what such a change should entail. It was generally agreed that more data is needed to make informed analysis and decisions.

Thank you for your attention to this report of the Rural Heritage Task Force.

Sincerely,

Stephanie Schardin Clarke  
Secretary of Taxation and Revenue

Enclosures:

August 1, 2019 agenda, sign-in sheet and meeting report

September 12, 2019 agenda, sign-in sheet and meeting report

October 22, 2019 agenda, sign-in sheet and meeting report

November 15, 2019 agenda, sign-in sheet and meeting report

Rural Heritage Task Force  
First Meeting August 1, 2019

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Rural Heritage Task Force  
First Meeting August 1, 2019

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## **HM81: Rural Heritage Task Force**

### **First Meeting: August 1, 2019**

Taxation and Revenue Department Office of the Secretary, 1100 S. St. Francis Drive, Santa Fe, NM 87505

#### **Attendees:**

Stephanie Schardin Clarke, Secretary of Taxation and Revenue  
Donna Maestas, TRD Property Tax Division Director  
Cheryl Bada, General Counsel, Energy, Minerals and Natural Resources Department  
Lesli Allison, Western Landowners Alliance  
Lawrence Gallegos, Western Landowners Alliance  
Phillip Sena, TRD Property Tax Division Appraisal Bureau Chief  
Debbie Hughes, New Mexico Association of Conservation Districts  
Betty Cobber, Lobbyist, New Mexico Counties Assessor Affiliate  
Nancy Bearce, Bernalillo County Treasurer, NM Counties Treasurer's Affiliate  
Cory Geanis, Bernalillo County Treasurer's Office  
Michael O'Melia, TRD Property Tax Division Deputy Director  
Martina CdeBaca, Office of the Lieutenant Governor  
Paula A. Garcia, New Mexico Acequia Association Director  
Jimbo Williams, New Mexico Association of Conservation Districts  
Nick Ashcroft, NMSU Linebery Policy Center  
Marshal Wilson, New Mexico Department of Agriculture  
Randell Major, New Mexico Cattlegrowers' Association  
Linda Gallegos, County Assessors' Affiliate Chair  
Jesse Lucero, Torrance County Assessor  
Ron Lethgo, Chaves County

#### **Summary:**

The task force was convened by Stephanie Schardin Clarke, Secretary of Taxation and Revenue from approximately 2:00 until 4:30 pm on August 1, 2019. Each attendee introduced him or herself and stated briefly their goals for the task force. A roundtable discussion followed. Points of discussion are organized below between points in favor of HB332 (2019 Regular Legislative Session) and similar pieces of past legislation, points in opposition to that bill, other issues, and next steps:

#### **Points made in support of HB332 and similar legislation:**

- Keeping land eligible for an agricultural special valuation method is not always feasible. For example, as people age or their equipment becomes obsolete, they may not be able to actively keep agricultural uses going.
- The bill intends to help avoid forced sale of land that goes fallow and is then subject to the significantly higher non-residential property tax rate.
- The bill proposes a new special valuation method for conservation purposes that is taxed higher than agricultural but still significantly less than non-residential (for example 50% of nonresidential).
- Proponents want to prevent gentrification and unplanned/poorly planned rural sprawl.
- Proponents believe the bill would allow landowners to help protect and preserve watersheds, and expressed concerns that loss of agricultural land and water is an irreversible and represents loss of not just land but also cultural heritage.
- There is a concern that ranches are being sold at very high prices to people who want to build high-valued second homes and to oil and gas extraction companies.
- Proponents believe limiting the conservation special valuation method to 160 acres per owner per county ensures it will not be exploited by large landowners to avoid property taxation. The 160 acre limit would not be manipulated because costs of artificially subdividing property are too high.

