



2021 South Dakota Legislature

Senate Bill 70

Introduced by: **Senator Duvall**

1 **An Act to revise and reorganize certain provisions regarding the assessment of**
 2 **property for the purposes of taxation.**

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

4 **Section 1.** That § 10-6-1 be AMENDED:

5 **10-6-1. Definition of terms.**

6 Terms used in this chapter mean:

- 7 (1) ~~"Credit," every claim and demand for money or other valuable thing and every~~
 8 ~~annuity or sum of money receivable at stated periods, due or to become due, and~~
 9 ~~all claims and demands secured by deeds or mortgages due or to become due,~~
 10 ~~except for contracts for deed and mortgages, in which case the term means only~~
 11 ~~the payment received each year under the contract or mortgage;"~~Department," the
 12 Department of Revenue;
 13 (2) ~~"District," township, municipality or ward, as the case may be;~~
 14 (3) ~~"Full agricultural land value," the value of agricultural land as determined by the~~
 15 ~~application of this chapter;~~
 16 (4) ~~"Money," gold and silver coin, treasury notes, bank notes, and every deposit which~~
 17 ~~any person owning the same or holding in trust and residing in this state is entitled~~
 18 ~~to withdraw in money on demand"~~Director," a county's director of equalization;
 19 (5)(3) ~~"Tract," "lot," "piece," or "parcel" of real property, or "piece or parcel of land," any~~
 20 ~~contiguous quantity of land in the possession of,~~that is possessed by, owned by,
 21 ~~or recorded as, the property in the name of the same claimant, person, or company;~~
 22 (6) ~~"True and full value," for all real property, the usual cash selling price at the place~~
 23 ~~where the property to which the term is applied shall be at the time of the~~
 24 ~~assessment.~~

25 **Section 2.** That § 10-6-1.4 be REPEALED.

1 **10-6-1.4. "Arms-length transaction" defined.**

2 **Section 3.** That § 10-6-3.1 be REPEALED.

3 **10-6-3.1. Assessment date for leased school and endowment lands--**
4 **Valuation date.**

5 **Section 4.** That § 10-6-4 be REPEALED.

6 **10-6-4. Information as to land becoming taxable for first time--Transmittal**
7 **to county officials.**

8 **Section 5.** That § 10-6-8 be AMENDED:

9 **10-6-8. Statement of real property required of taxpayers.**

10 The director ~~of equalization~~ may require each person subject to this chapter to
11 furnish to ~~such~~ the director of equalization a statement under oath setting forth specifically
12 all real property that is either owned by such or under the control of the person or under
13 ~~his control~~ on the statutory assessment day.

14 ~~Such statement must be in writing upon blanks furnished under the provisions of~~
15 ~~this chapter, showing separately:~~

16 ~~(1) to (3) Repealed by SL 1992, ch 80, § 35.~~

17 ~~(4) All structures and improvements that have been erected or placed upon said~~
18 ~~person's real estate subsequent to the preceding assessment day;~~

19 ~~(5) The county in which such property is situated, or in which it is liable to taxation,~~
20 ~~and (if liable to taxation in the county in which the statement is made) also the municipal,~~
21 ~~school district, township, or other taxing districts in which it is situated.~~

22 **Section 6.** That § 10-3-27 be AMENDED:

23 **10-3-27. Valuation of property on neglect or refusal by owner to comply**
24 **with requirements--Notation of neglect or refusal.**

25 The director of equalization shall make an estimate of the value of property if any
26 person, after demand by the director, neglects or refuses ~~to give under oath the statement~~
27 ~~required by § 10-6-8 or to comply with the other requirements of this chapter or chapter~~
28 10-6. The director shall note the neglect or refusal on the assessment ~~book~~ roll opposite
29 the name of any such person.

1 **Section 7.** That § 10-6-10 be REPEALED.

2 **10-6-10. Statement forms to be furnished by county commissioners--**
3 **Affidavit requirements.**

4 **Section 8.** That §§ 10-6-20 to 10-6-22 be REPEALED.

5 **Section 9.** That § 10-6-25 be AMENDED:

6 **10-6-25. Viewing of property--Inspection of records--Entry of values for**
7 **land, improvements and total--Administration of oath or affirmation.**

8 For the purpose of ~~properly assessing property for taxation and equalizing and~~
9 ~~collecting taxes~~ making an assessment of a tract listed for taxation, the ~~county~~ director of
10 equalization or the director's deputy shall ~~personally inspect and examine all the~~ property
11 ~~listed and assessed.~~ The director ~~or the director's deputies~~ may, without charge, inspect
12 and examine the records of all public offices and the books and papers relating any book,
13 paper, or public record that relates to the fair market value of the property being assessed
14 of all corporations, banks, and taxpayers in this state, without charge. The director or the
15 director's deputies may administer oaths or affirmation to any person in the discharge of
16 their duties.

