



Second Meeting
November 8, 2010

Room 414
State Capitol Building
Pierre, South Dakota

Monday, November 8, 2010

The second meeting of the Ag Land Assessment Implementation and Oversight Advisory Task Force was called to order by Senator Larry Rhoden, at 10:34 a.m. (CDT) in Room 414 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Jim Peterson, and Larry Rhoden; Representatives, H. Paul Dennert, Justin Cronin, and Steve Street; and Public Members Walter I. Bones III, Kirk Chaffee, Curt Everson, Larry Gabriel, Ron Olinger, and Duane Sutton. Senators Gary Hanson and Dave Knudson and Representative Kristi Noem were excused.

Staff members present included: Fred Baatz, Principal Research Analyst; Jim Fry, Director; 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 – 00:00:55)

MR. CURT EVERSON MOVED, SECONDED BY MR. DUANE SUTTON, THAT THE MINUTES OF THE AUGUST 25, 2010, MEETING BE APPROVED. The motion prevailed on a voice vote.

Ag Land Assessment Trends and Issues

(Located on the LRC Archived Audio – 00:2:21)

Mr. Michael Kenyon, Director for the Division of Property and Special Taxes with the Department of Revenue and Regulation (DRR), distributed a document entitled "Project Crop Dollar Per Acre". (**Document #1**) The document shows projections for cropland assessments based on the current trend of productivity and commodity prices. These projections would result in fairly substantial increases in cropland values. Mr. Kenyon explained that the values per acre begin to level off for the 2016 property taxes payable based on these projections. The actual cropland assessment per acre increased by more than 10% in 59 of the 66 counties for the 2011 assessment. This means the state is getting further away from the real productivity value in these counties as there is a 10% cap limiting the increase or decrease in the taxable value of land during the transition from market to productivity until the 2017 taxes payable.

The difference in the assessment value increase for cropland to reach full productivity assessment value varies between counties because of uneven starting points. Some counties currently have further to adjust than other counties and may not reach the full assessment value until the limitations end for 2018 property taxes payable.

Mr. Ron Olinger asked that the DRR provide information that shows how the changes in assessments values change the distribution of the property taxes. This information could be made available to the public.

Senator Jim Peterson and **Mr. Larry Gabriel** said that the 35% landlord share used in the productivity system needs to be reviewed. A new figure that is more reflective of the actual amount the landlord receives in lease agreements should be determined. Mr. Gabriel asked DRR to collect data regarding the landlord share commonly used in various areas of the state.

Mr. Kenyon reminded the task force of a proposed rule change for land that had a permanent easement restricting its use to noncrop purposes. He explained that DRR made assumptions about the rule change when it was proposed. After learning more about the scope of the tax shifts that may occur from the rule change, DRR withdrew the rule. Mr. Kenyon said that there would be a significant change for some counties and that type of policy change should be made by the Legislature, not a rule promulgated by DRR.

Distributed to the task force was a document entitled "Acres – Assessed, US Wildlife easements, NRCS and School and Public Land". (**Document #2**) Mr. Kenyon said that this document helps to determine the number of acres that will be changed by the proposed rule. The total number of acres impacted is about 4% of the total acres in the state. If the proposed rule went into effect, Faulk, Edmunds, and McPherson Counties will have an assessed value change ranging from 6% to 10%.

Mr. Kenyon stated that page 2 of Document #2 shows how the changes in agricultural land values from the proposed treatment of permanent easements would affect taxes. The counties that will have the most significant change are Faulk, Edmunds, and McPherson.

Mr. Kenyon responded to Mr. Olinger's question that only permanent easements were included in the reports.

Review of Draft Legislation

(Located on the LRC Archived Audio – 01:06:22)

Distributed were two draft legislations.

708S0009 – An Act to revise certain provisions concerning the assessment of agricultural land. (Document #3)

276S0042 – An Act to revise certain provisions regarding the documentation of data used to make adjustments for factors that affect the capacity of the land to produce agricultural products during the assessment process. (Document #4)

Mr. Kenyon stated that draft legislation 708S0009 will help ensure DRR flexibility in the process regarding data that may be useful in the assessment process.

Senator Peterson asked if the DRR has the authority to adjust the landlord share set at 35% in the model. Mr. Kenyon responded that statute sets that percentage and that the task force is assigned the responsibility to review the landlord percentage and make a recommendation to the legislature if an adjustment is needed. The Legislature would have to enact legislation to change the landlord share.

The task force recessed at 11:51 a.m. and reconvened at 1:16p.m.

Public Testimony

(Located on the LRC Archived Audio – 01:16:45)

Mr. Lyle Herman, Walworth County agriculture producer and South Dakota Grassland Coalition representative, encouraged the task force to consider using actual use when assessing agricultural land as cropland or noncropland.

In response to **Representative H. Paul Dennert's** question pertaining to verifying FSA acres, Mr. Herman stated that farmers should have to fill out a form indicating that they are changing from cropland to noncropland.

Action on Draft Legislation

(Located on the LRC Archived Audio – 01:23:22)

276S0042 – An Act to revise certain provisions regarding the documentation of data used to make adjustments for factors that affect the capacity of the land to produce agricultural products during the assessment process. (Document #4)

REPRESENTATIVE DENNERT MOVED, SECONDED BY MR. CURT EVERON, THAT REPRESENTATIVES CRONIN AND STREET BE INCLUDED AS SPONSORS TO THE DRAFT LEGISLATION 276S0042 THAT WAS APPROVED AT THE FIRST MEETING. The motion prevailed on a voice vote.

