



**First Meeting
April 29, 2011**

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

Friday, April 29, 2011

The first meeting of the Ag Land Assessment Implementation and Oversight Advisory Task Force was called to order by Senator Larry Rhoden, at 10:37 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 Jason Frerichs, Tom Hansen, Larry Rhoden, and Billie Sutton; Representatives Justin Cronin, H. Paul Dennert, James Schaefer, and Steve Street; and Public Members Mark Biedenfield, Kirk Chaffee, Larry Gabriel, Dave Knudson, Ron Olinger, and Jim Peterson.

Staff members present included: Jim Fry, Director; 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.")

Election of Chair

(Located on the LRC Archived Audio – 00:00:40)

SENATOR TOM HANSEN MOVED, SECONDED BY REPRESENTATIVE H. PAUL DENNERT, THAT SENATOR LARRY RHODEN BE NOMINATED AS CHAIR OF THE AG LAND ASSESSMENT IMPLEMENTATION AND OVERSIGHT ADVISORY TASK FORCE.

REPRESENTATIVE H. PAUL DENNERT MOVED, SECONDED BY REPRESENTATIVE JAMES SCHAEFER, THAT NOMINATIONS CEASE AND THAT A UNANIMOUS BALLOT BE CAST FOR SENATOR LARRY RHODEN AS CHAIR OF AG LAND ASSESSMENT IMPLEMENTATION AND OVERSIGHT ADVISORY TASK FORCE. The motion prevailed unanimously on a voice vote.

Election of Vice Chair

(Located on the LRC Archived Audio – 00:01:42)

REPRESENTATIVE STREET MOVED, SECONDED BY DAVE KNUDSON, THAT REPRESENTATIVE JUSTIN CRONIN BE NOMINATED AS VICE CHAIR OF THE AG LAND ASSESSMENT IMPLEMENTATION AND OVERSIGHT ADVISORY TASK FORCE.

SENATOR TOM HANSEN MOVED, SECONDED BY REPRESENTATIVE H. PAUL DENNERT, THAT NOMINATIONS CEASE AND THAT A UNANIMOUS BALLOT BE CAST

FOR REPRESENTATIVE JUSTIN CRONIN AS VICE CHAIR OF AG LAND ASSESSMENT IMPLEMENTATION AND OVERSIGHT ADVISORY TASK FORCE. The motion prevailed unanimously on a roll call vote.

Remarks from Chair

(Located on the LRC Archived Audio – 00:02:41)

Senator Larry Rhoden stated that the first meeting was scheduled early in the interim to allow time for identified areas of concern to be researched by the agencies. The areas will be addressed by the task force throughout the summer.

Remarks from Vice Chair

Representative Justin Cronin asked that the task force members and the public have an open mind to the new agricultural land valuation model. The task force will make any needed progressive changes.

Historical Review of Interim Studies Concerning Ag Land Assessment and Legislation

(Located on the LRC Archived Audio – 00:4:22)

Mr. Fred Baatz, Principal Research Analyst with the Legislative Research Council, distributed a handout entitled “Interim Property and Ag Land Studies and Legislation” (**Document #1**). He explained the historical legislative changes from 1997 forward. Mr. Baatz informed the task force that property taxes generate about \$ 1 billion in revenue annually for local governments.

Ag Land Assessment – Report on Data Findings

(Located on the LRC Archived Audio – 00:31:35)

Ms. Colleen Skinner, Division of Property and Special Taxes with the Department of Revenue, distributed a handout entitled “Productivity valuation Information State of South Dakota for the 2010 Assessment Year” (**Document #2**). She explained the productivity valuation methodology for assessing agricultural land which is outlined in Document #2.

The productivity value formula multiplies the gross revenue by the landlord share percentages and then divides this amount by the capitalization rate. The gross revenue for cropland is determined by using an 8-year Olympic average of yields and commodity prices. The gross revenue for non-cropland is determined by using an 8-year Olympic average of cash rents.

The landlord share percentages and the capitalization rate are set in statute – SDCL 10-6-33.28. The landlord percentages are 35% for cropland and 100% for non-cropland. The capitalization rate is 6.6%.

South Dakota State University (SDSU) uses National Agricultural Statistic Service (NASS) data to establish the gross revenue per acre in each county based on an 8-year Olympic average.