17 For each tract of real property assessed, the director shall record the property's
18 assessed value without improvements or structures, the value of all improvements or
19 structures on the property, and the property's total assessed value.

20 **Section 10.** That § 10-6-31 be AMENDED:

21 **10-6-31. Classification of property--Notation by director.**

22 For the purposes of taxation, all property is hereby classified into the following
23 classes:

- 24 (1) Agricultural property;
25 (2) Nonagricultural property; and
26 (3) Owner-occupied single-family dwellings.

27 Agricultural property includes ~~all property and~~ any land used exclusively for ~~classified~~
28 ~~as agricultural purposes, both tilled and untilled,~~ land pursuant to § 10-6-31.3 and the
29 any improvements on the agricultural land used exclusively for agricultural purposes.
30 However, agricultural property does not include any normally occupied dwelling or
31 automobile garage or portion of a building used for that purpose by the occupant of such

1 dwelling. Owner-occupied single-family dwellings include all property classified pursuant
2 to § 10-13-39.

3 Nonagricultural property includes all other property not otherwise classified.

4 The director ~~of equalization,~~ in listing and assessing all property to which this section
5 applies, shall designate opposite each description the class to which the property belongs.

6 **Section 11.** That § 10-6-31.1 be AMENDED:

7 **10-6-31.1. Agricultural land taxed without regard to zoning.**

8 ~~Land devoted to~~ Any land classified as agricultural-use land pursuant to § 10-6-
9 31.3 shall be classified and taxed as agricultural land without regard to the its zoning
10 classification which it may be given; provided, however, that all or. If any portion of such
11 the land which is sold or otherwise converted to a principal use other than agricultural
12 shall, then it shall be classified and taxed accordingly.

13 **Section 12.** That § 10-6-31.2 be AMENDED:

14 **10-6-31.2. Leased school lands classified separately--Assessment date and**
15 **valuation date--Assessment, equalization, and taxation of school and**
16 **endowment lands.**

17 Leased school and endowment lands, as provided in chapter 5-11, are hereby
18 separately classified for the purpose of taxation. Leased school and endowment lands shall
19 be listed and assessed annually pursuant to § 10-6-2. The assessment, equalization, and
20 taxation of school and endowment lands that satisfy the criteria for classification of land
21 as agricultural shall be at the same level and on the same basis as land assessed and
22 equalized according to §§ 10-6-33.28 to 10-6-33.33, inclusive.

23 **Section 13.** That § 10-6-31.3 be AMENDED:

24 **10-6-31.3. Criteria for classification of land as agricultural.**

25 For tax purposes, land is agricultural land if its the land's principal use is devoted
26 to the raising and harvesting of crops or timber or fruit trees, the rearing, feeding, and
27 management of farm livestock, poultry, fish, or nursery stock, the production of bees and
28 apiary products, or horticulture, all for intended profit. ~~Agricultural-real-estate~~ land also
29 includes woodland, wasteland, and pasture land, but only if the land is held and operated
30 in conjunction with ~~agricultural-real-estate-as-defined~~ land and it is under the same
31 ownership.

1 In addition, to be classified as agricultural land for tax purposes, the land ~~shall~~ must
2 meet one of the following criteria:

- 3 (1) In three of the previous five years, a gross income is derived from the pursuit of
4 agriculture from the land that is at least ten percent of the taxable valuation of the
5 bare land assessed as agricultural property, excluding any improvements. If there
6 is a crop share arrangement or cash rent agreement, the gross income from the
7 land of both the landlord and tenant ~~shall~~ must be combined and used to meet this
8 requirement. Alternatively, at least two thousand five hundred dollars of the
9 owner's gross income is annually derived from the pursuit of agriculture; or
- 10 (2) The land consists of not less than twenty acres of unplatted land or is a part of a
11 management unit of not less than eighty acres of unplatted land. The same acreage
12 specifications apply to platted land, excluding land platted as a subdivision, ~~which~~
13 that is in an unincorporated area. However, the board of county commissioners
14 may increase the minimum acre requirement up to one hundred sixty acres.

15 For the purposes of this section, the term, management unit, means any two or more
16 parcels of land, whether adjoining or not, under common ownership located within this
17 state and managed and operated as a unit for one or more of the principal uses listed in
18 this section. No parcel of land within a management unit may be more than twenty air
19 miles from the nearest other parcel within the management unit. If requested by the
20 director ~~of equalization~~, the owner shall provide supporting documentation of the land
21 contained in the management unit.

22 **Section 14.** That § 10-6-31.8 be AMENDED.