In response to Representative Dennert's question, Mr. Baatz explained that the draft legislation clarifies and places in law that the local directors of equalization are allowed to use market sales to determine the amount of the local adjustments for factors that affect capacity of the land to produce agricultural products.

Senator Rhoden told the task force that the draft legislation 276S0042 will be submitted as a House Bill and the prime sponsors will be Representative Dennert and Senator Rhonden.

Draft legislation 276S0042 was approved at the August 25, 2010 meeting.

708S0009 – An Act to revise certain provisions concerning the assessment of agricultural land. (Document #3)

Mr. Baatz informed the task force that the draft legislation 708S0009 gives the task force authority to identify other cropland and noncropland data to be included in the database for the productivity system.

The task force discussed the draft legislation 708S0009.

MR. LARRY GABRIEL MOVED, SECONDED BY MR. RON OLINGER, THAT IN DRAFT LEGISLATION 708S0009, ON PAGE 1, LINE 12, DELETE “IDENTIFY” AND INSERT “RECOMMEND”, AND AFTER “NONCROPLAND DATA” INSERT “TO THE LEGISLATURE”.

The task force discussed the motion.

Mr. Kenyon stated that the new language in the statute is unnecessary, but the bill is important. Changing “shall” to “may” is important to ensure that the statute tracks with actual practice.

The motion prevailed on a voice vote.

MR. RON OLINGER MOVED, SECONDED BY MR. WALT BONES, THAT THE TASK FORCE RECOMMEND DRAFT LEGISLATION 708S0009 - AN ACT TO REVISE CERTAIN PROVISIONS CONCERNING THE ASSESSMENT OF AGRICULTURAL LAND – FOR THE 2011 LEGISLATIVE SESSION. The motion prevailed on a roll call vote with 11 AYES and 3 EXCUSED. Those members voting AYE include: Peterson, Cronin, Dennert, Street, Bones, Chaffee, Everson, Gabriel, Olinger, Sutton, and Rhoden. Those members EXCUSED include: Hanson (Gary), Knudson, and Noem.

Senator Rhoden noted that returning legislators that voted AYE will be listed as sponsors on the legislation. The draft legislation will be a House Bill with prime sponsors being Representative Cronin and Senator Rhoden.

Discussion and Directives

(Located on the LRC Archived Audio – 01:57:02)

Mr. Baatz informed the members that the task force will be appointed again next year by the President Pro Tempore of the Senate and the Speaker of the House. These appointments shall be made before the close of session.

Mr. Gabriel asked that the next task force look at the widening disparities between counties and school districts resulting from the limits on increases and decreases in the taxable value of land during the transition to productivity.

Representative Justin Cronin said that the biggest problem he has heard from constituents is the landlord share percentage and easements restricting use of land to noncrop purposes. He plans on working with DRR to review these issues.

Mr. Kenyon stated that the issue about landlord share percentage was addressed at the August 25, 2010, meeting. At that meeting, Dr. Pflueger said that the study showed no need to address the percentage this year.

MR. DUANE SUTTON MOVED, SECONDED BY MR. RON OLINGER, THAT THE DEPARTMENT OF REVENUE AND REGULATION AND SOUTH DAKOTA STATE UNIVERSITY PROVIDE DATA USING 34%, 32%, AND 30% FOR THE LANDLORD’S SHARE.

Mr. Kenyon stated that DRR will be able to send the information to the members.

Mr. Gabriel requested that DRR perform a test group of 15 counties to test and determine if the landlord's share percentage is correct. Then perform an analysis of the data using cash rents.

In response to Representative Dennert's inquiry, Mr. Kenyon stated that 19% of the schools general fund are paid by agricultural land.

MR. WALT BONES MOVED A SUBSTITUTE MOTION, SECONDED BY MR. RON OLINGER, THAT THE DEPARTMENT OF REVENUE AND REGULATION AND SOUTH DAKOTA STATE UNIVERSITY PROVIDE DATA USING 34%, 32%, 30%, 25%, and 20% FOR THE LANDLORD'S SHARE. The motion prevailed on a roll call vote with 6 AYES, 5 NAYS, and 3 EXCUSED. Those members voting AYE include: Cronin, Dennert, Bones, Chaffee, Olinger, and Sutton. Those members voting NAY include: Peterson, Street, Everson, Gabriel and Rhoden. Those members EXCUSED include: Hanson (Gary), Knudson, and Noem.

The task force discussed the possibility of having another meeting, but it was decided to let the chair determine if another meeting for this year was needed.

MR. RON OLINGER MOVED, SECONDED BY MR. DUANE SUTTON, THAT THE AGRICULTURAL LAND ASSESSMENT AND IMPLEMENTATION TASK FORCE HOLD ANOTHER MEETING BEFORE THE 2011 LEGISLATIVE SESSION. The motion failed on a roll call vote with 3 AYES, 8 NAYS, and 3 EXCUSED. Those members voting AYE include: Chaffee, Olinger, and Sutton, Those members voting NAY include: Peterson, Cronin, Dennert, Street, Bones, and Rhoden. Those members EXCUSED include: Hanson (Gary), Knudson, and Noem.

Adjourn

MR. KIRK CHAFFEE MOVED, SECONDED BY REPRESENTATIVE DENNERT, THAT THE TASK FORCE ADJOURN. The motion passed on a voice vote.

The task force adjourned at 3:20 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>).