**Points made in opposition of HB332 and similar legislation:**

- Opponents believe a more appropriate solution is for those who want to keep an agricultural exemption to sublease their land. Subleasing not only keeps agricultural use active but offers ranchers at the beginning of their career a pathway into the business.
- Opponents believe that use of conservation easements is a more appropriate solution.
- The New Mexico Constitution (see Article 8, Section 1) requires property taxes to be fair and equitable. County assessors are concerned with creating another property owner class, which adds inequity to property taxation.
- The proposal would subject all counties to a new special valuation method that may only be beneficial for a few counties (Taos County, etc.)
- Assessors are generally not seeing a lot of land actually being lost as a result of inability to pay property taxes after an ag exemption is lost.
- Opponents do not want to erode the tax base and shift the tax burden to those still in the base.
- Statute already provides a few important protections to help landowners keep their agricultural exemption. An existing drought provision makes it harder to lose the ag exemption. Further, although usually an assessor is presumed to be correct (placing the burden of proof on the landowner), in the case of taking away an agricultural exemption, the property owner benefits from the presumption of correctness (and the assessor has the burden of proof).
- Opponents appreciate that the proposed conservation special valuation has been limited to 160 acres for any one owner in any county, but are skeptical that this limit could be manipulated through subdividing or forming different business entities for ownership purposes.
- Opponents see problems with proposed changes to definition of agriculture in HB332.
- Concerns were raised related land management plans that a landowner would need to develop and submit to the Energy, Minerals and Natural Resources Department (EMNRD) for approval every 10

years. The plans themselves may be expensive for landowners to prepare. EMNRD may not have sufficient funding or staffing to manage this unfunded mandate. Also, the landowner would need only to have a plan approved, but the bill does not specify that the plan be implemented, and EMNRD would not likely have staffing sufficient to monitor or enforce plan requirements.

- County assessors are generally aware that the agricultural exemption is frequently abused. Abuse of the agricultural exemption avoids taxation and reduces revenues.

**Neutral points:**

- The group had broad agreement on the desire to keep as much land as possible in agricultural use.
- Any solution should keep the property tax code as simple as possible.

**Other issues:**

- A solution that allows each county to opt in or out is desirable because this issue affects only some counties currently. The State of Washington has a model that allows counties to opt in.
- As an alternative to allow counties to opt in/out, the Low-Income Property Tax Rebate enacted in Section 7-2-14.3 NMSA 1978 could be amended. Under that provision, a county may institute a low-income property tax rebate to offset a portion of a low-income individual's **residential** property tax liability. The individual claims the rebate on their New Mexico personal income tax return and then the county reimburses the Taxation and Revenue Department for the cost of the PIT rebate.
- Perhaps oversight of any management plan aspect would fit better under the Department of Game and Fish than EMNRD.
- Conservation easements may be a solution. Bill proponents contend that won't solve the problem because they are too expensive, are permanent, and not always feasible with small parcels of land.
- There is disagreement whether subleasing is a reasonable alternative solution to this proposal. Some task force members have seen great demand for subleased agricultural land, and some have not.
- County zoning and land use permitting may be an alternative solution.
- County assessors have some flexibility on implementation of livestock carrying capacity requirements set by the Property Tax Division of TRD. Consider whether this can assist in this problem. For example, some assessors are more flexible than others on implementing carrying capacity for a landowner's noncontiguous parcels.
- A question was raised whether statute could allow an ag exemption to be temporarily extended if the property owner certified that they had attempted to sublease the land and were unable to do so.

**Next steps identified:**

- A second task force meeting will be held in 1 to 1.5 months and a third one in the fall. The group's written report is due December 1, 2019.
- Task force members should send proposed agenda items for the next meeting to Secretary Schardin Clarke.

- Linda Gallegos will work with the Taos County Assessor's office to substantiate proponents' statements that 87% of 7,000 or so agricultural properties recently reviewed in Taos County have lost their exemption.
- Lesli Allison will send the group a study from Colorado State University that examined use of the special valuation method proposed in HB332 in other western states and information about similar programs in other states.
- At the next meeting, Lesli Allison will provide the group more information on use of similar programs in other states.
- Ron Lethgo will contact New Mexico Counties to seek input on whether county exercise zoning authority can be part of the solution.

