



**Second Meeting  
August 29, 2011**

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

**Monday, August 29, 2011**

The second meeting of the Ag Land Assessment Implementation and Oversight Advisory Task Force was called to order by Senator Larry Rhoden, at 10:33 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, and James Schaefer; and Public Members Mark Biedenfeld, Kirk Chaffee, Larry Gabriel, Ron Olinger, and Jim Peterson. Representative Steve Street and Public Member Dave Knudson were excused.

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.")

**Approval of Minutes**

(Located on the LRC Archived Audio – 00:0:41)

**REPRESENTATIVE CRONIN MOVED, SECONDED BY KIRK CHAFFEE, TO ADOPT THE MINUTES FROM THE MEETING ON APRIL, 29, 2011. The motion prevailed on a voice vote.**

**Remarks from Chair**

(Located on the LRC Archived Audio – 00:01:09)

**Senator Larry Rhoden** stated that later in the meeting he would like each task force member to identify areas of concern about any area the Ag Land Task Force is charged to monitor.

**Introduction of Department of Revenue Staff**

(Located on the LRC Archived Audio – 00:03:20)

**Mr. Andy Gerlach**, Secretary of the Department of Revenue, introduced the staff members present at the meeting – **Mr. David Wiest**, Deputy Secretary; **Mr. Matt Fonder**, Director of Division of Property and Special Taxes; **Mr. Jason Evens**, Deputy Director of Division of Property and Special Taxes, and **Ms. Colleen Skinner**, Division of Property and Special Taxes.

Secretary Gerlach said that the Department of Revenue has a good model to utilize for agricultural land assessment. The local directors of equalization are important to the delivery of this process. The department wants to share information, ideas, and training with the local directors of equalization. Issues will be evaluated on a county to county basis to ensure the process is as fair as possible.

**Ag Land Assessment – Report on Data Findings**  
(Located on the LRC Archived Audio – 00:16:09)

**Ms. Colleen Skinner** distributed a handout containing the new data and information of ag land assessments. (**Documents #1 and #2**)

Pages 1 and 2 of Document #2 shows the Crop Olympic Average - the average revenue per acre for each year based on harvested commodities for 2000 through 2010 for each county. The average change for the Olympic average was 17.5% with the highest change in Brule County of 28.88% and the lowest change in Lawrence County of 7.8%.

Pages 3 and 4 of Document #2 shows the Non-Crop Olympic Average – the average noncrop rent for each year based on reports from the National Agricultural Statistic Service (NASS) for 2000 through 2010. The average Olympic change was 1.87% with the highest change of 6.92% in Spink County and the lowest change of -5.15% in Bennett County.

Pages 5 and 6 of Document #2 list the actual change in valuation per county based on the new productivity valuation and the 2011 equalized values for each county.

**Representative Justin Cronin** asked about the disparity amongst the counties in crop dollar value without the 10% cap limit. Ms. Skinner stated that the state is working into a system where everyone started at different levels. Not all counties were at the same level of the market value when the system was enacted. With revenues increasing dramatically each year, some counties are getting further behind and it will take longer to catch up or they must face a significant increase at some future date.

**Representative H. Paul Dennert** asked about the counties that are behind 60% or more. Ms. Skinner stated that there are some counties that are limited for both cropland and noncropland productivity. For the 2012 assessment year, only Lincoln County is not limited to the 10% for cropland productivity. Currently, 46 counties are at full productivity level for noncropland for the 2011 to 2012 assessment. There are 14 counties that are limited to 10% increase for noncropland production and there are six counties that are limited to a 10% decrease for noncropland production.

In response to **Mr. Larry Gabriel's** question, Ms. Skinner confirmed that by limiting counties to the 10% increase/decrease, the state is creating wider disparities amongst the counties.

Pages 7 and 8 of Document #1 is a reproduction of the September 10, 2010, NASS Cash rent publication. The publication was used for the noncropland cash rent data to set the 2012 productivity value for noncropland. Page 9 and 10 show the 2009 taxable valuations by class of property. Pages 11 and 12 show the 2010 taxable valuations by class of property.

Ms. Skinner stated that the state wanted a revenue neutral shift for the first year. From 2009 to 2010, the ag land values increased 3.1%. The ag land values increased 7% from 2010 to 2011.