23 **10-6-31.8. Criteria for classification of agricultural land as riparian buffer**
24 **strip.**

25 Agricultural land shall be classified as a riparian buffer strip pursuant to § 10-6-
26 31.7, if it meets the following criteria:

- 27 (1) The agricultural land consists of existing or planted perennial vegetation;
- 28 (2) The riparian buffer strip is a minimum of fifty feet in width along an eligible river,
29 stream, or lake, and extends up to a maximum of one hundred twenty feet in width
30 along an eligible river, stream, or lake. For the purposes of this section, the
31 measurement along a river or stream begins at the top of the bank or where the
32 upland or terrestrial vegetation begins, whichever is closer to the water channel,
33 and extends landward from the beginning measuring point. The measurement along
34 a lake begins where upland or terrestrial vegetation begins and extends landward

1 from the beginning measuring point. A riparian buffer strip may vary along the
 2 riparian area if the strip is at least fifty to one hundred twenty feet in width and is
 3 mapped to calculate the taxable area involved;

4 (3) The perennial vegetation is not harvested or mowed before July tenth. However, a
 5 minimum of four inches of vegetative cover shall be maintained at all times;

6 (4) The perennial vegetation is not grazed during the months of May to September,
 7 inclusive; and

8 (5) The landowner files a verified application with the director of equalization of the
 9 county where the agricultural property is located, verifying that the criteria of this
 10 section has been met.

11 The ~~application-landowner~~ shall include in the application a legal description of the
 12 parcel where the riparian buffer strip is located, all necessary documentation including
 13 maps and acre totals, and any other information required by the director ~~of equalization~~
 14 to determine eligibility. The application ~~shall~~ must be filed annually with the director ~~of~~
 15 ~~equalization~~ before October sixteenth. If the director ~~of equalization~~ determines that the
 16 agricultural land meets the criteria provided by this section, the land ~~shall~~ must be
 17 assessed pursuant to § 10-6-31.7 on November first. The application ~~shall~~ must be in a
 18 form as prescribed by the secretary of revenue.

19 **Section 15.** That § 10-6-33 be AMENDED:

20 **10-6-33. Basis for determining valuation for tax purposes --Cost, market**
 21 **and income approaches to appraisal considered.**

22 ~~All property-The director shall be assessed individually assess each tract of real~~
 23 ~~property~~ at its true and full fair market value in money. ~~The true and full value is the~~
 24 ~~taxable value of such property upon which the levy shall be made and applied and the~~
 25 ~~taxes computed.~~ ~~In determining the true and full~~ fair market ~~value of property,~~ the director
 26 ~~of equalization~~ may not adopt a lower or different standard of value because it is to serve
 27 as a basis of taxation. The director may not adopt as a criterion of value the price for
 28 which ~~the a tract of real~~ property would sell at a forced sale, or in the aggregate with all
 29 ~~the other tracts of real~~ property in the ~~third class municipality or district county.~~ The
 30 ~~director shall value each article or description by itself and at an amount or price as he~~
 31 ~~believes the property to be fairly worth in money.~~ ~~The true and full~~ director shall determine
 32 the fair market value shall be determined by appropriate consideration of the cost
 33 approach, the market approach, and the income approach to appraisal. The director ~~of~~

1 ~~equalization~~ shall consider and document all elements of such approaches that are
2 applicable prior to a determination of ~~true and full~~ fair market value.

3 **Section 16.** That § 10-6-33.2 be REPEALED.

4 **10-6-33.2. Determination of capacity to produce agricultural products--**
5 **Sources of information.**

6 **Section 17.** That § 10-6-33.3 be AMENDED.

7 **10-6-33.3. Property not used for agriculture separately assessed.**

8 Land or ~~improvement~~ improvements on land within an operating unit ~~which that~~ is
9 not used incident to an agricultural pursuit shall be separately listed and assessed.

10 **Section 18.** That § 10-6-33.5 be REPEALED.

11 **10-6-33.5. Assessment, valuation, equalization, and taxation of school and**
12 **endowment lands.**

13 **Section 19.** That § 10-6-33.7 be REPEALED.

14 **10-6-33.7. Classification of agricultural land in each county--Basis for soil**
15 **valuation.**

16 **Section 20.** That § 10-6-33.21 be AMENDED:

17 **10-6-33.21. Assessed value of inundated farmlands--Classification.**

18 If an application is submitted pursuant to § 10-6-33.22, the director ~~of equalization~~
19 shall take into consideration and make adjustments in setting the assessed value for
20 agricultural land which has been inundated by floods and is not farmable during the past
21 three growing seasons. The director ~~of equalization~~ shall use the marshland soils rating
22 classification pursuant to ~~§§ 10-6-33.2 and 10-6-33.7~~ § 10-6-33.32 to determine the
23 assessed value of the acreage inundated and not farmable.

24 **Section 21.** That § 10-6-33.22 be AMENDED.

1 **10-6-33.22. Request for special assessment for inundated farmland--Time**
 2 **limit--Description of land.**

3 If agricultural land has been inundated by floods and was not farmable during the
 4 past three growing seasons, any landowner or the landowner's agent or attorney may
 5 request the director ~~of equalization~~ to specially assess the land for the purpose of taxation
 6 by submitting an application before November first. The landowner or the landowner's
 7 agent or attorney shall describe on the application the portion of the agricultural land that
 8 has been inundated by floods and was not farmable during the past three growing seasons.

