

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

474C0287

## SENATE BILL NO. 189

Introduced by: Senators Moore and Lange and Representatives Napoli, Crisp, Cutler, and  
Haley

1 FOR AN ACT ENTITLED, An Act to provide for the assessment of property based on its  
2 acquisition value.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The director of equalization shall assess all property subject to the acquisition  
5 method of valuation. The base year value for the property is the market value as assessed on  
6 November 1, 2000, or if the property changes ownership after November 1, 2000, the sale price  
7 of the property. The sale price of the property shall be used to determine the assessed value if  
8 the sale was an arms-length transaction. The assessed value may be adjusted to reflect any  
9 change in use or classification plus the value of any addition, improvement, or destruction to the  
10 property after November 1, 2000, or the date thereafter that the property changes ownership.

11 Section 2. If a sale is determined to be other than an arms-length transaction, the director of  
12 equalization shall appraise the property at market value as of the date of the sale and the value  
13 established by the director of equalization becomes the base year value for the purpose of  
14 taxation.

15 Section 3. The value of property shall be adjusted to reflect any change in use or  
16 classification plus the value of any addition, improvement, or destruction other than by natural

1 disaster that has occurred since November 1, 2000, or since the time the property has been  
2 acquired.

3 Section 4. All property is reassessed as of November first of each year by adjusting the base  
4 year value of the preceding year by the lesser of one percent or the annual percentage change in  
5 the consumer price index for urban wage earners and clerical workers as computed by the  
6 Bureau of Labor Statistics, United States Department of Labor for the year prior to the year  
7 immediately preceding the year in which the property is assessed. However, if the ownership of  
8 property changes before November first, the property shall be assessed at the sale price which  
9 the property changed ownership, if the change in ownership was an arms-length transaction.

10 Section 5. The director of equalization shall adjust the property's base year value established  
11 pursuant to sections 1 to 4, inclusive, of this Act and as provided in S.D. Const., Art. XI, § 2.  
12 The adjustment in the base year value pursuant to this Act shall apply for tax purposes beginning  
13 on November first if the change in the value occurred before November first.

14 Section 6. The assessed value of property may not exceed the market value of the property.  
15 If the assessed value exceeds the market value of the property, the assessed value shall be  
16 reduced to the market value.

17 Section 7. New property shall be assessed at market value as of November first of year  
18 following classification of the property. After the property is classified and assessed, the value  
19 of the property shall be adjusted as provided in section 4 of this Act.

20 Section 8. If there is a change in use or classification or an addition, improvement, or  
21 destruction to the property, the entire property shall be assessed at market value as of November  
22 first after the change in use or classification has occurred or the addition, improvement, or  
23 destruction is substantially completed.

24 Section 9. A change, addition, or improvement does not include the replacement of a portion  
25 of property damaged or destroyed due to misfortune or calamity, if the market value of the

1 damaged or destroyed portion as replaced is not more than one hundred twenty-five percent of  
2 the market value of the damaged or destroyed portion of the property. The value of any replaced  
3 property that is in excess of one hundred twenty-five percent of the market value of the damaged  
4 or destroyed property is considered to be a change, addition, or improvement. The value of any  
5 replaced property with market value of less than one hundred percent of the original property  
6 shall be assessed pursuant to section 10 of this Act.

7 Section 10. If property is destroyed or removed and not replaced, the assessed value of the  
8 property shall be reduced by the assessed value attributable to the destroyed or removed  
9 property.

10 Section 11. The assessed value of the property shall be adjusted if any change, addition, or  
11 improvement is made by the owner or an owner association which directly benefits the property.  
12 Any such change, addition, or improvement shall be assessed at market value and that market  
13 value shall be apportioned among the parcels benefiting from the improvement.

14 Section 12. If the classification of property is changed from one classification to another  
15 classification of property, the director of equalization shall appraise the property at market value  
16 as of the date of the reclassification and the value established by the director of equalization  
17 becomes the base year value for the purpose of taxation.