Once the productivity formula produces the average crop and non-crop values per acre, the valuation process is the same as under the old market system. Each soil in the county is rated on a scale from 1.0 to 0.1. The average cropland value per acre is projected up to establish a

value for the top rate crop soil. The average non-cropland value per acre is projected up to establish a value for the top rated non-crop soil.

The soil survey provides an inventory of the acres of each type of soil in each parcel. The number of acres of each type of soil in each parcel is multiplied by the dollar value for that type of soil. The dollar values are then added together to determine the total value of the parcel.

Pages 7 and 8 of Document #2 list the changes in valuation for the 2011 assessment year productivity information per county. Pages 9 and 10 of Document #2 list the cropland Olympic averages for the 2011 assessment year per county. Pages 11 and 12 list the non-cropland Olympic averages for the 2011 assessment year per county. Pages 13 and 14 list the projected crop Olympic averages. Pages 15 and 16 list the projected non-crop Olympic averages.

In response to Representative Cronin's question about irrigation, Ms. Skinner stated that the issue is not whether the land is irrigated, but the irrigability of the land. To address the issue, all land is evaluated as dry land, and then irrigability is an adjustment the local directors of equalization are able to make.

Mr. Larry Gabriel commented that if the system is based on actual yield, then the yields of the irrigated land need to be removed from the model to avoid the influence that irrigated land may have on assessments.

Senator Tom Hansen requested that the Department of Revenue (DOR) provide the change in valuation figures for the 2011 assessment year per county and for the state.

Mr. Jim Peterson requested that the DOR provide the total valuation for ag land, owner occupied property, and nonagricultural property.

Mr. Ron Olinger asked the DOR to provide the 2001 NASS report.

In response to Mr. Olinger's question, Ms. Skinner said that variation between cropland and non-cropland is based on the capability rating. Classes 1 – 3 are soils capable of growing crops, classes 5 – 8 are considered grassland, and class 4 could be considered either way.

Mr. Gabriel stated his concern for the need of uniformity amongst the counties within the next couple of year so there are not problems when the 10% cap is removed. He encouraged preparation for a gradual modification to the current legislation to achieve this goal. However, projections on future ag land assessments will be required to determine the modifications needed.

Dr. Burton Pflueger, Professor of Economics at South Dakota State University, stated in response to Mr. Gabriel's question, that the commodity process data for 2010 is currently being reviewed and the information will be provided to the DOR by June 1.

The task force discussed the crop revenue from planted acres versus crop revenue from harvested acres.

The task force recessed at 12:04 p.m. and reconvened at 1:25 p.m.

Ag Land Assessment – Report on Data Findings Continued
(Located on the LRC Archived Audio – 01:32:03)

Mr. Gabriel requested the DOR to provide an analysis of the landlord's share data using cash rents using the same cap rates. The DOR will use the same counties used in the 2002 pilot study.

Representative Cronin distributed a draft document for the Department of Revenue addressing adjustments that may be made by local directors of equalization (**Document #3**). He suggested creating a list of allowable adjustments and items that need to be documented so all local directors of equalization have the same information.

Mr. Peterson requested that the department provide a list of factors used in South Dakota to determine taxes for agricultural land.

In response to **Senator Jason Frerich's** question, Ms. Skinner stated that Senate Bill 2 from the 1998 Session pertaining to providing a procedure for assessing flooded land for tax purposes is still in effect.

Public Testimony

(Located on the LRC Archived Audio – 01:53:47)

Mr. David Wiest, Interim Secretary for the Department of Revenue, provided an update on the replacement for Mr. Michael Kenyon and the return of Mr. Andy Gerlach (Secretary of the Department of Revenue) from Afghanistan.

Mr. Wiest explained the legal issues behind the issue of irrigation and irrigability in Butte County. He said that the placement of a center pivot on a person's land is a managerial decision and does not have an impact on the valuation of the land. He suggested the task force start with dry land production then provide adjustment for irrigation. With the issue in Butte County, irrigation needs to be adjusted higher because those farms are located in geographical locations where a limited number of operators are able to obtain water for irrigation purposes.

SDCL 10-6-33.31 was created by the passage of House Bill 1005 during the 2008 Legislative Session. It allows mechanisms for local directors of equalization to perform adjustments for certain factors.