**Michelle Lujan Grisham**  
Governor

**Stephanie Schardin Clarke**  
Cabinet Secretary

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**Agenda**

**Rural Heritage Task Force**

**September 12, 2019**

**2:00 – 4:00**

**Taxation and Revenue Department, Office of the Secretary**

1. Introductions
2. Finalization of August 1, 2019 Meeting Report
3. Report on Results of County Poll - Donna Maestas, Director, TRD Property Tax Division Director
4. Definition of Problem and Data Available to Confirm the Problem - Roundtable
5. Recent Trends in Agricultural Property in Taos County – Donna Maestas, Director, TRD Property Tax Division Director
6. Planning and Zoning Research Update – Ron Lethgo, Deputy County Assessor, Chaves County; Nancy Bearce, Bernalillo County Treasurer
7. Non-residential Property Valuation Data Issues – Philip Sena, Appraisal Bureau Chief, TRD Property Tax Division
8. Scheduling Next Meeting of Rural Heritage Task Force



Rural Heritage Task Force

Second Meeting September 12, 2019

Name

Organization

Email

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Ron Lethgo Assessor Affiliate rlethgo@co.chaves.nm.us

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Nick Jarvis Forestry nick.w.jarvis@state.nm.us

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**HM81: Rural Heritage Task Force**

**Second Meeting: September 12, 2019**

Taxation and Revenue Department Office of the Secretary, 1100 S. St. Francis Drive, Santa Fe, NM 87505

**Attendees:**

Stephanie Schardin Clarke, Secretary of Taxation and Revenue  
Donna Maestas-DeVries, TRD Property Tax Division Director  
Cheryl Bada, General Counsel, Energy, Minerals and Natural Resources Department  
Lesli Allison, Western Landowners Alliance (telephonic)  
Lawrence Gallegos, Western Landowners Alliance  
Michael O'Melia, TRD Property Tax Division Deputy Director  
Martina C de Baca, Office of the Lieutenant Governor  
Nick Ashcroft, NMSU Linebery Policy Center  
Marshal Wilson, New Mexico Department of Agriculture  
Tom Sidwell, New Mexico Cattlegrowers' Association  
Linda Gallegos, County Assessors' Affiliate Chair  
Jesse Lucero, Torrance County Assessor  
Ron Lethgo, Chaves County  
Tanner Anderson, NMFLB  
Randi Valverde, Montgomery & Andrews  
Brent Moore, Montgomery & Andrews  
Nick Jarvis, Forestry Division  
Brent Van Dyke, NMACD  
Kristina Ortez, Trust for Public Land  
Connor Jandreau, New Mexico Land Conservancy  
Troy Sauble, New Mexico Farm and Livestock (telephonic)

**Summary:**

The task force was convened by Stephanie Schardin Clarke, Secretary of Taxation and Revenue from approximately 2:00 until 4:00 pm on September 12, 2019. Each attendee introduced him or herself.

The meeting report of the August 1, 2019 meeting was finalized with a motion by Cheryl Bada, Second by Linda Gallegos, and a unanimous vote.

Property Tax Division Director Donna Maestas-DeVries reviewed the results of a poll of county assessor offices. 22 counties had responded. The group discussed future polling questions that could be asked and Secretary Schardin Clarke asked for anyone who had additional questions to be polled to send them to Donna Maestas-DeVries by September 20, 2019 and she would coordinate with New Mexico Counties.

The group discussed the need for specific data to define the scope of the problem and verify issues. Everyone agreed that there is a shared desire to keep as much land as possible in agriculture. Lawrence Gallegos handed out 2017 Agricultural Census data from USDA. The US lost 1.6% of agricultural land from 2012 to 2017, while New Mexico lost 6.2% over that period.

