

MINUTES

Agricultural Land Assessment Implementation and Oversight Task Force



Senator Jim Peterson, Chair
Mr. Larry Rhoden, Vice Chair

**First Meeting, 2016 Interim
Monday, September 12, 2016**

**Room 413 – State Capitol
Pierre, SD**

The first interim meeting of the Agricultural Land Assessment Implementation and Oversight Advisory Task Force was called to order by Senator Jim Peterson, Chair, at 10:30 a.m. (CDT), on Monday, September 12, 2016.

A quorum was present with the following members answering roll call: Senator Jim Peterson (Chair), Mr. Larry Rhoden (Vice Chair); Representatives Julie Bartling, Mary Duvall, and Lee Qualm; Senators Jason Frerichs and Larry Tidemann; Public members Mr. Kirk Chaffee, Mr. Trevor Cramer, and Mr. Lyle Perman. Excused: Representative Dennis Feickert, Senator Gary Cammack, Ms. Kim Vanneman, and Mr. Mike Wiese.

Staff members present included Mr. Fred Baatz, Principal Research Analyst; Ms. Amanda Jacobs, Research Analyst; and Ms. Rena Ortbahn, Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was recorded by South Dakota Public Broadcasting. The committee documents and archived recording are available at the LRC website at <http://sdlegislature.gov> under "Interim-Agendas, Minutes and Committee Documents." For the purpose of continuity, these minutes are not necessarily in chronological order.

Opening Remarks

Senator Jim Peterson said as land valuations reach full productivity status, noncrop land being used as pastureland is being taxed at a rate that is close to its income value, especially in West River. The increased taxes are sometimes equivalent to what a landowner receives in cash rent.

Mr. Larry Rhoden agreed that under the new productivity valuation system, some are paying too much in taxes. He said the adjustments allowed in current state statute are not enough and challenges the task force to come up with reasonable solutions.

Review of the School District General Fund Formula

Senator Peterson believes the half-cent sales tax increase and the new education formula has benefited larger schools more than smaller school districts. He thinks those smaller districts may have to increase their property taxes to provide sufficient revenue for teachers' salary increases.

Ms. Tami Darnall, Chief Financial Officer, Department of Education, reviewed the status of the current state aid to general education funding formula ([Document #1](#)).

Ms. Darnall said the new formula, previously based on averaging the student count of the two prior years, is now based on the current-year student count. Some districts are ending up with fewer students. She said this affects 72 school districts that previously had been using the two-year average student count.

Mr. Rhoden pointed out the law requires schools to have teachers in a particular area. This may force them to have more teachers than the 12:1 formula dictates for schools with a fall enrollment under 200 students.

Ms. Darnall explained the process of coming up with the 12:1 ratio, and said the department is encouraging shared services, learning centers, and distance learning for the smaller schools.

Senator Peterson said as schools lose their outside money sources, there may actually be a decrease in what certain schools receive under the new formula. He asked Ms. Darnall to report what schools were previously receiving, including outside funding sources by school district, and compare that amount with what they will receive under the new formula. Ms. Darnall said it will take a few months, but she will provide the information. Senator Peterson said he believes with the new formula small schools will have to increase capital outlay taxes to meet teacher expenses.

Representative Lee Qualm said in his district it appears the new formula favors the big schools and is a detriment for smaller schools. **Representative Julie Bartling** agreed and wanted to know if most of the 72 districts were impacted negatively. Ms. Darnall indicated that information will not be available until November. Representative Bartling asked the Department of Education to find a way to assist small schools or for the Legislature to find a way to remedy the situation.

Ms. Darnall explained the formula for determining the number of teachers in a school district, the target teacher salary, the target teacher benefits, and what the total need based on target teacher compensation would be for a school district. She explained how the overhead rate is applied and how the LEP formula adjustment is added to the total state aid need. She said the former pension levy has been merged into the general education levy and is revenue-neutral for taxpayers.

Ms. Darnall showed how the property tax relief from the half-cent sales tax affects the final 2017 agriculture, owner-occupied, and other levy taxes. She said by FY2018, the target state share will increase to a projected 60.89%. Other revenues are set to be equalized under the current formula and will be counted as local effort. At the state level, equalization starts in FY2018 and continues until totally equalized at \$49 million in FY2023.

Ms. Darnall explained districts with high other revenues per student were given a one-time opportunity to opt out of the new formula. She said a school district's failure to meet FY2017 accountability requirements will result in a decrease in FY2018 state aid unless waived by the Joint Committee on Appropriations. Statutory caps on school district general fund reserves were reinstated with fund balance caps beginning in FY2019 based on FY2018 expenditures/cash balances. Ms. Darnall presented a monthly cash balance example, explaining that the lowest balances are in April and October which is right before property taxes are due. The presentation concluded with an explanation of capital outlay legislative changes.