Another issue that needs to be addressed is property evaluation for the state aid to education formula. South Dakota needs to have a uniform system for evaluating all property statewide because it affects the distribution of state aid to education funds. Mr. Wiest also commented that the system needs to be a fair equalization system for the citizens.

In response to Mr. Peterson's question pertaining to easements, Mr. Wiest stated that the department pulled the administrative rule concerning easements for several reasons.

Mr. Lenny Starks, Walworth County, Campbell County, and Potter County landowner, distributed information about the soil rating, taxes, and land values for his land in Walworth County (**Document #4**). He told the committee that he appealed to the Campbell County and Walworth County Board of Equalization. The Board voted to deny the change in classification

for his land from cropland to non-cropland due to the guidelines from the Department of Revenue.

Mr. Starks also asked why government payments and crop insurance checks are not included in the valuation of agricultural land.

Senator Rhoden recited SDCL 10-6-33.31 which states that assessors have the ability to make local adjustments based on the land. He said that this problem could be the result of poor communication between the state and the local director of equalization.

Mr. Rick Vallery, South Dakota Wheat Inc., presented the task force two options to create equality amongst the counties. The first option is to create a sliding scale allowing the counties that are farther behind to reach the goal within the established timeframe. The second option is to lengthen the timeframe to obtain the goal, at least for the 15-16 counties that need assistance.

Ms. Debbie Kahl, Walworth County Assessor, stated that she did not make the adjustment to Mr. Starks land because all adjustments need to be submitted to the Department of Revenue by January 1st. All appeals are addressed in April. Therefore, Ms. Kahl believed she was not able to address Mr. Starks adjustment this year based on timing.

Ms. Skinner explained the process for adjusting agricultural land assessments. All assessments need to be submitted to the department by January 1st with proper documentation.

Task Force Discussion

(Located on the LRC Archived Audio – 03:27:15)

Mr. Ron Olinger requested the DOR to provide data on commodity prices with federal payments figured in the formula.

The task force discussed the value of including government payments in the formula.

Representative H. Paul Dennert stated his concern about the 10% cap for annual increases in assessments for cropland and non-cropland. He commented that counties will never reach the goal with the current cap while the Olympic average increases at a rate that is more than 10%.

Mr. Peterson requested the local directors of equalization provide ideas as to how the task force can address grassland and equalization in their county.

Mr. Olinger asked the department to provide a three year average of production and to project the average income for the information presented on page 13 of Document #2.

Mr. Gabriel requested that the department provide projection through 2017 based on today's prices. He is concerned about the large increase that some counties will face when the caps are removed. He would prefer not to extend the number of years for which the caps are effective.

Some of the other issues discussed by the task force members include:

- Government payments;
- How to address easements;
- Planted acres versus harvested acres and how impacted by crop prevent acres;
- Assessment of land that is irrigated land and land that is irrigatable;
- Capitalized cash rent compared to the productivity model in several counties;
- How to address the counties that have a large disparity between the assessed value and the full productivity value; and
- Initial data and basis to develop the model.

Representative Cronin stated that there is a disconnect between the state and the local directors of equalization as to the methods allowed for adjustments. He suggested creating a list of all allowed methods to ensure the state and all local directors have the same information.

Dr. Pflueger stated that the state has previously looked at including government payments in the valuation formula. The reasons the information was not able to be included before still exist today.

Mr. Peterson requested that the task force receive the information previously presented by the Department of Revenue to ensure all new members have the information.

Additional information distributed to the task force include:

- House Bill 1001 from the 2011 Legislative Session (**Document #5**);
- House Bill 1002 from the 2011 Legislative Session (**Document #6**); and
- “Agricultural Land Productivity – Codified Provisions” (**Document #7**).

Next Meeting

The next meeting of the Ag Land Assessment Implementation and Oversight Advisory Task Force has been scheduled for Monday, August, 29, 2011, in Pierre.

Adjourn

REPRESENTATIVE STEVE STREET MOVED, SECONDED BY KIRK CHAFEE, THAT THE TASK FORCE ADJOURN. The motion passed on a voice vote.

The task force adjourned at 4:36 p.m.



All Legislative Research Council task force minutes and agendas are available at the South Dakota Legislature's Homepage: <http://legis.state.sd.us>. Subscribe to receive electronic notification of meeting schedules and the availability of agendas and minutes at **MyLRC** (<http://legis.state.sd.us/mylrc/index.aspx>).