Ron Lethgo noted that Texas is a poster child for agricultural land loss, even though Texas has the proposed conservation special method. Montana is also losing agricultural land despite that method. Lesli Allison noted there are many economic drivers at force, and that the special method for conservation may slow those other economic drivers but not stop them. Secretary Schardin Clarke asked Lawrence to add percentage change columns to the report and bring that back to the group in the future for better comparison.

Secretary Schardin Clarke noted that Oklahoma seems to be doing something right – they are also a state affected by drought, but not losing as much agricultural land. The group noted that New Mexico has many more small farms, while Oklahoma has fewer large farms. New Mexico needs to irrigate, while Oklahoma does not. New Mexico has more range land, while Oklahoma has a mix of range and farm.

Property Tax Division agreed to gather statistics at the local assessor level to report to the group.

Michael O'Melia passed out information from the Environmental Working group indicating that New Mexico farmers received \$102 million in subsidies in 2018 and earned \$62 million in net income from farming. According to USDA, New Mexico agriculture is a \$3.38 billion industry.

The group discussed the previous anecdotal statement that in Taos County, 87 percent of parcels recently lost their agricultural exemption. That statement is rooted in a 2012 review by the Taos County Assessor's Office of 4,000 properties that had the agricultural exemption. Those that lost the exemption were dry land with no fencing, no agriculture, no irrigation, some had buildings, some were parking lots. In other words, they may have lost it for good reason, not due to pressure to sell the property or other factors. About 30% of properties that lost the exemption were able to re-establish it. Ron Lethgo and Donna Maestas-DeVries would work on confirming this data.

Regarding previous group discussion on whether planning and zoning ordinances could assist with the problems before the task force, group members had reached out to one or more county land use directors for feedback and the feedback was that planning and zoning ordinances are not an appropriate solution here.

Secretary Schardin Clarke asked if assessors would be able to produce data on the number or percentage of parcels that had changed hands one, two, or three years after losing a special agricultural valuation exemption, specifically in Taos County perhaps. Linda Gallegos would look into this.

Ron Lethgo noted several states with special methods for conservation and said that some of those allow counties to opt in to using the special method. The group considered whether this would be constitutional in New Mexico. Lesli said she would pursue legal advice on this question.

The group discussed the possibility of expanding the Low-Income Property Tax Rebate currently in statute to expand it to meet this need in Taos or other counties. A benefit of such a rebate is that counties could opt in.

Ron Lethgo followed up that he had talked with the land conservancy about conservation easements as a possible solution. The costs of establishing conservation easements are probably prohibitive for small parcels.

The group decided the next meeting will be held on October 22, 2019 from 2:00-4:00 and adjourned.

**Michelle Lujan Grisham**  
Governor

**Stephanie Schardin Clarke**  
Cabinet Secretary

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**Agenda**

**Rural Heritage Task Force**

**October 22, 2019**  
**2:00 – 4:00**

**Taxation and Revenue Department, Office of the Secretary**

1. Introductions
2. Finalization of September 12, 2019 Meeting Report
3. Report on Results of Second County Poll – Philip Sena, Property Tax Division, Delinquent Bureau Chief
4. Independent Analysis – Al Maury, Consultant to Property Tax Division
5. Update on Gathering Data from Taos County – Nick Sanchez, Consultant to Property Tax Division
6. Non-residential Property Valuation Data Issues – Philip Sena, Appraisal Bureau Chief, TRD Property Tax Division
7. Discussion of Handling Removal of Agriculture for Disease Control, Fallow Program, Compact Obligations, Endangered Species – Lawrence Gallegos
8. Next Steps to Finalize Task Force Report
9. Scheduling Final Meeting of Rural Heritage Task Force

Rural Heritage Task Force  
Third Meeting October 22, 2019

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Rural Heritage Task Force  
Third Meeting October 22, 2019

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Randi Valverde	M&A	rvalverde@montand.com