In response to task force discussion about state aid to education, Ms. Skinner stated that school districts can ask to have capital outlay filled with the maximum levy of \$3.00 per thousand. The legislature passed a special statute saying that any school district that total value increased more than 10% cannot request the maximum levy, the school can receive the same amount of capital outlay as last year plus a growth in CPI.

Pages 13 and 14 of Document #1 is a request from Mr. Jim Peterson. The charts show the 2011 levels of assessment and equalization factors. Ms. Skinner noted that most counties level of assessment are at 100% after intentions.

Pages 15 and 16 is a chart listing the acres that are in easement per county. The information includes acres in US wildlife easements, NRCS easements, and School and Public Lands acres based on the 2010 assessed acres. **Representative James Schaefer** stated that about 1% of School and Public Land is farmed as cropland.

Pages 17 and 18 of Document #1 shows that change in taxes per county for the 2009 pay in 2010 taxes. Pages 19 and 20 is a chart of the crop cash rent Olympic average. Pages 21 and 22 is the comparison of value produced by productivity valuation formula versus the value produced by crop cash rent. Pages 23 and 24 show the projected crop Olympic revenue averages from taxes paid in 2010 to 2019. Pages 25 and 26 show the projected noncrop Olympic dollar value averages from taxes paid in 2010 to 2019. Ms. Skinner noted that 2016 assessments with taxes payable in 2017 is the final year of the 10% cap limit.

**Mr. Mark Biedenfeld** requested that the department provide the Olympic average charts via email.

Ms. Skinner told the task force that pages 27 through 34 of Document #1 is a draft letter to the local Directors of Equalization about productivity valuation adjustments. The letter provides guidelines for the adjustments on how to do assessments and how to document adjustments.

Distributed to the task force was a flyer for the annual assessor's school. (**Document #3**)

The task force recessed at 11:50 a.m. and reconvened at 1:14 p.m.

### **Ag Land Assessment – Report on Data Findings** (Located on the LRC Archived Audio – 01:18:20)

**Dr. Burton Pflueger**, Professor of Economics at South Dakota State University, distributed a handout entitled “August 29, 2011: Agricultural Land Advisory Task Force” (**Document #4**). The most recent increase of 16.5% for all agricultural land values in the states was the third highest annual rate of increase since 1991.

Cropland values increased at a higher rate than per-acre value increases for other agricultural land uses. Cropland values increases statewide by 17.7% compared to increases of 15.2% for hayland and 13.1% for rangeland.

Dr. Pflueger said that strength of commodity prices drive the increase more than yield data or planted acres as the model moves forward. The price of grain is the key driving factor in changing assessed value numbers.

In response to Mr. Biedenfeld's question about the widening disparity among the counties from the 10% cap, Dr. Pflueger agreed and stated that the counties with the ability to raise more corn and soybeans will show increases in valuations more quickly than those counties with wheat and hay.

Dr. Pflueger stated, in response to Representative Cronin's question, that the 35% landlord share is a good number and can be supported with data. The changes in the relationship of gross revenues to production costs from year to year are not significant enough to warrant a change.

**Mr. Carter Anderson**, National Agricultural Statistic Service, told the task force that the cash rent survey has changed to be more of a probability based survey with a weighted average result. The change now requires at least 30 reports from each county. This new method of calculating data is used for both cropland and noncropland.

### **Task Force Concerns / Obstacles**

(Located on the LRC Archived Audio – 0:37:56)

Each member of the task force stated his/her concern about the any area that the task force is charged with overseeing. Some of the concerns include:

- Actual usage;
- Disparity between cropland and noncropland assessments in relation to the full productivity value;
- Adjustment to the 10% cap limit;
- Cash rents;
- Easements; and
- Communication between the local directors of equalization and the Department of Revenue.

### **Public Testimony**

(Located on the LRC Archived Audio – 02:06:40)

**Mr. David Wiest**, Deputy Secretary for the Department of Revenue, stated that the new productivity system is still in its infancy and the system needs time to operate without major changes to allow the system to reach equilibrium. The Department of Revenue will work with the local assessors on adjustment issues.

**Mr. Lyle Perman**, rancher from Lowry, South Dakota; distributed a handout pertaining to estimating runoff and peak discharge. (**Document #5**) He explained the document to the task force.

