



**Legislative  
Research  
Council**

**MINUTES**  
**Agricultural Land Assessment  
Implementation and Oversight  
Advisory Task Force**

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**Senator Jim Peterson, Chair  
Mr. Larry Rhoden, Vice Chair**

**Second Meeting  
2015 Interim  
November 2, 2015**

**Room 413  
State Capitol  
Pierre, South Dakota**

**Senator Jim Peterson, Chair**, called to order the second meeting of the 2015 Legislative Research Council Agricultural Land Assessment Implementation and Oversight Advisory Task Force at 10:00 a.m. (CDT), on Thursday, November 2, 2015, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was present with the following members answering roll call: Representatives Julie Bartling, Mary Duvall, Dennis Feickert, and Lee Qualm; Senators Gary Cammack, Billie Sutton, Larry Tidemann and Jim Peterson, Chair; Public members Kirk Chaffee, Trevor Cramer, Lyle Perman, Kim Vanneman, Mike Wiese, and Larry Rhoden, Vice Chair.

Staff members present included Fred Baatz, Principal Research Analyst; Amanda Jacobs, Research Analyst, and Rena Ortbahn, Committee Secretary.

*NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. All referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council (LRC). Some documents can be found on the LRC website at <http://legis.sd.gov/Interim/CommitteeDocuments.aspx?Session=2015>.*

**Change in Agenda, Approval of Minutes, Opening Remarks**

**MR. KIRK CHAFFE MOVED, SECONDED BY REPRESENTATIVE MARY DUVAL, TO AMEND THE AGENDA BY PLACING THE FALL RIVER COUNTY DIRECTOR OF EQUALIZATION FIRST ON THE AGENDA.** The motion passed.

**MR. LARRY RHODEN MOVED, SECONDED BY REPRESENTATIVE MARY DUVAL TO APPROVE THE MINUTES OF THE JULY 20, 2015, MEETING.** The motion passed.

Senator Peterson said Table 1 has not been updated in twenty years and to make the productivity model workable and fair, changes need to be made. He said the Fall River County presentation mirrors what is happening across the state, native grassland is being accessed as crop land resulting in property taxes equal or greater than cash rents.

**Ag Land Assessment – County Perspective**

**Ms. Susie Hayes-Simkins, Fall River County Director of Equalization, and Deb Russell, Fall River County Commissioner,** appeared jointly before the task force.

Ms. Hayes-Simkins is seeking a rangeland adjustment formula that more closely corresponds with actual production. She demonstrates this formula should be *Grass rating x Grass dollar = Assessed Value*. She said the present adjustment formula in Department of Revenue guidelines could easily be changed. (Document #1, Fall River County AG PowerPoint Presentation; Document #2, Fall River County Ag Presentation Summary; Document #3, Reference Materials)

Ms. Hayes-Simkins said assessors now use the following formula to readjust crop rated soil to noncrop rated soil: *Crop Dollar x Grass Rating = Adjusted Value*. She said this is a simplified version of a more complicated DOR formula, producing the same results. She asked why apply a crop productivity dollar amount to a soil being adjusted to get to a grass productivity value.

Ms. Hayes-Simkins believes a rangeland adjustment formula of: *Grass Rating x Grass Dollar = Assessed Value* more closely corresponds with actual production. However, under present DOR guidelines this would not be permitted, and she requests these guidelines be fixed.

To illustrate the need to change the formula, Ms. Hayes-Simkins referenced a parcel of land, owned by Mr. Tom White, a Fall River rancher, which she said cannot, for physical reasons, be used to produce crops. For discussion purposes, the land is divided into a north and a south half. The north half is rated as noncrop rated soil while the south half, which Mr. White also uses for rangeland, includes several acres of crop rated soils.

In 2014, Mr. White's tax for the north half was \$401 and for the south half \$985. After applying the DOR adjustment formula, the taxes on the south half were reduced to \$686. If Ms. Hayes-Simkins proposed grass rating adjustment formula were applied, the total tax for the south half would have been \$498.

Ms. Hayes-Simkins presented four scenarios to demonstrate which adjustment method is fair and equitable 1) Cash Rent Income Versus Taxes; 2) Carrying Capacity; 3) Soil Survey Dry Weight Productivity; and 4) Reverse Math logic. All scenarios have Mr. White paying less taxes using Ms. Hayes-Simkins proposed adjustment formula.

Ms. Hayes-Simkins said the existing adjustment formula comes up with a 53% difference in assessed value between the north and south halves, while using her proposed grass rating adjustment formula results in a 22% difference. The actual difference in productivity is 13%.

Ms. Hayes-Simkins referred to a Fall River County Top Dollar Difference chart showing in 2010 the difference between noncrop and crop soils was at 13%; in 2014 at 56%; and by 2016 the difference is predicted to be at 85%. She encouraged the committee to fix the soil adjustment formula and responded to task force questions.