9 **Section 22.** That § 10-6-33.31 be AMENDED:

10 **10-6-33.31. Agricultural income value for county--Adjustment of assessed**
 11 **value by director.**

12 Before July first each year, the secretary of revenue shall annually provide each
 13 director ~~of equalization~~ the agricultural income value for each county as computed
 14 pursuant to § 10-6-33.28. The director ~~of equalization~~ shall annually determine the
 15 assessed value of agricultural land. The assessed value of agricultural land may be
 16 adjusted by the director ~~of equalization~~ to the extent one or more of the following factors
 17 affect the productivity of the land:

- 18 (1) ~~The capacity of the land to produce agricultural products as defined in § 10-6-33.2;~~
 19 and
 20 (2) ~~One or more of the following factors:~~
 21 (a) ~~Location;~~
 22 (b) (2) Size;
 23 (c) (3) Soil survey statistics;
 24 (d) (4) Terrain;
 25 (e) (5) Topographical condition;
 26 (f) (6) Climate;
 27 (g) (7) Accessibility; or
 28 (h) (8) Surface obstructions.

29 ~~Each~~ The director shall document each adjustment shall be documented. The director of
 30 ~~equalization~~ shall document an adjustment by using data from sources reasonably related
 31 to the adjustment being made. In addition, the director ~~of equalization~~ may use data from
 32 comparable sales of agricultural land to document the adjustment concerning productivity
 33 for any of the factors listed in this section.

1 If the actual use of agricultural land varies from the land use category specified by soil
 2 classification standards, or if any factors listed in ~~subdivision (2) this section~~ exist that
 3 affect the productivity of the land, the property owner may request an examination of the
 4 land by the director ~~of equalization~~ on a form prescribed by the department. The director
 5 ~~of equalization~~ shall determine whether to adjust the assessed value of the agricultural
 6 land pursuant to the factors listed in ~~subdivision (2) this section~~.

7 The director ~~of equalization~~ shall document all supporting evidence for the adjustment
 8 determination. The director ~~of equalization~~ shall provide any adjustment documentation
 9 to the department upon request. The adjustment documentation must be kept in the
 10 ~~director of equalization's~~ director's office for the life of the adjustment.

11 **Section 23.** That § 10-6-33.32 be AMENDED.

12 **10-6-33.32. Division of land into categories--Director provides soil ratings--**
 13 **Director permitted to make adjustments.**

14 ~~Agricultural land~~ All soils shall be divided into classes based on soil classification
 15 standards developed by the director of equalization into categories, including United
 16 States Department of Agriculture, Natural Resources Conservation Service. All agricultural
 17 land shall be categorized as either cropland and or noncropland. Each category ~~The~~
 18 department shall be divided into classes based on provide each county with soil
 19 classification standards developed by the United States Department of Agriculture Natural
 20 Resources Conservation Service ratings for all soil types present in the county. The director
 21 shall implement the soil ratings and utilize the ratings as the basis for determining the
 22 value of each soil type in the county. The director may make an adjustment to a parcel
 23 pursuant to § 10-6-33.31.

24 **Section 24.** That § 10-6-33.34 be AMENDED:

25 **10-6-33.34. Fair market value of agricultural land.**

26 The agricultural income value for agricultural land as determined by §§ 10-6-33.28
 27 to 10-6-33.33, inclusive, represents the fair market value of agricultural land for purposes
 28 of assessment, equalization, and taxation, and the ~~Department of Revenue~~ department
 29 shall provide the director ~~of equalization of each county~~ the factor of adjustment necessary
 30 for the computation required pursuant to §§ 10-3-41, 10-12-31.1, 10-12-42, and 10-13-
 31 37.

32 **Section 25.** That § 10-6-33.35 be AMENDED:

1 **10-6-33.35. Agricultural Land Assessment Implementation and Oversight**
2 **Advisory Task Force.**

3 There is hereby established the Agricultural Land Assessment Implementation and
4 Oversight Advisory Task Force. The task force shall consist of the following fourteen
5 members:

- 6 (1) The speaker of the House of Representatives shall appoint four members of the
7 House of Representatives, no more than two of whom may be from one political
8 party;
- 9 (2) The speaker of the House of Representatives shall appoint three members of the
10 general public, at least one of the members shall have an agricultural background
11 and at least one of the members shall have a business background;
- 12 (3) The president pro tempore of the Senate shall appoint four members of the Senate,
13 no more than two of whom may be from one political party; and
- 14 (4) The president pro tempore of the Senate shall appoint three members of the general
15 public, at least one of the members shall have an agricultural background and at
16 least one of the members shall have a business background.