18 Section 13. A change in ownership means any sale, foreclosure, or transfer of legal title or  
19 beneficial title in equity to any person, including:

20 (1) For property owned by a partnership, any substantive change in the partnership  
21 agreement, including the addition or subtraction of partners or in the proportionate  
22 allocation of shares among the partners;

23 (2) For property owned by a subchapter S corporation, any substantive change in the  
24 ownership of the corporation, including the addition or subtraction of owners or in  
25 the proportionate ownership of the corporation among the owners; or

1       (3) For property owned by a corporation, the stock of which is publicly held or publicly  
2       traded, the point in time when more than fifty percent of the shares of the stock in the  
3       corporation have been traded, regardless of the identity of the buyer or seller of the  
4       stock. In establishing the basis upon which the fifty percent determination is made, the  
5       director of equalization shall ascertain the number of shares of stock in the  
6       corporation as reported in the most recent financial report of the corporation and  
7       number of shares ascertained by the director of equalization in this manner is twice  
8       the number of shares that shall be traded for a future acquisition revaluation to be  
9       required.

10      Section 14. There is no change in ownership if:

11      (1) Subsequent to the change or transfer, the same person is the owner and the transfer  
12      of title corrects an error or the transfer is between legal and equitable title;

13      (2) Ownership transfers between husband and wife, including a transfer to a surviving  
14      spouse or transfer due to a dissolution of marriage, or upon the death of the owner;  
15      or

16      (3) Ownership transfers between the owner and another for whom the property will  
17      qualify as owner-occupied single-family dwelling pursuant to § 10-13-39 within one  
18      year of the death of the owner, if the new owner was legally or naturally dependent  
19      upon the owner immediately prior to the deceased owner's death.

20      Section 15. If any error is made in arriving at any annual assessment under this Act due to  
21      a material mistake of fact concerning an essential characteristic of the property, the assessment  
22      shall be recalculated for each year for which the error was made.

23      Section 16. If changes, additions, or improvements are not assessed at market value as of  
24      November first after the changes, additions, or improvements were substantially completed, the  
25      director of equalization shall determine the market value for each year the changes, additions,

1 or improvement were substantially completed. Each assessment for each subsequent year shall  
2 be corrected by applying section 4 of this Act, if applicable. If an assessment is revised, the  
3 corrections made pursuant to this section shall be used to recalculate the taxes due.

4 Section 17. If a person not entitled to an assessment value under this Act inadvertently  
5 receives a lower assessment value, the person is not required to pay the unpaid taxes, penalties,  
6 or interest. The assessment shall be corrected as provided in section 16 of this Act.

7 Section 18. Notwithstanding any other provision of chapters 10-28 to 10-37, inclusive, any  
8 property owned by a utility defined in such chapters shall be assessed pursuant to sections 1 to  
9 17, inclusive, of this Act. However, the assessed value of the property may be adjusted to reflect  
10 any change in use or classification plus the value of any addition, improvement, or destruction  
11 to the property after November 1, 2000, or the date thereafter that the property changes  
12 ownership. Then such property shall be assessed pursuant to chapters 10-28 to 10-37.

13 Section 19. That § 10-6-1 be amended to read as follows:

14 10-6-1. Terms used in this chapter mean:

15 (1) "Credit," every claim and demand for money or other valuable thing and every annuity  
16 or sum of money receivable at stated periods, due or to become due, and all claims  
17 and demands secured by deeds or mortgages due or to become due, except for  
18 contracts for deed and mortgages, in which case the term means only the payment  
19 received each year under the contract or mortgage;

20 (2) "District," township, municipality, or ward, as the case may be;

21 (3) "Full agricultural land value," the value of agricultural land as determined by the  
22 application of this chapter;

23 (4) "Money," gold and silver coin, treasury notes, bank notes, and every deposit which  
24 any person owning the same or holding in trust and residing in this state is entitled to  
25 withdraw in money on demand;

1 (5) "Tract," "lot," "piece," or "parcel" of real property, or "piece or parcel of land," any  
 2 contiguous quantity of land in the possession of, owned by, or recorded as, the  
 3 property of the same claimant, person, or company;

4 (6) "True and full value," ~~for all real property, the usual cash selling price at the place~~  
 5 ~~where the property to which the term is applied shall be at the time of the assessment~~  
 6 the value of real property as determined by the application of this chapter;

7 (7) "Base year value," the market value of property as listed by the director of  
 8 equalization on November 1, 2000, or for property acquired after November 1, 2000,  
 9 the base year value is the value of the property in the year the property was acquired  
 10 or the value of real property as determined by the application of this chapter.