Senator Peterson said Ms. Hayes-Simkins provides a clear view of what is occurring on rangeland in South Dakota.

Mr. Perman said there's an imbalance in the percentage of income in taxes that rangeland pays versus cropland that it isn't fair and needs to be addressed.

Mr. Chaffee said, as a director of equalization, he also uses the simplified adjustment formula. He cautions the task force to be careful in revisiting existing statute and he understands the reasons for the DOR guidelines.

### **Ag Land Assessment – Factors for Determining Agricultural Income Value**

**Dr. Matthew Elliot, Economics Department, SDSU, (Document #4)** said SDSU is not recommending statutory changes in the landlord share and the capitalization rate or in the formula for revenue capacity for cropland. He presented a \$175,000, two-year research proposal to update Soil Tables 1 and 2, improve the methodologies for determining highest and best use values (HBU), and assess the impact of changes.

Dr. Elliott recommends using three tests to indicate probable HBU for each soil type: 1) physically possible, 2) financially feasible, and 3) maximum profitability. Even after applying these tests, Dr. Elliott thinks there will be a number of soils with a degree of uncertainty requiring value judgements. Annual updates of the criteria and values for all three tests for each county and soil type will be made available online at the SDSU Extension site, [iGrow.org](http://iGrow.org).

Dr. Elliott said USDA-NASS no longer collects cash rent surveys every year, but biannually. This data is used in calculating the noncrop productivity formula. He asked for guidance on how to adapt to this change, setting forth three options with pros and cons for each option.

Dr. Elliott said he could provide more details in another meeting and responded to questions.

### **Draft Legislation Review and Discussion**

The task force then reviewed the draft bills. **(Documents #5, #6, #7, and #8)**

***Draft #44: An Act to provide for the assessment of certain agricultural land as noncropland.***

There was discussion on adding language to protect landowners that aren't aware of law changes. Senator Peterson said the bill can be amended before the next meeting and it is a good example as to why another meeting is needed.

***Draft #32: An Act to revise the income criteria for determining if property is classified as agricultural land for property tax purposes.***

Senator Larry Tidemann **(Document # 9)** said the goal of the draft bill is to keep ag land in production, and answered questions on the criteria being proposed. Mr. Rhoden said going to a percent of assessed value to satisfy the ag income criteria makes sense and should be further discussed.

***Draft #43: An Act to revise the criteria for determining if property is agricultural land for property tax purposes.***

Senator Sutton thinks the proposed changes would help smaller producers.

**Draft #106:** *An Act to make an appropriation to revise and update the values and methods used to determine the agricultural land production capacity and to declare an emergency.*

Dr. Elliott said both Tables 1 and 2 would be updated in this proposal. His understanding is that expenditures would be about 50% of the appropriation request for each of two years.

### **Public Testimony**

Ms. Hayes-Simkins commented that the SDSU proposal to revise Table 1A is a good idea and will give assessors more flexibility. She said with the existing Table there is no way to adjust up from a grass rating to a crop rating, which she believes is needed. She also explained why she didn't use the newest DOR Tables 1A on Mr. White's adjustments.

**Mr. Paul Dennert, Columbia, SD,** believes any adjustments to rangeland assessments should be the same statewide, as he said the property taxes are about the same per cow-calf unit in Brown County as being reported in Fall River County.

**Mr. Jerimiah M. Murphy, SD Stockgrowers' Association,** said the Stockgrowers' appreciate the path the task force is following and encourages it to continue to do so. They agree with the draft assessing certain land as noncropland based on its long-term use and will look closer at the drafts regarding small agriculture land parcels. They are enthused about the SDSU study, and think it will be dollars well spent. He urged the task force to weigh the value of Ms. Hayes-Simkins presentation as she describes the experience of many Stockgrowers' members.

Dr. Elliott commented that SDSU now has the ability to do localized analysis of individualized soil parcels that they couldn't do in the 1990's or prior.

**Mr. Orval Frahm, Oelrichs, SD,** thanked Dr. Elliot for including market accessibility in his proposal. He said in Draft #44, instead of 40 years, could be changed to read "or as set by local county commissioners." He said a lot of information is already in the soil survey book, to not reinvent the total wheel.

### **Wrap-up**

Senator Peterson expressed appreciation for all the work that Ms. Hayes-Simkins did for this task force. He said her presentation highlighted faults that presently exist in the current methodology to assess ag land. He said everyone will benefit from a fair tax and the preservation of native grass land.

The task force agreed to meet next on December 7, 2015 at 1:15 p.m.

### **Adjournment**

**MR. KIRK CHAFFE MOVED, SECONDED BY SENATOR LARRY TIDEMANN, TO ADJOURN.** The motion passed. Senator Peterson adjourned the task force at 2:40 pm.

**All task force agendas and minutes are available on the LRC website: <http://legis.sd.gov/>. You may subscribe to electronic delivery of agendas and minutes at E-Subscribe on the LRC website.**