17 ~~The initial appointments shall be made no later than July 1, 2008, and shall serve until~~
18 ~~January 12, 2009.~~ The speaker of the House of Representatives and president pro tempore
19 of the Senate before the close of each regular session of the Legislature held in odd-
20 numbered years shall appoint members to the task force for a term of two years. If there
21 is a vacancy on the task force, the vacancy shall be filled in the same manner as the
22 original appointment.

23 The task force shall advise the department regarding the rules promulgated by the
24 department to administer the provisions concerning the assessment and taxation of
25 agricultural lands and shall review the implementation of the provisions of law concerning
26 the assessment and taxation of agricultural land. The task force shall report to the Senate
27 and House of Representatives and may submit a copy of its report to the Governor. The
28 task force may present draft legislation and policy recommendations to the Legislative
29 Research Council Executive Board.

30 ~~The task force shall make recommendations in the following areas:~~

- 31 ~~(1) The proper percentage of annual earning capacity to be used to determine the~~
32 ~~agricultural income value pursuant to § 10-6-33.28;~~
- 33 ~~(2) The proper capitalization rate in order to have total taxable valuation for the taxes~~
34 ~~payable in 2011 from agricultural property be not more than total taxable valuation~~

- 1 for the taxes payable in 2010 from agricultural property plus the estimated growth
 2 in agricultural property value in 2010;
- 3 ~~(3) The changes, if any, that must be made to §§ 13-10-6, 13-16-7, 13-37-16, and 13-~~
 4 ~~37-35.1 to ensure that the total amount of additional taxes that may be generated~~
 5 ~~on agricultural land by a school district pursuant to the provisions of §§ 13-10-6,~~
 6 ~~13-16-7, 13-37-16, and 13-37-35.1 will not provide a substantial property tax~~
 7 ~~revenue increase for the school district pursuant to the implementation of the~~
 8 ~~productivity system pursuant to §§ 10-6-33.28 to 10-6-33.33, inclusive;~~
- 9 ~~(4) The changes, if any, that must be made to §§ 13-10-6, 13-16-7, 13-37-16, and 13-~~
 10 ~~37-35.1 to ensure that the total amount of property taxes that may be lost on~~
 11 ~~agricultural land by a school district pursuant to the provisions of §§ 13-10-6, 13-~~
 12 ~~16-7, 13-37-16, and 13-37-35.1 will not provide a substantial property tax revenue~~
 13 ~~decrease for the school district pursuant to the implementation of the productivity~~
 14 ~~system pursuant to §§ 10-6-33.28 to 10-6-33.33, inclusive; and~~
- 15 ~~(5) The distribution of the local effort for the general fund of school districts between~~
 16 ~~the classifications of real property as provided by § 13-13-72.1 which establishes~~
 17 ~~the real property tax contribution from agricultural property for the general fund of~~
 18 ~~school districts as a fixed ratio of the total local effort for such levies. The task force~~
 19 ~~shall also consider the other taxes paid by agricultural property, the relationship of~~
 20 ~~the total assessed value of agricultural property to the total assessed value of all~~
 21 ~~real property, and other factors the task force deems appropriate.~~

22 **Section 26.** That a NEW SECTION be added:

23 **10-6-135. Recommendations required by Agricultural Land Assessment**
 24 **Implementation and Oversight Advisory Task Force.**

25 The Agricultural Land Assessment Implementation and Oversight Advisory Task
 26 Force established pursuant to § 10-6-33.35 shall make recommendations in the following
 27 areas:

- 28 (1) The proper percentage of annual earning capacity and capitalization rate to be used
 29 to determine the agricultural income value pursuant to § 10-6-33.28;
- 30 (2) The changes, if any, that must be made to §§ 13-16-7, 13-37-16, and 13-37-35.1
 31 to ensure that the total amount of additional taxes that may be generated on
 32 agricultural land by a school district pursuant to the provisions of §§ 13-16-7, 13-
 33 37-16, and 13-37-35.1 will not provide a substantial property tax revenue increase

1 for the school district pursuant to the implementation of the productivity system
 2 pursuant to §§ 10-6-33.28 to 10-6-33.33, inclusive;

3 (3) The changes, if any, that must be made to §§ 13-16-7, 13-37-16, and 13-37-35.1
 4 to ensure that the total amount of property taxes that may be lost on agricultural
 5 land by a school district pursuant to the provisions of §§ 13-16-7, 13-37-16, and
 6 13-37-35.1 will not provide a substantial property tax revenue decrease for the
 7 school district pursuant to the implementation of the productivity system pursuant
 8 to §§ 10-6-33.28 to 10-6-33.33, inclusive; and

9 (4) The distribution of the local effort for the general fund of school districts between
 10 the classifications of real property as provided by § 13-13-72.1 which establishes
 11 the real property tax contribution from agricultural property for the general fund
 12 of school districts as a fixed ratio of the total local effort for such levies. The task
 13 force shall also consider the other taxes paid by agricultural property, the
 14 relationship of the total assessed value of agricultural property to the total assessed
 15 value of all real property, and other factors the task force deems appropriate.

