



Legislative Research Council

MINUTES

Ag Land Assessment Implementation and Oversight Advisory Task Force

**Fifth Meeting
July 8, 2009**

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

Wednesday, July 8, 2009

The fifth meeting of the Ag Land Assessment Implementation and Oversight Advisory Task Force was called to order by Senator Dave Knudson, 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 Justin Cronin, H. Paul Dennert, Kristi Noem, and Steve Street; and Public Members Walter I. Bones III, Kirk Chaffee, Curt Everson, Larry Gabriel, Ron Olinger, and Duane Sutton.

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 – 00:01:22)

REPRESENTATIVE KRISTI NOEM MOVED, SECONDED BY DUANE SUTTON, THAT SENATOR LARRY RHODEN BE NOMINATED AS CHAIR OF THE AG LAND ASSESSMENT IMPLEMENTATION AND OVERSIGHT ADVISORY TASK FORCE.

KIRK CHAFFEE MOVED, SECONDED REPRESENTATIVE H. PAUL DENNERT, 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 – 00:02:28)

WALT BONES MOVED, SECONDED BY KIRK CHAFFEE, THAT REPRESENTATIVE KRISTI NOEM BE NOMINATED AS VICE CHAIR OF THE AG LAND ASSESSMENT IMPLEMENTATION AND OVERSIGHT ADVISORY TASK FORCE.

SENATOR DAVE KNUDSON MOVED, SECONDED BY SENATOR JIM PETERSON, THAT NOMINATIONS CEASE AND THAT A UNANIMOUS BALLOT BE CAST FOR

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

Ag Land Assessment – Report on Data Findings
(Located on the LRC Archived Audio – 00:4:31)

Mr. Michael Kenyon, Director for the Division of Property and Special Taxes with the Department of Revenue and Regulation (DRR), distributed informational binders to the committee (**Document #1**). The first page in the binder is a memo that explains the ag land evaluation process for taxpayers and any interested parties.

The gross revenue per acre for each county is determined by using information from the United States Department of Agriculture/ National Agricultural Statistic Service (USDA/NASS) for an eight-year period. The period from 2001 to 2008 is used to establish the 2010 values. An eight-year Olympic average determines the gross revenue per acre for each county. In an eight-year Olympic average, the lowest and highest years are thrown out, and the remaining six years are averaged.

For cropland data, the actual production of each crop is multiplied by the commodity price for the crop to determine the gross revenue for the crop. The gross revenue of all the crops is added together and divided by the number of acres to get the gross revenue per acre in the county. An example is shown on page 2 of Document #1.

For non-cropland, cash rents determine the gross revenue. From 2001 through 2007, the DRR contracted with USDA/NASS to conduct a survey of cash rents in each county. In 2008, USDA/NASS conducted the survey as part of a nationwide program to established cash rents. However, the USDA/NASS's 2008 survey did not contain enough responses to publish cash rent in every county. In counties without a published 200 number cash rent was determined by using the past rent of the county, rents from the surrounding counties, or other rental information. The DRR is currently working with South Dakota State University (SDSU) to find an alternative methodology to collect the cash rent data.

The next step of the productivity valuation formula is to determine the average value per acre. This is figured by multiplying the gross revenue by the landlord share percentages, and then dividing the amount by the capitalization rate. The landlords share represented the percentage of the gross revenue the owner would expect to receive from owning the land.

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

The final step in the productivity valuation formula is to figure the average value per acre for all agricultural land in each county. Once the productivity formula produces the average crop and non-crop values per acre, the valuation process is the same 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 acres is projected up to establish a value for the top rated crop soil. The average non-cropland value per acre is projected up to establish a value for the top rated non-crop soil. Every soil type is valued in relation to the top rated soils.

The soil survey provides an inventory of the acres of each type of soil in each parcel. The number of acres of each soil type in the parcel is multiplied by the dollar value for the type of soil. The dollar values are then added together to determine the total value of the parcel. An example is shown on page 4 of Document #1.

Mr. Ron Olinger asked about a breakdown of cropland and grassland per county. Mr. Kenyon stated that he has the information and will provide it to the committee this afternoon.

Senator Gary Hanson asked about the establishment of soil types and soil ratings. Mr. Kenyon responded that the soil ratings have been established for years through an evaluation process by SDSU and the National Resource Conservation Service (NCRS).

Senator Jim Peterson inquired about soil mapping and soil types. Mr. Kenyon said that the new system allows for ag land to be divided onto cropland and non-crop land. The local director of equalization (DOE) is able to make adjustments and modify the assessed value as needed.