**Michelle Lujan Grisham**  
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**HM81: Rural Heritage Task Force**

**Third Meeting: October 22, 2019**

Taxation and Revenue Department Office of the Secretary, 1100 S. St. Francis Drive, Santa Fe, NM 87505

**Attendees:**

Stephanie Schardin Clarke, Secretary of Taxation and Revenue (arriving at 2:30)  
Phillip Sena, Appraisal Bureau Chief, TRD Property Tax Division  
Claudia Lucero, Property Tax Division  
Cheryl Bada, General Counsel, Energy, Minerals and Natural Resources Department  
Lesli Allison, Western Landowners Alliance  
Lawrence Gallegos, Western Landowners Alliance  
Martina C de Baca, Office of the Lieutenant Governor  
Nick Ashcroft, NMSU Lineberg Policy Center  
Channing Moore, Lineberg Policy Center  
Marshal Wilson, New Mexico Department of Agriculture  
Tom Sidwell, New Mexico Cattlegrowers Association  
Linda Gallegos, County Assessors' Affiliate Chair  
Jesse Lucero, Torrance County Assessor  
Ron Lethgo, Chavez County  
Randi Valverde, Montgomery & Andrews  
Brent Moore, Montgomery & Andrews  
Brent Van Dyke, NMACD  
Connor Jandreau, New Mexico Land Conservancy  
Enrique Romero, New Mexico Acequia Association  
Al Maury, Contractor, Property Tax Division  
Nicolas Sanchez, Farmer/Rancher & Former Chief Appraiser of Taos County  
Peggy Nelson, Alianza Agricultura  
Carol Weaver, Alianza Agricultura

**Summary:**

The task force was convened by PTD Appraisal Bureau Chief Phillip Sena at 2:00 and met until approximately 4:30 pm on October 22, 2019. Each attendee introduced him or herself.

The meeting report of the September 12, 2019 meeting was discussed, and attendees requested additional time to review and comment on the document prior to finalization. Comments are to be sent to Secretary Schardin Clarke.

Appraisal Bureau Chief Phillip Sena reviewed the results of a second survey of county assessor offices. A memorandum was handed out explaining that the Appraisal Bureau was tasked to create an Assessor's poll to discover how many properties have lost the special method of valuation between 2012 to 2018 statewide, and of the properties that lost the special valuation method, how many of those sold. After running many different queries directly from the assessor's offices of Bernalillo and Sandoval Counties, it was concluded that the data availability will not allow this analysis to be conducted without significant time and resources.

A second poll was emailed surveying the state, to which 20 of the 33 County Assessors responded. The results were somewhat similar in nature and the results were bunched together in a handout for the group's review.

Al Maury, a semi-retired economist and former full-time employee of the Taxation and Revenue Department's Tax Research Office, discussed data sources that play vital roles in the New Mexico property tax system. These include rate certificates produced by the New Mexico Department of Finance and Administration, maps generated by the Taxation and Revenue Department's Systems Bureau, county abstract reports and similar data. Maury also compared various figures that were recorded during the 1998 and 2018 property tax years including aggregate net taxable value, obligations, i.e., revenues assuming one-hundred percent collection, and similar data.

Nick Sanchez, farmer/rancher and the former Chief Appraiser for Taos County, provided a historic perspective on Taos County's past removal and reestablishment of the agricultural special method. He said that when he was chief appraiser for Taos County, during a recession the Assessor's Office needed to look for ways to preserve County revenue. The agricultural special method had not ever been reviewed. There were about 7,000 properties with the special method. Eight appraisers reviewed the first 4,000 of the properties and 87 percent of them (about 3,840 parcels) had the special method removed. Prior to this exercise, it did not seem that applications for the special method had ever been verified and there were a lot of properties that had no agriculture whatsoever. After removal, about 30% of those property owners took steps to have the agricultural special method reestablished, like fencing, irrigation, tree removal, removal of invasive species, cleaning out ditches, etc. After the initial 4,000 were reviewed, eight appraisers were let go due to implementation of the Affordable Care Act, and the work of reviewing the remaining 3,000 parcels slowed down considerably.