16 **Section 27.** That §§ 10-6-33.36 to 10-6-33.38 be REPEALED.

17 **Section 28.** That § 10-6-35 be REPEALED.

18 **10-6-35. Value of land excluding improvements determined--Value including**
 19 **improvements--Mines and quarries included.**

20 **Section 29.** That § 10-6-35.20 be REPEALED.

21 **10-6-35.20. Tax credit allowed for system producing ethyl alcohol fuel--Fuel**
 22 **for resale excluded.**

23 **Section 30.** That § 10-6-36 be REPEALED.

24 **10-6-36. Real property to be viewed--Entry of values for land,**
 25 **improvements and total.**

26 **Section 31.** That § 10-6-36.1 be AMENDED.

1 **10-6-36.1. Unrecorded improvements to real property--Notification of value**
2 **to county auditor.**

3 If the director ~~of equalization~~ finds improvements to real property when assessing
4 such the property for tax purposes, and if the improvements are not recorded in the
5 director's records for such the property and the improvements were not made in the year
6 immediately preceding the assessment date, the director shall notify the county auditor
7 of the value of such the improvements and the date when the improvements were added
8 to the real property.

9 **Section 32.** That § 10-6-36.2 be AMENDED.

10 **10-6-36.2. Improvements to which provisions not applicable--Petition and**
11 **hearing prior to notification of auditor.**

12 The provisions of §§ 10-6-36.1 to 10-6-36.3, inclusive, may not be applied to
13 improvements to real property made two or more years prior to the assessment date
14 unless the owner of the real property willfully hid or attempted to hide the improvements
15 from the director ~~of equalization~~ for the purpose of evading the taxation of such
16 improvements. Before the director ~~of equalization~~ may notify the county auditor of
17 improvements made two or more years prior to the assessment date, the director shall
18 petition the circuit court where such real property is located. The court shall hold a hearing
19 on such petition and shall determine if the owner of the real property hid or attempted to
20 hide the improvements for the purpose of evading the taxation of such improvements.
21 The court shall provide reasonable notice of the hearing to the director ~~of equalization~~ and
22 the owner of such real property. The director ~~of equalization~~ and the owner of the real
23 property shall be given opportunity to present evidence and be represented by counsel.

24 **Section 33.** That § 10-6-36.3 be AMENDED.

25 **10-6-36.3. Petition for reversal of director's decision--Notice and hearing.**

26 Any person whose improvements are added to the tax roll pursuant to §§ 10-6-
27 36.1 to 10-6-36.3, inclusive, but feels that the improvements were not added to the
28 property tax roll in the year the improvements should have been added because of poor
29 assessment practices, may petition the circuit court where such the real property is located
30 for a reversal of the director ~~of equalization's~~ director's decision. The court shall hold a
31 hearing on such the petition and shall determine if poor assessment practice was the
32 reason the improvements were not added to the tax roll in the year such the improvements
33 should have been added. The court shall provide reasonable notice of the hearing to the

1 director ~~of equalization~~ and the owner of such the real property. The director ~~of~~
 2 ~~equalization~~ and the owner of the real property shall be given opportunity to present
 3 evidence and be represented by counsel.

4 **Section 34.** That § 10-6-37 be AMENDED.

5 **10-6-37. Railroad and highway rights-of-way deducted in valuing land.**

6 The ~~county~~ director ~~of equalization~~ shall, in assessing lands for taxation through or
 7 over which any railroad or public highway runs, deduct from the entire area of such the
 8 land the amount of land embraced within the limits of the right-of-way of such the railroad
 9 or public highway, and assess to the owner of such the land through or over which ~~such~~
 10 the right-of-way or other highway extends, only the amount of such the land less the
 11 amount so deducted. This section does not apply to highways running upon section lines.

12 **Section 35.** That § 10-6-38 be AMENDED.

13 **10-6-38. Real estate list included in assessment lists, rolls, and book--**

14 **Contents.**

15 The assessment lists, rolls, and book shall contain a list of all the taxable lands in
 16 the county in numerical order, beginning with the lowest numbered section in the lowest
 17 numbered township in the lowest numbered range in the county, and ending with the
 18 highest numbered section, township, and range, with the number of acres in each tract
 19 set opposite the same in a column provided for that purpose, and the assessed value
 20 thereof in another column, and the name of the owner or person listing the same in
 21 another column, with the columns of acres and values footed up. ~~Also stating the number~~
 22 ~~of the school and road district in which such property and the owner thereof is situated:~~
 23 ~~provided that where the district has no board of equalization, such assessment roll shall~~
 24 ~~be delivered to the county auditor.~~

25 **Section 36.** That § 10-6-40 be AMENDED.