Ag Land Assessment – Report on the 2017 Assessment Information

Mr. Michael Houdyshell, Director, Division of Property and Special Taxes, Department of Revenue, explained the Cropland and Noncropland Productivity Valuations for the years 2014 through 2017 ([Document #2](#)). He acknowledged there is a West River issue and hopes that through Dr. Elliott's SDSU study some issues will be mitigated ([Document #3](#)). He said most counties are moving towards full productivity; that 2018 and 2019 will be the last years for phasing in the productivity valuations. By 2020 all counties and taxes paid will be at full productivity valuations.

Mr. Houdyshell said the Department of Revenue has not done projections based on current corn and cattle prices, but he is starting to see some down years coming into the Olympic formula.

Mr. Houdyshell said the 2015 noncropland cash rent data was just released. From this point forward, the NASS survey is scheduled to be done on a biannual basis and Dr. Elliott will talk about the data gap for pasture rents.

Mr. Houdyshell presented riparian buffer strip draft legislation and a bill brief proposal ([Document #4](#)) ([Document #5](#)). He explained how this draft legislation differs from SB 136, which was vetoed by the Governor this last session and that this proposal addresses the constitutional issues that were of concern in SB136. The legislation establishes separate criteria for eligible buffer strips; provides a tax reduction for crop-rated and noncrop-rated soils at 60% of its assessed value; identifies specific lakes and streams to which this classification applies; and outlines the criteria properties must meet in order to qualify. Senator Peterson said he likes the proposal and if he had more time last session, SB 136 would have been more like this version.

Senator Larry Tidemann asked whether producers will be encouraged or mandated to participate in federal government programs. Mr. Houdyshell answered it may serve as an extra incentive for landowners to participate in federal programs available for riparian areas. Senator Peterson said it should be an encouragement for landowners to participate in CRP programs even though it doesn't pay open market or cash rent levels. He questions the criteria in Section 2 requiring a 6-inch cover, saying it is hard to mow at a 6-inch height.

Representative Mary Duvall asked the savings for individual landowners and for examples of total losses in property taxes that would result from a full implementation of riparian strips within a county. Mr. Houdyshell said he has done preliminary estimates in four counties and will put together an analysis for the October meeting. So far he has not seen huge losses in counties of property taxes and a savings for individual landowners ranging from \$9.30 per acre for crop-rated soils to \$2.60 per acre for noncrop-rated soils. He said in riparian areas there are generally a lot more noncrop-rated soils than crop-rated soils.

Mr. Trevor Cramer asked how the assessment rate incentive was established. Mr. Houdyshell believes it is a reasonable incentive to start the discussion for this program. **Mr. Lyle Perman** said he doubts whether it is sufficient incentive to encourage landowners to do the right thing without additional financial incentives.

Mr. Kirk Chaffee said he prefers a five-year rather than a yearly application and that even a 200-foot buffer zone is not enough when one considers oxbows (the proposal has a maximum of 120 feet). He also asked if this will be on top of existing adjustments. Mr. Houdyshell replied this would be a mandatory adjustment pursuant to state law. He said the size of the buffer zone and other details can be discussed. He will visit with the stakeholders, and the bill may be revised for the October meeting.

Senator Jason Frerichs questioned how the stipulations will be enforced. Mr. Houdyshell said there is a need for thought and discussion as to what counties feel would be appropriate. A yearly application process puts more onus on landowners as the applicant signs a statement swearing to meet the requirements; a five-year application wouldn't have the same level of scrutiny, but would reduce the paperwork.

Mr. Nathan Sanderson, Policy and Operations, Governor's Office, responding to Mr. Rhoden, said the Governor is flexible as to whether the Governor or this task force submits the final bill. The Governor is looking for good dialogue and a bill that all can support.

Mr. Houdyshell said he will also make recommendations regarding the implementation of the provisions found in SB 3 at the next task force meeting.

Progress Report on the Soil Ratings Study

Dr. Matthew Elliott, Economics Department, SDSU, said groundwork has been laid, preliminary work done, and research is progressing to update methods used in determining the highest and best use soil classification consistent with HB 1007. Senator Peterson, Representative Duvall, and Mr. Rhoden were previously appointed and Mr. Chaffee and Senator Tidemann volunteered to serve on a working committee to advise Dr. Elliott on the project.

Dr. Elliott said multiple methods will be used to determine the productivity for each soil including the economics of productivity and consideration of risk and management. He proceeded to describe what has been done to date [\(Document #6\)](#).