11 Section 20. That § 10-6-33 be amended to read as follows:

12 10-6-33. All property shall be assessed at its true and full value in money. The true and full  
 13 value is the taxable value of such property upon which the levy shall be made and applied and  
 14 the taxes computed. In determining the true and full value of property the director of equalization  
 15 may not adopt a lower or different standard of value because it is to serve as a basis of taxation.  
 16 The director may not adopt as a criterion of value the price for which the property would sell at  
 17 a forced sale, or in the aggregate with all the property in the third class municipality or district.  
 18 The director shall value each article or description by itself and at ~~an amount or price as he~~  
 19 ~~believes the property to be fairly worth in money~~ its acquisition value. The true and full value  
 20 shall be determined by appropriate consideration of the cost approach, the market approach, and  
 21 the income approach to appraisal if there is a change in use or classification or to account for any  
 22 addition, improvement, or destruction to the property other than by natural disaster. The director  
 23 of equalization shall consider and document all elements of such approaches that are applicable  
 24 prior to a determination of true and full value.

25 Section 21. That § 10-6-33.1 be amended to read as follows:

1        10-6-33.1. ~~The true and full~~ If the sale of agricultural land is determined to be other than an  
2 arms-length transaction, the value in money of agricultural land, as defined by § 10-6-31, which  
3 has been in primarily agricultural use for at least five successive years immediately preceding the  
4 tax year for which assessment ~~is to be made~~ shall be the ~~market~~ value as determined for each  
5 county through the use of all comparable sales of agricultural land based on consideration of the  
6 following factors:

- 7        (1) The capacity of the land to produce agricultural products as defined in § 10-6-33.2;  
8                and  
9        (2) The soil, terrain, and topographical condition of the property including but not limited  
10                to capability, the land's use, climate, accessibility, and surface obstructions which can  
11                be documented through an analysis of land selling prices.

12        The comparable sales that are used shall be evidenced by an instrument recorded with the  
13 register of deeds of the county in which the land is located, if the date of such instrument and the  
14 recording date is not more than two years prior to the assessment year.

15        Section 22. That § 10-3-41 be repealed.

16        ~~10-3-41. The director of equalization shall make the necessary adjustments to the valuations~~  
17 ~~before the notice of assessment pursuant to § 10-6-50, so that the median level of assessment~~  
18 ~~represents at least eighty-five percent of market value as determined by the Department of~~  
19 ~~Revenue.~~

20        Section 23. That § 10-6-33.8 be repealed.

21        ~~10-6-33.8. The median sales to assessment ratio of all real property may not be less than~~  
22 ~~eighty-five percent or more than one hundred percent.~~

23        Section 24. That § 10-12-31.1 be repealed.

24        ~~10-12-31.1. Notwithstanding other provision of law, when applying the levies for school~~  
25 ~~purposes, the county director of equalization of each county shall adjust the level of assessment~~

1 in that district so that the level of assessment as indicated by the most recent assessment to sales  
2 ratio as provided for in § 10-11-55 and the most recent assessment to full agricultural land value  
3 ratio as provided for in § 10-11-57 in that district are equal to eighty-five percent of market  
4 value. The Department of Revenue shall provide the director of equalization of each county all  
5 of the factors of adjustment necessary for the computations required in this section.

6 Section 25. That § 10-12-42 be amended to read as follows:

7 10-12-42. For taxes payable in 1999 and each year thereafter, the levy for the general fund  
8 of a school district shall be as follows:

9 (1) The maximum tax levy shall be sixteen dollars and twenty-five cents per thousand  
10 dollars of taxable valuation subject to the limitations on agricultural property as  
11 provided in subdivision (2) of this section, owner-occupied property as provided for  
12 in subdivision (3) of this section, and nonagricultural acreage property as provided for  
13 in subdivision (4);

14 (2) The maximum tax levy on agricultural property for such school district shall be four  
15 dollars and seventy-three cents per thousand dollars of taxable valuation. If the  
16 district's levies are less than the maximum levies as stated in chapter 10-13, the levies  
17 shall maintain the same proportion to each other as represented in the mathematical  
18 relationship at the maximum levies;

19 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in  
20 § 10-13-40, for such school district may not exceed seven dollars and sixty-one cents  
21 per thousand dollars of taxable valuation. If the district's levies are less than the  
22 maximum levies as stated in chapter 10-13, the levies shall maintain the same  
23 proportion to each other as represented in the mathematical relationship at the  
24 maximum levies;

25 (4) The maximum tax levy on nonagricultural acreage property as defined in

1           § 10-6-33.14, for such school district shall be six dollars and sixty-six cents per  
2           thousand dollars of taxable valuation. If the district's levies are less than the maximum  
3           levies as stated in chapter 10-13, the levies shall maintain the same proportion to each  
4           other as represented in the mathematical relationship at the maximum levies.