Lesli Allison confirmed Nick Sanchez's understanding that land around Taos County was overgrazed and is now covered with sagebrush. In the past, there was subsistence farming of beans and corn, but currently there is not sufficient rain fall for dry land farming. Nick added that the lack of water has deterred subsistence farming, but he believes the issue is more that younger generations do not want to farm. Also, as family plots have been passed down generations, current generations own smaller and smaller acreages, which makes farming even more difficult. He feels though that there are opportunities for family members to consolidate land for farming through leasing/negotiation that will allow agricultural special method to be kept.

Linda Gallegos reported she had contacted the Taos Assessor's Office to see if data is available to verify any parcels that have lost the agricultural special method and subsequently changed hands. The records are not digital, they are stored in boxes. Linda asked the Taos Assessor if she was aware of any parcels being sold due to loss of the special method, and the Taos Assessor was not aware of any instances of this occurring.

Peggy Nelson stated that anecdotally, there are people who have sold or given land to family members for fear of losing the land if they can't keep agriculture going. She thinks this trend is expanding out of the Taos valley to other areas and that people will lose land in the future. Lesli Allison says they are seeing pressures in Taos, Santa Fe, Mora, Rio Arriba, and Dona Ana counties. No supporting data was presented.

Enrique Romero of the Acequia Association commented that water rights are also at stake when irrigation stops, and that is key to property value. The Acequia Association is concerned that loss of the special method could jeopardize an owner's water rights. The Assessors Affiliate is not aware of this issue occurring. Assessors do not share information with the Office of the State Engineer (OSE). The loss of the agricultural special method does not trigger a loss of water rights. Nick mentioned that he spoke with the OSE employee responsible for Taos County. The employee state that no one in Taos County has lost water rights during his tenure.

The group discussed data issues related to non-residential valuation, including that New Mexico is a non-disclosure state. The group recalled that a bill that would have required disclosure had been vetoed many years ago by Governor Johnson. The Assessors are in favor of disclosure. Tim Sidwell expressed concerns by the Cattlegrowers' Association with disclosure. Realtors, private appraisers, and the oil and gas association tend to be opposed as well. It is thought that New Mexico is one of only a handful of states where property sales are not disclosed. Ron Lethgo suggested maybe the Cattlegrowers could support it if agricultural property would not be disclosed if it is receiving the special method.

Lawrence Gallegos asked the assessors questions about how certain situations would be assessed where agricultural production is halted for a good public purpose. Examples included voluntary fallowing programs, water compact obligations, protecting endangered species, and preventing disease spread between big horn and domestic sheep. Lawrence Gallegos and the Assessors Affiliate agreed to work on these questions outside of the meeting and report back to the group how a variety of situations would be assessed.

The group discussed areas of consensus to include in the report due December 1, 2019. The group agrees that there is not sufficient data to support a proposal now that everyone can agree upon. The group would generally support a proposal that allows each county to opt in to whatever solution is proposed. It is still unclear how uniformity requirements of the New Mexico Constitution apply to a property tax provision where opting in is allowed. However, a statute that allows a county to opt out would not be considered a viable statute. The group also agrees that any solution should be revenue neutral or positive, but not resulting in a projected revenue loss. Nick Sanchez stated that Al Maury's analysis showed that 22 of 33 counties have maxed out their tax rates. Reducing property values would cause revenue loss, as rates cannot be increased to maintain required revenue.

Nick Sanchez mentioned that the proposed conservation bill would be added to the Agricultural Special Method statute, 7-36-20 NMSA 1978, to circumvent a constitutional amendment to create a new class of

tax payer. Piggybacking the new bill into the current agricultural special method statute could cause controversy from taxpayers.