Mr. Perman said that one important issue is the way noncropland is addressed. He stated is concern about highest and best use. He believes that the loss of grassland is an economic decision that is impacting the roads in the northeastern part of the state.

**Mr. Lenny Starks**, Walworth County, Campbell County, and Potter County landowner, informed the task force that a large majority of his land was classified as cropland but it was impossible to farm due to the rocks, slope, etc. He took the request to change classifications to both Campbell County and Walworth County where the land is located. After 11 hours of direct appeal time and 100 hours of studying the issue, he has won all five appeals. He won the appeal because the local assessors realized that it was not a management decision to not farm the land. The issue may be appealed to circuit court.

Mr. Starks stated that he is a proponent of actual land use. He believes the production method has merit but it should not be limited by various provisions. He encouraged the task force to remove the 10% cap limit.

**Mr. Glen Spitzer**, Edmunds County land owner, distributed and explained **Document #6** to the task force. He is a proponent for actual use and stated that the only contiguous state that uses highest and best use is Iowa.

In response to Mr. Gabriel's questions, Mr. Spitzer stated that North Dakota has a task force that includes soil scientists to determine land classifications and adjustments.

**Mr. Jim Faulstich**, land owner from Highmore, South Dakota; stated his concurrence with the previous testifiers. He said that agriculture and natural resources are important to the economic picture of the state. The task force needs to look forward to the future generations on the land.

**Ms. Eva Johnson**, Farmer from Harrold, South Dakota; distributed a County of Sully Real Estate Notice for the Year 2010. (**Document #7**) She stated her concern on how the local directors of equalization apply assessment factors and value the land.

Distributed was a letter addressed to Senator Rhoden from Senator Michael Vehle pertaining to land that has been inundated with water for two or more years. (**Document #8**)

### **Task Force Discussion and Staff Direction** (Located on the LRC Archived Audio – 03:20:21)

**Mr. Ron Olinger** requested the Department of Revenue provide information by the next meeting about assessments based on cash rents if the state switched to cash rents as a means to assess land.

In response to Representative Dennert's question, Ms. Skinner distributed a chart listing the land areas slope, class, and rating. The variation between cropland and noncropland 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. The land areas highlighted in blue have a grass rating.

Ms. Skinner distributed a letter from Ms. Dari Schlotte, Day County Director of Equalization. (**Document #9**)

Senator Tom Hansen stated his concern that the task force should review how the tax levies are impacted by agricultural land assessments.

Mr. Peterson requested the Department of Revenue to contact the surrounding states to compare definitions of noncropland.

Senator Rhoden stated that the language in the statute could be changed to provide more flexibility to the local directors of equalization.

Mr. Gabriel asked the department to compare the how the surrounding states implement the actual use methodology.

Representative Schaefer asked the department what would happen financially if the 10% cap was removed.

In response to Representative Cronin's questions, **Ms. Joyce Dragsech**, Brookings County Director of Equalization, said that it would not be difficult to implement the actual use methodology in Brookings County because they have the tools (GIS) to complete the task. Brookings County employed actual use before switching to highest and best use at the time the productivity system was adopted.

Ms. Dragsech stated, in response to Mr. Biedenfeld's question, that only about 30% to 40% of the counties in the state have access to the GIS system.

Distributed to the task force was a potential draft legislation that Representative Dennert requested. He said that the purpose of the legislation was to equalize cropland and noncropland within a county.

The task force discussed the draft legislation.

Senator Jason Frerichs' requested more information on the 35% landowner's share used in the model and other assumptions used when the legislation was drafted.

Representative Dennert requested that legislation be drafted to change the 10% cap limit on the annual change in the total taxable value for a county.

Senator Rhoden stated that the 10% cap limit may be kept, but made in addition to the land appreciation or depreciation provided by the productivity model.

### **Next Meeting**

The next meeting of the Ag Land Assessment Implementation and Oversight Advisory Task Force has been scheduled for Tuesday, October 11, 2011, in Pierre.

### **Adjourn**

**REPRESENTATIVE CRONIN STREET MOVED, SECONDED BY SENATOR FRERICHS, THAT THE TASK FORCE ADJOURN. The motion passed on a voice vote.**

The task force adjourned at 4:35 p.m.