26 **10-6-40. Equalization director's affidavit attached to real estate list.**

27 Each director ~~of equalization or deputy director~~ shall take and subscribe an oath,
 28 which shall be certified by the county auditor or other officer administering the same, and
 29 attach to the return which ~~he~~ the director is required to make, in the following form:

30 I, _____, director of equalization for the _____ of
 31 _____ in _____ county, in the State of South Dakota, do solemnly

1 swear (or affirm), that the return to which this is attached contains a correct description
 2 of each parcel of real property within such municipality, township, or assessment district,
 3 as far as I have been able to ascertain the same; that the value attached to each parcel
 4 in such return is, as I verily believe, the full and true cash value thereof; that in no case
 5 have I knowingly omitted to demand a statement of the description and value of all the
 6 real property which I am required by law to list, or in any way connived at any violation
 7 or evasion of any of the requirements of the law in relation to the listing and valuing of
 8 real property.

9 **Section 37.** That § 10-6-43 be AMENDED:

10 **10-6-43. Records of county auditor or treasurer authorized as tax records.**

11 ~~The use of looseleaf books and records, lists, card systems, auxiliary and~~
 12 ~~miscellaneous records, in lieu of the equalization director's or assessment books, Records~~
 13 ~~kept in any form in the office of a county auditor or treasurer may be used as tax records,~~
 14 ~~in the office of the county auditor and treasurer, is hereby authorized and the use of such~~
 15 ~~looseleaf books and records, lists, card systems, auxiliary and miscellaneous records, prior~~
 16 ~~to July 1, 1951, is hereby legalized and validated. The form of the tax lieu of the director's~~
 17 ~~assessment books or other records herein authorized shall be approved by the secretary~~
 18 ~~of revenue. The use of such records herein authorized prior to July 1, 1951, shall not be~~
 19 ~~deemed or considered an irregularity or defect in any court in any proceeding to recover~~
 20 ~~real or personal property sold for taxes, or to invalidate or cancel any tax sale certificate,~~
 21 ~~tax deed, or other tax sale proceeding.~~

22 **Section 38.** That § 10-6-44 be AMENDED:

23 **10-6-44. Delivery of updated records to boards of equalization--Open to**
 24 **public inspection.**

25 ~~In districts having local boards of equalization each Each director of equalization~~
 26 ~~shall annually, on or before the third Monday in March, ~~annually~~ make out and deliver~~
 27 ~~updated assessment records to the clerk of the local board of equalization, or, if there is~~
 28 ~~no local board of equalization, then to the county auditor, ~~the assessment books, lists,~~~~
 29 ~~rolls, looseleaf books and records, lists, card system, auxiliary and miscellaneous records,~~
 30 ~~and returns herein provided for. Such books, lists, rolls, and returns. The records delivered~~
 31 ~~are open to public inspection by all interested persons, until the following Saturday.~~

32 **Section 39.** That § 10-6-50 be AMENDED.

1 **10-6-50. Notice of assessment--Required information--Promulgation of**
 2 **rules.**

3 The director ~~of equalization~~ shall mail or transmit electronically a notice of
 4 assessment to each property owner not later than March first. ~~The notice of assessment~~
 5 ~~must contain that contains:~~

- 6 (1) A statement that property occupied by the owner or a parent of the owner may be
 7 eligible for tax relief by being classified as an owner-occupied single-family dwelling
 8 pursuant to §§ 10-13-39 through 10-13-40;
- 9 (2) A statement that property owned and occupied by a veteran who is rated as
 10 permanently and totally disabled from a service-connected disability or the
 11 veteran's surviving spouse may be eligible for tax relief pursuant to §§ 10-4-40
 12 and 10-4-41;
- 13 (3) A statement that a dwelling specifically designed for use by a paraplegic as a
 14 wheelchair home that is owned and occupied by a paraplegic veteran, a veteran
 15 with the loss or loss of use of both lower extremities, or the veteran's surviving
 16 spouse may be eligible for tax relief pursuant to § 10-4-24.10;
- 17 (4) A statement that a dwelling owned and occupied by a paraplegic or an individual
 18 with the loss or loss of use of both lower extremities may be eligible for tax relief
 19 pursuant to § 10-4-24.11; ~~and~~
- 20 (5) A statement that property owned by a citizen who reached sixty-five years of age
 21 or who is disabled may be eligible for tax relief pursuant to chapter 10-6A; and
- 22 (6) Uniform information prescribed by the secretary of ~~revenue~~ the department.

23 The secretary of the department may promulgate rules, pursuant to chapter 1-26,
 24 concerning the form and content of the notice.

25 **Section 40.** That § 10-6-75 be AMENDED:

26 **10-6-75. Notice to real property owners of certain increases in assessed**
 27 **valuation--Contents--Promulgation of rules.**

28 If the assessed valuation of any real property increases by more than twenty
 29 percent in a year, the director ~~of equalization~~ shall provide written notice to the property
 30 owner, unless the property was subject to an addition, improvement, or change in use or
 31 classification. The director shall provide in the written notice ~~shall provide:~~

- 32 (1) Notification of the current assessed valuation, the prior year's assessment, and the
 33 percentage increase of the assessed valuation;

1 (2) A statement that the director of ~~equalization~~ will provide to the property owner,
 2 upon request, sales of comparable property or other information supporting the
 3 increased assessed valuation; and

4 (3) Information about the appeal process.