Secretary Schardin Clarke stated that TRD staff would draft a shell of the report and send it to task force members for proposed edits. The report should be finalized at the last meeting in November.

The group decided the task force's final meeting will be held on November 15, 2019 from 2:00-4:00 and adjourned.

**Michelle Lujan Grisham**  
Governor

**Stephanie Schardin Clarke**  
Cabinet Secretary

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**Agenda**

**Rural Heritage Task Force**

**November 15, 2019**  
**2:00 - 4:00**

**Taxation and Revenue Department, Office of the Secretary**

1. Introductions
2. Finalization of September 12, 2019 Meeting Report
3. Finalization of October 22, 2019 Meeting Report
4. Discussion of Task Force Report to Revenue Stabilization and Tax Policy Committee
5. Announcement: Report to Revenue Stabilization and Tax Policy Committee Tentatively Scheduled for Presentation on December 17, 2019

Rural Heritage Task Force  
Fourth Meeting November 15, 2019

<u>Name</u>	<u>Organization</u>	<u>Email</u>
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Rural Heritage Task Force

Fourth Meeting November 15, 2019

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Lawrence D Gallegos		lawrence@westernlandowners.org
Lesl. Allison		lallison@westernlandownersalliance
Randi Valverde	Montgomery Archewis	rvalverde@montand.com

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**Michelle Lujan Grisham**  
Governor

**Stephanie Schardin Clarke**  
Cabinet Secretary

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**HM81: Rural Heritage Task Force**

**Fourth Meeting: November 15, 2019**

Taxation and Revenue Department Office of the Secretary, 1100 S. St. Francis Drive, Santa Fe, NM 87505

**Attendees:**

Stephanie Schardin Clarke, Secretary of Taxation and Revenue (arriving at 2:30)  
Donna Maestas-Devries, Director, TRD Property Tax Division  
Michael O'Melia, Deputy Director, TRD Property Tax Division  
Phillip Sena, Appraisal Bureau Chief, TRD Property Tax Division  
Claudia Lucero, Property Tax Division  
Cheryl Bada, General Counsel, Energy, Minerals and Natural Resources Department  
Lesli Allison, Western Landowners Alliance  
Lawrence Gallegos, Western Landowners Alliance  
Martina C de Baca, Office of the Lieutenant Governor  
Nick Ashcroft, NMSU Lineberry Policy Center  
Marshal Wilson, New Mexico Department of Agriculture  
Tom Sidwell, New Mexico Cattlegrowers' Association  
Linda Gallegos, County Assessors' Affiliate Chair  
Ron Lethgo, Chaves County  
Randi Valverde, Montgomery & Andrews  
Brent Van Dyke, NMACD  
Al Maury, Contractor, Property Tax Division  
Nicolas Sanchez, Contractor, Property Tax Division  
Valerie Haever, NM Farm & Livestock Bureau  
Gillian Joyce, AA-CT Taos  
Laura Montoya, Sandoval County Treasurer (telephonically)  
Tiffany Rivera, Farm and Livestock Bureau (telephonically)

**Summary:**

The task force was convened by Secretary of Taxation and Revenue Stephanie Schardin Clarke at 2:00 and met until approximately 5:00 pm on November 15, 2019. Each attendee introduced him or herself.

The meeting reports of the September 12, 2019 and October 22, 2019 meetings were approved.

The task force members discussed the draft report to the Revenue Stabilization and Tax Policy Committee. A draft of that report prepared by TRD staff had been sent in advance to task force



members. Two sets of written comments were submitted prior to the meeting, one set from the New Mexico Department of Agriculture and another from the Western Landowners' Alliance. The group reviewed and debated these comments and agreed upon several changes to the report.

After the meeting, TRD staff would send an updated version of the report containing the agreed upon edits to the group for final review.

It was announced that the report was tentatively scheduled for presentation to the Revenue Stabilization and Tax Policy Committee on the afternoon of December 17.