As surveys are now done on a biannual basis, there will be no cash rent values provided by USDA-NASS in 2017 for 2016 assessments, Dr. Elliott described how a mean model predicting pastureland and cash rent values for South Dakota could be used. Included within his PowerPoint are charts forecasting pastureland rent for all South Dakota counties. He said although there are some problems and disagreements, as one goes through the counties it appears pretty consistent. A recent challenge is the major drop in feeder cattle prices. He has noted major differences across county lines that don't seem reasonable.

Mr. Perman believes a shortage in respondents undermines the accuracy and meaningfulness of present cash rent data. He asked Dr. Elliott to come up with right numbers and use methods to smooth the data. Mr. Chaffee suggested regional rents might work. Dr. Elliott said the concern is that they presently have a system that is built on a county by county basis. He indicated questionable data in some counties is because of a small sample survey and how it is rated. He said options to handling this data include throwing out certain values that complicate the analysis.

Senator Peterson asked if there will be a decline in crop-rated soils valuations. Dr. Elliott said the rent level is less responsive for cropland than noncrop-land, and some counties are responsive, others are not. He said agriculture is cyclical and rents are more long term, and over a long period of time there will be changes. Dr. Elliott said for the October meeting he will have examples from the economic side and explain methods he is using.

Mr. Rhoden said calves are selling for half of what they did several years ago and the cash rent charts don't reflect this price decline. He said state statute allows for the use of animal units or cash rents. Dr. Elliott said when the soil rating study is completed, then they could look at animal units versus cash rent. Mr. Houdyshell said statute does provide a flexibility to look at other variables when developing productivity values and they are not locked into cash rents. He recalls the animal unit model being problematic in possibly resulting in higher evaluations than cash rents. Mr. Houdyshell said the productivity system is not immediately responsive to change, that it is always going to be two years behind. He said that is why Olympic averages are used. Mr. Rhoden said if cash rent never fluctuates, then it is a flawed system and maybe there is a need to look at alternatives that do reflect the rent market. Dr. Elliott said it depends on how the Legislature and stakeholders want to go about it and what they deem is a fair valuation of that property.

Youth Range Camp

Mr. Perman encouraged task force members to attend the 2017 SD Professional and Youth Range Camp being held in Sturgis, June 7 – June 9, 2017. He said it is an opportunity to learn about plants that make up the ecosystem, how to manage those plants, and to better understand the assessor's job.

Task Force Discussion

Senator Peterson asked Mr. Houdyshell to bring a final draft of the riparian buffer strip draft legislation to the October task force meeting, as several legislators are interested in this legislation.

Senator Frerichs said with productivity we are always two years behind, maybe four years from actual use. He is committed to finding improvements or an alternative.

Mr. Rhoden believes changes are needed in the list of adjustments to add some teeth and provide a clear line for assessors and county commissioners. He asked Mr. Houdyshell if the department would be willing to work on some possible solutions. Mr. Houdyshell acknowledged there needs to be better efforts to make adjustments when warranted. He said assessors and county commissions are always variables. Mr. Houdyshell said there is not an overnight fix to determining assessment values. He commented that the SDSU soil rating study is a step in the right direction. He said the governor isn't in support of actual use, but there is an ability to address problems areas and encourages directors of equalization to use the tools provided in statute.

In response to a question from Senator Peterson, Mr. Houdyshell said some counties such as Butte and Fall River do make adjustments to reflect irrigated optics. Senator Peterson asked Mr. Houdyshell to consider if any tools can be added for directors to make fair adjustments to the now high assessments on native grasslands that are being assessed as cropland.

Mr. Chaffee said he struggles with crop and noncrop-rated soils that abut, in that it drives that assessment up. Meade county has 350,000 acres of crop-rated soils that aren't being farmed. If there is farming in the neighborhood, the only way to reduce taxes is to go to actual use. He said even utilizing the proposed buffer strips will leave many crop-rated soils being taxed at a higher rate. He has found the Department of Revenue open to making adjustments that are reasonable. He said there is a need to keep looking at highest and best use.

Mr. Rhoden questioned why ranch land, never touched by a plow, is being arbitrarily taxed as cropland and believes this is an issue of fairness. Mr. Perman also pointed out that there are noncrop-rated soils being cropped which are being taxed at a noncrop rate.

Staff Directives and Adjournment

Senator Peterson said anyone who wants legislation drafted should contact Mr. Fred Baatz. The next meeting is scheduled for October 17, 2016.

A MOTION WAS MADE BY MR. RHODEN, SECONDED BY SENATOR TIDEMANN, THAT THE TASK FORCE MEETING BE ADJOURNED. The motion prevailed on a voice vote.

The meeting adjourned at 2:40 p.m.