



**Second Meeting  
November 2, 2009**

**LCR 1 & 2  
State Capitol Building  
Pierre, South Dakota**

**Monday, November 2, 2009**

The second meeting of the Ag Land Assessment Implementation and Oversight Advisory Task Force was called to order by Senator Larry Rhoden, at 10:34 a.m. (CDT) in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Gary Hanson, Dave Knudson, Jim Peterson, and Larry Rhoden; Representatives, H. Paul Dennert, and Kristi Noem; and Public Members Walter I. Bones III, Curt Everson, Larry Gabriel, Ron Olinger, and Duane Sutton. Representatives Justin Cronin and Steve Street and Public Member Kirk Chaffee were excused.

Staff members present included: Fred Baatz, Principal Research Analyst; and Lisa Shafer, Legislative Secretary.

(NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.state.sd.us> under "Interim Information – Minutes and Agendas.")

**Approval of Minutes**

(Located on the LRC Archived Audio – 00:00:54)

**SENATOR HANSON MOVED, SECONDED BY WALT BONES, THAT THE MINUTES FROM THE AG LAND ASSESSMENT IMPLEMENTATION AND OVERSIGHT ADVISORY TASK FORCE MEETING ON JULY 8, 2009, BE APPROVED. The motion prevailed unanimously on a voice vote.**

**Ag Land Productivity Valuation**

(Located on the LRC Archived Audio – 00:3:32)

**Mr. Michael Kenyon**, Director for the Division of Property and Special Taxes with the Department of Revenue and Regulation (DRR), provided an update on the productivity valuation meetings that were held across the state. The meetings were held in August and September. There were twelve meeting locations and there were two meetings at each location. The locations were: Aberdeen, Belle Fourche, Huron, Kadoka, Mitchell, Mobridge, Pierre, Rapid City, Sioux Falls, Watertown, Winner, and Yankton.

About 430 people attended the morning meetings and 530 people attended the afternoon meetings. Mr. Kenyon said that the meetings were good with most people having an understanding of the process and new system.

In response to a request for additional meetings, Mr. Kenyon said that DRR will be creating an internet version of the presentation. He noted that DRR may conduct additional meetings regarding the new system. Distributed to the task force is a draft of the proposed internet presentation. (**Document #1**) Mr. Kenyon explained the proposed internet presentation.

**Mr. Larry Gabriel** suggested using the price of the crop at harvest time to create a more accurate price of the products. If crops are not sold at harvest time, this reflects a management decision to pay for the storage of the crop in order to sell the crop at a later date.

**Representative H. Paul Dennert** asked about compensation for crop that is used for feed. **Dr. Burton Pflueger**, Professor of Economics at South Dakota State University (SDSU), said that the price SDSU receives is reported is from the National Agricultural Statistic Service (NASS). The information is obtained monthly from elevators. The value of the crop is reflective of the average price paid for feed during the course of the year.

In response to **Mr. Ron Olinger's** question, Mr. Kenyon said that the number used in establishing the value of all agricultural land in the county is an NRCS number originally. Then the DRR goes through a ranking process with the soil scientists to obtain comparable state and county soil production numbers.

**Senator Gary Hanson** asked if a certain type of soil located in the eastern half of the state would have the same rating if located in the western half of the state. Mr. Kenyon responded that every soil rating system has comparisons of soil types within that county.

In response to **Mr. Curt Everson's** question pertaining to the discretion of local director of equalization (DOE) for adjustments, Mr. Kenyon said that due to the variation in productivity across the county, there will need to be some local level discretion. The limitations are similar to the old market system. The formula will produce an assessed value and will be factored down if adjustments are made.

**Representative Kristi Noem** had a few suggestions for the internet presentation. The suggestions are:

- Adding state maps showing the changes;
- Including more information as to the switch from AUM to cash rents; and
- Revising the charts to show certain percentage changes.

**Senator Jim Peterson** asked that the internet presentation include a chart for 2010 showing the percentage change in valuations for the owner-occupied and nonagricultural classifications.

Representative Dennert asked if the 2009 sales information will be available during session. Mr. Kenyon said the assessment period ends on November first. There are some changes that will be made through the auditing process, but the information should be close to complete in March.

## **Additional Department of Revenue and Regulation Topics**

(Located on the LRC Archived Audio – 01:15:37)

Mr. Kenyon stated that he contacted Mr. Ray Sowers with the Department of Agriculture pertaining to the issue on private forest land. It was determined that there is no need to make an adjustment based on private forest land.

Mr. Kenyon reminded the task force that crop land values are based on dry land; not irrigated land. There are some counties that the majority of the county agricultural crop land is irrigated. The DRR will factor out the increased production from irrigation. The current issue is how much should be factored for the increased production. The current default methodology works, but the DRR is working to find a factor that reflects each area.

Mr. Kenyon distributed the DRR administrative rules that will need to be changed. (**Document #2**) The proposed rules eliminate the NA-Z classification and change certain rules from applying to the previous cash rent system to the current productivity system. In response to questions by task force members, Mr. Kenyon said that the rules will be reviewed by the Rules Review Task force at the December meeting.