5           ~~All levies in this section shall be imposed on valuations where the median level of assessment~~  
6           ~~represents eighty-five percent of market value as determined by the Department of Revenue.~~  
7           ~~These valuations shall be used for all school funding purposes. If the district has imposed an~~  
8           ~~excess levy pursuant to § 10-12-43, the levies shall maintain the same proportion to each other~~  
9           ~~as represented in the mathematical relationship at the maximum levies in this section. The school~~  
10          ~~district may elect to tax at less than the maximum amounts set forth in this section.~~

11          Section 26. That § 10-13-37 be repealed.

12          ~~10-13-37. Property taxes shall be levied on valuations where the median level of assessment~~  
13          ~~represents eighty-five percent of the market value as determined by the Department of Revenue.~~

14          Section 27. That § 10-6-33.11 be repealed.

15          ~~10-6-33.11. The value determined for agricultural land pursuant to this chapter may not be~~  
16          ~~placed on the property cards or used as a basis for taxation before January 1, 1992.~~

17          Section 28. That § 10-6-33.14 be repealed.

18          ~~10-6-33.14. Any agricultural land, as defined in § 10-6-31.3, which sells for more than one~~  
19          ~~hundred fifty percent of its agricultural income value is hereby classified for purposes of ad~~  
20          ~~valorem taxation as a nonagricultural acreage. The agricultural income value shall be determined~~  
21          ~~pursuant to § 10-6-33.15.~~

22          Section 29. That § 10-6-33.15 be repealed.

23          ~~10-6-33.15. For the purposes of § 10-6-33.14, the agricultural income value shall be~~  
24          ~~determined using capitalized actual annual cash rent. The actual annual cash rent is the actual~~  
25          ~~annual cash rent, excluding the actual per acre tax on agricultural land, determined through an~~

1 ~~analysis of actual arm's length rental agreements collected within the county in the year prior to~~  
2 ~~the year for which the income value is being determined. The annual cash rent shall be capitalized~~  
3 ~~at eight percent.~~

4 Section 30. That § 10-6-33.16 be repealed.

5 ~~— 10-6-33.16. The secretary of revenue may enter into a contract for the collection of cash rent~~  
6 ~~information by county. Cash rent information shall be adjusted by soil survey statistics if~~  
7 ~~available.~~

8 Section 31. That § 10-6-33.17 be repealed.

9 ~~— 10-6-33.17. Any land which is classified pursuant to §§ 10-6-33.14 to 10-6-33.19, inclusive,~~  
10 ~~shall remain so classified for a minimum of five years. Five years after the land is so classified,~~  
11 ~~the land may be reclassified as agricultural land if the land remains in agricultural use during the~~  
12 ~~five year period and if the owner of the land submits an annual application to the director of~~  
13 ~~equalization. The application shall include verified documentation that the land has been in~~  
14 ~~agricultural use during past year. If the land meets the criteria set forth in § 10-6-31.3, has been~~  
15 ~~in agricultural use for five years, and the application requirement in this section is complied with,~~  
16 ~~the director of equalization may reclassify the nonagricultural acreage as agricultural land.~~

17 Section 32. That § 10-6-33.18 be repealed.

18 ~~— 10-6-33.18. Land classified pursuant to §§ 10-6-33.14 to 10-6-33.19, inclusive, shall be~~  
19 ~~valued for ad valorem tax purposes at the price for which such land sold multiplied times the~~  
20 ~~level of assessment for nonagricultural property within the county. The value of such land shall~~  
21 ~~be increased or decreased each year by the same percentage that the value of nonagricultural~~  
22 ~~property increases or decreases.~~

23 Section 33. The effective date of this Act is July 1, 2001, if the amendment to Article XI,  
24 section 2, of the Constitution of the State of South Dakota, relating to the method used to assess  
25 the value of property is approved by the electors of the state.