Mr. Kenyon responded to **Representative H. Paul Dennert's** question that all the soil survey classifications have been completed.

Representative Dennert asked if the DOE can assess the land higher than the average value for the county. Mr. Kenyon stated that the DOE will be ultimately responsible for the valuations in each county. All values are based on an average. A local DOE may decide that an area is higher, so he/she can increase one area and decrease the other to compensate.

Mr. Kenyon said that the statewide crop prices are weighted to months when most of the crops are sold. The 2007 and 2008 crop prices are much higher than the previous years.

The charts on pages 10 -13 of Document #1 show the cropland Olympic averages and non-cropland Olympic averages for the 2010 assessment year. Each column shows the total crop gross revenue per planted acre for each county. The Olympic averages for 2000-2007 and 2001-2008 were determined along with the percentage change between both Olympic averages. Mr. Kenyon noted there was a significant increase in the cropland averages for most counties for the second Olympic average due to the increased gross cropland revenues in both 2007 and 2008.

Representative Kristi Noem asked how an average was determined for counties that have data missing for some years. **Dr. Burton Pflueger**, Professor of Economics at South Dakota State University, said that when the productivity index is calculated, the valuation is accounted for under the other categories (Durum wheat is included in the all wheat category). This is due to the way the data comes in. SDSU did have a productivity measure for all wheat in those wheat-producing counties. The all wheat commodity price is a weighted average of the component prices. So the relative production of those, while it did not show up in the statistical report, was included in the total category.

Mr. Kenyon noted two items:

1. Although we are at a point in time when most crop revenues are increasing at a rapid rate, that does not mean the revenues will continue to increase at that rate; and
2. The figures in the chart on pages 10-13 are the changes in gross revenue per acre, which is the starting point of the formula. The average value per acre will be imputed.

Mr. Kenyon reminded the committee of the legislative change to limit the annual increase or decrease for the total taxable value of cropland and non-cropland within any county by a maximum of 10%. Pages 14 and 15 of Document #1 show the changes in assessment valuation using the 10% cap rule. Because of the 10% caps, South Dakota has time to see the affect of the changes before everything is fully implemented.

Mr. Olinger and **Mr. Larry Gabriel** commented on the issue of the task force reevaluating the landlord's share in the future.

Senator Knudson commented on the changes made to the Cutler-Gabriel amendment in 2009. Although ag land valuations may increase, it does not necessarily mean the tax burden will increase at the same rate.

Training for Local Director's of Equalization – Mr. Kenyon noted two big changes to the local DOE's job – how the top dollar is determined and how to make adjustments. The DRR will be able to work closely with the counties and address changes the local DOE may want to make.

Mr. Kenyon stated that DRR will be holding workshops with the local DOEs. There will be several regional workshops. The DRR staff may talk to the local DOEs about the process in the mornings and may hold a public forum in the afternoon. The memo on pages 1-4 of Document #1 will be distributed. Mr. Kenyon stated that the department will appreciate any feedback as to the location of the workshops and the materials to be distributed.

Representative Noem requested that the task force be notified of the workshops. Mr. Kenyon stated that the department will notify the task force and local area legislators.

Senator Larry Rhoden asked about the increases valuations affecting the Cutler-Gabriel amendment. Mr. Kenyon responded that the Cutler-Gabriel amendment will be based on the changes in the ag values over a two-year time period. Currently, DRR knows the value increase for next year, but the department needs to project the following year changes as well.

In response to Senator Peterson's question, Mr. Kenyon said that the issue of large project growth was addressed in Senate Bill 149 during the 2009 Legislative Session. The provision addressed projects totaling \$150 million or more.

Mr. Kenyon informed the task force of two problem areas. The first pertains to irrigation. Last year, the task force asked the DRR to account for irrigated acres. However, DRR and SDSU are not able to obtain sufficient information to make adjustments on a statewide level. It was decided to have the irrigated data included in the formula, then have the local DOE make adjustments for irrigation.

The other issue pertains to the surveys. The last federal funding bill contained the budget authority for a national survey to be conducted on a county level. The federal government will be paying for a survey South Dakota normally would pay for. However, the survey changed by:

- No longer asking for opinion testimony and only received information of people renting land; and
- The responses were weighted by the acres of land rented.

Mr. Kenyon said that NASS did not get enough responses to publish the cash rent in some counties. The department was able to determine a figure for this year. Because of the change in methodology by NASS and the holes in the data, DRR and SDSU have been looking at alternative methods for the pasture land value.