In response to Mr. Gabriel's question pertaining to future adjustments to the landlord's share, Dr. Pflueger said that current information shows no need for an adjustment at this time. According to statute, this issue will be reviewed annually and a report will be provided to the DRR.

The task force recessed at 12:00 noon and reconvened at 1:10 p.m.

### **Review of the Draft Legislation**

(Located on the LRC Archived Audio – 01:25:28)

**915R0070 – An Act to allow the directors of equalization to use certain sales data to determine the amount of adjustment for factors that affect the capacity of the land to produce agricultural products. (Document #3)**

Representative Dennert said that draft legislation adds to the current statute the ability of the local DOE to use data from comparable sales of agricultural land in the area to help make local adjustments to land valuations. Comparable sales will not be used to value county land, but can be used for local adjustments for various the factors that affect productivity.

The task force discussed whether the draft legislation is needed or if the local DOE's currently have the ability to make local adjustments based on comparable sales.

Mr. Everson and Representative Dennert commented that the draft legislation makes it clear that the local DOE's are allowed to make local adjustments based on sales.

### **Public Comments on the Draft Legislation**

(Located on the LRC Archived Audio – 01:37:14)

**Mr. Rick Vallery**, Pierre, stated a concern with the draft legislation possibly allowing for adjustments to be made for individual situations and not on a county-wide basis. This can create un-equalized assessments.

### **Additional Topics Discussed**

(Located on the LRC Archived Audio – 01:48:04)

Senator Peterson asked that the DRR consider an additional classification of land in a county if the land sells for over 400% of its assessed value. If the land is selling at that level, then maybe it shouldn't be assessed as agricultural land but rather as investment property.

Mr. Olinger said that he will create draft legislation that will address a reclassification of agricultural land if the land purchased no longer meets the three requirements (income, use, and acreage) to be considered agricultural land.

Mr. Kenyon said that there are two different approaches to changing the agricultural land classification criteria. The approaches are:

- To change the criteria of the three agricultural land tests (income, use, and acreage); and
- To create another criteria (such as sales price).

Mr. Kenyon said that the legislative minimum acre size requirement allowed to be classified as agricultural land is 20 acres. However, counties are able to increase the minimum acre size requirement up to 160 acres. He distributed a handout entitled "Ag Land Acre Limitation". **(Document #4)**

Senator Rhoden requested that House Bill 1009 from the 2006 Legislative Session be distributed to the task force. **(Document #5)**

Senator Rhoden said that there is a broader spectrum of issues that need to be addressed which are not included in House Bill 1009. He suggested creating an informal small working group that would review these issues to address the issue more completely.

Senator Peterson requested that the small working group, if formed, look at land use during the review.

Mr. Olinger asked about grassland easements. He suggested that the small working group look at the North Dakota statute.

### **Draft Legislation**

(Located on the LRC Archived Audio – 02:07:11)

**915R0070 – An Act to allow the directors of equalization to use certain sales data to determine the amount of adjustment for factors that affect the capacity of the land to produce agricultural products.** (Document #3)

In response to task force discussion, Mr. Kenyon said that the local DOE's have the ability to document anything that justifies the adjustment to assessment values including location size, soil types, climate, terrain, etc. He is not certain if the language is needed because local DOE's already have the ability to use comparable sales for adjustments.

In response to a question from Representative Dennert, **Ms. Mary Worlie**, Brown County Director of Equalization, responded affirmatively that the legislation was necessary to allow assessors to use certain comparable sales for adjustments.

The task force discussed the idea of including comparable sales into the statute and where and how the language would be best fit.

**SENATOR KNUDSON MOVED, SECONDED BY WALT BONES THAT THE DRAFT LEGISLATION 915R0070 BE AMENDED AS FOLLOWS:**

- On page 1, line 12, of the printed bill, overstrike "which can be documented".
- On page 1, delete lines 13 and 14, and insert:

**"Each adjustment shall be documented. The director of equalization may document an adjustment by using data from sources reasonably related to the adjustment being made. In addition, the director of equalization may use data from comparable sales of agricultural land to document the adjustment for any of the factors listed in this section."**

The motion prevailed on a voice vote.

**REPRESENTATIVE DENNERT MOVED, SECONDED BY SENATOR HANSON, TO ACCEPT THE DRAFT LEGISLATION 915R0070 AS AMENDED FOR INTRODUCTION AS A TASK FORCE BILL IN THE 2010 LEGISLATIVE SESSION. The motion prevailed on a roll call vote with 8 AYES, 3 NAYS, and 3 EXCUSED. Those members voting AYE include: Senators Hanson (Gary), Knudson, and Rhoden; Representative Dennert; and Public Members Bones, Everson, Olinger, and Sutton. Those members voting NAY include: Senator Peterson (Jim), Representative Noem, and Public Member Gabriel. Those members EXCUSED include: Representatives Cronin and Street and Public Member Chaffee.**

### **Next Meeting**

The next meeting of the Ag Land Assessment Implementation and Oversight Advisory Task Force will be discussed during the 2010 Legislative Session.

### **Adjourn**

**REPRESENTATIVE KRISTI NOEM MOVED, SECONDED BY SENATOR KNUDSON, THAT THE TASK FORCE ADJOURN. The motion passed on a voice vote.**

The task force adjourned at 2:20 p.m.