5 The secretary of the ~~Department of Revenue~~ department may promulgate rules,
 6 pursuant to chapter 1-26, concerning the form and content of the notice.

7 **Section 41.** That §§ 10-6-76 to 10-6-77 be REPEALED.

8 **Section 42.** That § 10-6-78 be AMENDED:

9 **10-6-78. Consideration of federal income tax credits in assessing property**
 10 **prohibited.**

11 ~~No county A~~ director of ~~equalization~~ may not consider any federal income tax credit
 12 that is extended to the property owner ~~under~~ pursuant to sections 38, 42, and 47 of the
 13 United States Internal Revenue Code, ~~as of January 1, 2001~~ defined in § 10-1-47, for the
 14 purpose of assessing any real property. ~~The provisions of this section are effective~~
 15 ~~retroactively to November 1, 2008.~~

16 **Section 43.** That § 10-1-47 be AMENDED.

17 **10-1-47. Internal Revenue Code--Defined for certain sections.**

18 The term, United States Internal Revenue Code, or Internal Revenue Code, means
 19 the United States Internal Revenue Code as amended and in effect on January 1, 2020.
 20 This section applies to §§ 10-4-9.1, 10-4-9.2, 10-4-9.3, 10-4-9.4, 10-4-39, 10-6-78, and
 21 10-43-10.1, and subdivisions 10-6A-1(7), 10-6B-1(5), 10-18A-1(6), 10-43-10.3(6), and
 22 10-45A-1(5).

23 **Section 44.** Pursuant to § 2-16-9, the Code Counsel shall transfer all sections of chapter 10-
 24 6 that have not been repealed to chapter 10-6, beginning with § 10-6-101, as follows: § 10-
 25 6-1 to § 10-6-101; § 10-6-1.1 to § 10-6-102; § 10-6-1.2 to § 10-6-103; § 10-6-1.3 to § 10-
 26 6-104; § 10-6-2 to § 10-6-105; § 10-6-4 to § 10-6-107; § 10-6-8 to § 10-6-108; § 10-6-25
 27 to § 10-6-109; § 10-6-31 to § 10-6-110; § 10-6-31.1 to § 10-6-111; § 10-6-31.2 to § 10-6-
 28 106; § 10-6-31.3 to § 10-6-112; § 10-6-31.4 to § 10-6-113; § 10-6-31.5 to § 10-6-114; §
 29 10-6-31.6 to § 10-6-115; § 10-6-31.7 to § 10-6-116; § 10-6-31.8 to § 10-6-117; § 10-6-
 30 31.9 to § 10-6-118; § 10-6-33 to § 10-6-119; § 10-6-33.3 to § 10-6-120; § 10-6-33.8 to §
 31 10-6-121; § 10-6-33.9 to § 10-6-122; § 10-6-33.12 to § 10-6-123; § 10-6-33.13 to § 10-6-

1 124; § 10-6-33.21 to § 10-6-125; § 10-6-33.22 to § 10-6-126; § 10-6-33.28 to § 10-6-127;
2 § 10-6-33.29 to § 10-6-128; § 10-6-33.30 to § 10-6-129; § 10-6-33.31 to § 10-6-131; § 10-
3 6-33.32 to § 10-6-130; § 10-6-33.33 to § 10-6-132; § 10-6-33.34 to § 10-6-133; § 10-6-
4 33.35 to § 10-6-134; § 10-6-34.1 to § 10-6-136; § 10-6-35.2 to § 10-6-137; § 10-6-35.4 to
5 § 10-6-138; § 10-6-35.23 to § 10-6-139; § 10-6-35.27 to § 10-6-140; § 10-6-36.1 to § 10-
6 6-145; § 10-6-36.2 to § 10-6-146; § 10-6-36.3 to § 10-6-147; § 10-6-37 to § 10-6-148; §
7 10-6-38 to § 10-6-149; § 10-6-39 to § 10-6-150; § 10-6-40 to § 10-6-151; § 10-6-43 to §
8 10-6-152; § 10-6-44 to § 10-6-153; § 10-6-50 to § 10-6-154; § 10-6-51 to § 10-6-156; §
9 10-6-56 to § 10-6-141; § 10-6-57 to § 10-6-142; § 10-6-66 to § 10-6-143; § 10-6-67 to §
10 10-6-144; § 10-6-75 to § 10-6-155; § 10-6-78 to § 10-6-157.

11 Pursuant to § 2-16-9, the Code Commission and Code Counsel are requested to
12 correct and integrate all cross-references from chapter 10-6 that have been transferred
13 pursuant to this Act.