In response to **Senator Dave Knudson's** question, Mr. Kenyon said that the change allowing the local DOE to make adjustments for irrigation should solve the problem. There may need to be a rule change in the future to ensure uniformity in the process.

Senator Hanson asked about the decision to make an adjustment for irrigation and not fertilization. Mr. Kenyon said that irrigation is a management decision and the Supreme Court had decided that irrigability is a decision that affects the value of the land.

The task force recessed at 11:55 a.m. and reconvened at 1:11 p.m.

Responses to Task Force's Questions

(Located on the LRC Archived Audio – 01:20:58)

Mr. Kenyon distributed and explained a handout that lists the acres and weights ratings per county; shows the information from NASS for the 2008 South Dakota agricultural bulletin per county; and lists the map unit names, symbols, and ratings for Jerauld County. (**Document #2**)

Ag Land Assessment – Report on Data Findings

(Located on the LRC Archived Audio – 01:24:10)

Dr. Pflueger commented on the change in how NASS reported the data. He told the task force that SDSU has decided to pull new numbers every March. So the timeframe from 2000-2007 was a new data pull from what the task force was presented last summer. This is done to account for any type of data reporting issues or updates that may have occurred since the last time the data was pulled.

Senator Rhoden asked about the process of upgrading soil surveys. In response, **Ms. Angels Ehlers**, South Dakota Association of Conservation Districts, said that the entire state is mapped by soil surveys. She noted that the soil doesn't change over the years, and the soil survey upgrade is primarily about the finer mapping details. The soil quality can change because of management decisions.

In response to committee discussion, Dr. Pflueger said that there is less data reported for cash rents and he would like to have an alternative data source if that trend continues.

Public Testimony

(Located on the LRC Archived Audio – 01:33:02)

Ms. Ehlers said that as the task force moves forward with the new system, it should consider the non-industrial private forest land owners. They are concerned about how the change will affect the value of the property.

Task Force Discussion

(Located on the LRC Archived Audio – 01:34:37)

Mr. Gabriel stated his concern for the task force to have access to enough rental data. Ways to enhance the accurateness of the data and methods to obtain more data should be discussed. He suggested the task force work with ag organizations across the state informing them about the importance of the accuracy in the surveys.

Representative Steve Street asked about the possibility of obtaining rental information from ag banks. In response, **Mr. Curt Everson** said that anything contained in a bank loan file is protected by federal privacy laws, which prevents the supply of data. He is not certain if the banks would be able to provide aggregate information.

Mr. Olinger noted that there are many operators that do not have lenders.

Mr. Walt Bones stated that public cash rent auctions are increasing in popularity and could be a good method to judge the top end of the cash rent range.

Representative Justin Cronin stated that his concern with the system comes from people not understanding the system or being confused about the system. He asked if there are ways to have educational opportunities for the farmers and ranchers to help understand the new system. Mr. Kenyon responded that the workshops with the DOEs can be expanded to include a session for the area farmers and ranchers. Currently, DRR was planning to have 6 – 8 workshops but is willing to have more meetings and work with the ag groups to ensure the success of the program.

Mr. Bones stated that the biggest misconception or problem with the new system is the people's perception of an automatic relationship between assessed values and taxes.

Mr. Larry Janssen, Economics Professor at South Dakota State University, distributed to the task force a news article entitled "South Dakota Agricultural Land Values and Cash Rental Rate, 2009". (**Document #3**) He said that some of the key findings based on the surveys were:

- Increase in ag land values for the last year was approximately 7%;
- The increase was the lowest annual percentage increase in the past decade;
- Cash rents appear to be increasing at a faster rate than land values for the first time this decade; and
- Typically, land values were increasing at a faster rate than rental rates.

Representative Noem asked about the decrease in cash rental rates in some years. Dr. Janssen responded that the overall trend for the past 19 years has been consistently upward, but not for every year.

Senator Rhoden would like the taskforce to look at the possibility of two different classifications of ag land based on size. He mentioned House Bill 1009 from the 2006 Legislative Session and asked that the legislation be mailed to all the task force members.

Mr. Fred Baatz, Principal Research Analyst with the Legislative Research Council (LRC), said that the documents provided by DRR before the meeting are available on the LRC website under "Interim Information – Committee Documents."

Next Meeting

The next meeting of the Ag Land assessment Implementation and Oversight advisory task Force has been scheduled for November 2, 2009, in Pierre.

Adjourn

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

The task force adjourned at 2:19 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.htm>).