

# MINUTES

## Agricultural Land Assessment Implementation and Oversight Advisory Task Force

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Representative Kirk Chaffee, Chair  
Michael Wiese, Vice Chair

Second Meeting, 2022 Interim  
Friday, October 14, 2022

Room 413 – State Capitol  
Pierre, South Dakota

The second interim meeting of the Agricultural Land Assessment Implementation and Oversight Advisory Task Force was called to order by Representative Kirk Chaffee at 9:00 a.m. (CDT) on Friday, October 14, 2022, via electronic conference and in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering roll call: Representatives Kirk Chaffee, Chair, Spencer Gosch (remote), Jennifer Keintz (remote), and Oren Lesmeister; and Senator Gary Cammack; and Public Members Kenneth Gosch (remote), David Owen, Lee Qualm, and Michael Wiese, Vice Chair. Representatives Senators Red Dawn Foster, Troy Heinert, and Erin Tobin; and Public Members Greg Endres and David Fremark were excused.

Staff members present included William Steward, Research Analyst; and Kaitlyn Baucom, Administrative Specialist.

*NOTE: For the 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 office. This meeting was web cast live. The archived web cast is available on the LRC website at [sdlegislature.gov](http://sdlegislature.gov).*

### Opening Remarks

Representative Chaffee welcomed everyone to the task force meeting.

### Approval of the Minutes

***Mr. Wiese moved, seconded by Mr. Owen, to approve the minutes of the August 16, 2022 Agricultural Land Assessment Implementation and Oversight Advisory Task Force meeting. Motion prevailed on a voice vote.***

### Department of Revenue

**Ms. Wendy Semmler, Director, Property Tax Division, DOR**, shared a presentation ([Document 1](#)) reviewing ag land adjustments and the implementation of [HB 1325](#) passed the 2022 session. She said DOR encouraged directors of equalization (DOEs) to use all statutory tools available to them to ensure fair ag land assessments, and that for the productivity formula to work well, common sense adjustments were necessary to ensure fairness and equity in the property tax system. Ms. Semmler stated there were eight allowable adjustment factors listed in statute including location, size, soil survey statistics, terrain, topographical condition, climate, accessibility, or surface obstructions and adjustments could be made if one of those factors were present and affecting productivity. She shared the adjustment process could be initiated by landowners themselves, or if the DOE was familiar with the area, they could make that adjustment on their own. Ms. Semmler stressed the DOR's role in the parcels adjustments process was not approval or denial, but administration and compliance. When a DOE did choose to do an adjustment, she said they were statutorily required to submit their documentation supporting that adjustment to DOR to verify if it was due to one of the 8 factors in law.

While they had been using those micro adjustments at the parcel level for specific property owners, Ms. Semmler shared [HB 1325](#) was more of a macro adjustment. Rather than just give another option for adjustment, it defined what category each of the land capability classes must fall into for productivity formula purposes. Land classes 1-3 were to be categorized as cropland, and any soils classified 5-8 were to be categorized as noncropland. She stressed that was for categorization and not a directive on how they must use their land. Ms. Semmler shared that class 4 soils could currently be categorized as crop or noncrop depending on data in the county soils inventory table and components in the soil. [HB 1325](#) gave authority to DOEs to change that class 4 category to whichever category was best suited to their county, from crop to noncrop, or from noncrop to crop. However, that category change needed to be made to the entire soil type throughout the entire county and DOR needed to be informed of any changes.

Ms. Semmler stated there was a limitation to how much could be changed annually, and [HB 1325](#) stated the number of acres of class 4 soils that could be categorized as noncrop could only increase by 20% over the previous year's class 4 noncrop acres. She said DOR had created a calculation tool to determine the number of acres that could be recategorized in each county, which caused issues for some counties who might not be able to switch all their acres, and DOR was working on a county by county basis for implementation.

Mr. Owen asked if the 20% limit was by county or statewide. Ms. Semmler responded it was by county.

Senator Foster asked how the 20% percentage was determined. Ms. Semmler said she did not know if there was a specific significance other than to try to mitigate any huge shift within the ag land community.

Mr. Wiese asked for clarification if it was a soil type within class 4 that could be changed or the entire class 4. Ms. Semmler replied that just one class 4 soil, by soil map unit, could be switched and not every class 4 soil. She clarified that the acre limitation was looking at all class 4 soils.

Representative Chaffee added they could bring in four class 4 soils that represented 5% for a total of 20%, or could bring in one soil that represented 19.9% of the soil class, as long as the total switched did not exceed 20%.

Ms. Semmler stated the decision to recategorize or not recategorize was solely up to the DOE but they needed to be able to explain their decision. However, a DOE could not change the land capability class defined by NRCS. She stressed DOR alone had the ability to reclassify any class one, two, or three soils to noncrop land if there was info available that supported that recategorization. Ms. Semmler said if a soil type was recategorized, the current rating and top dollar would change to match the new category, and as they made changes, the weighted rating might go up or down and would affect the top dollar applied to the entire county. She said DOR had stressed that changes did not need to happen immediately and encouraged newer DOEs to take time to understand the impact.

Mr. Owen said to clarify that DOEs have always had the authority to make certain adjustments and this would just refine that authority they have. Ms. Semmler responded it put into law the ability to make adjustments at the macro county level versus just the micro parcel level. She added [HB 1325](#) did not take away authority for parcel adjustments, just allowed for both types of adjustments and the two could work in conjunction with each other.

Senator Foster asked if recategorization was denied if there was an appeal process. Ms. Semmler replied there was not a defined appeal process currently in statute.

Ms. Semmler said [HB 1325](#) came into law on July 1, but DOR had encountered some issues as they were working on the implementation process. She said the first thing they needed to do was compile a comprehensive inventory of all official soil tables being used in each county, and from there do an in-depth review of each table with current DOEs to make sure they were starting with correct information before making changes. DOR had found those tables had been changed for various reasons sometime in the past and they did not always know why. Ms. Semmler shared there were times when the same soil unit had been duplicated as crop and noncrop, or the same soil unit had been

labeled as different classes, or something had been added or taken away from the tables and they did not always know why. She said they had to resist just defaulting back to the original because in some situations the changes were correct, but they had to verify why things were changed. Ms. Semmler shared her three field staff were working through those tables and developing a framework and checklist.

### Requests from the Last Meeting

Ms. Semmler said there was a request from the first meeting to reach out to South Dakota School and Public Lands and start an AUM rate database and she had received the info and compiled 2010-2022 ([Document 2](#)).

Ms. Semmler said the other request from the last meeting was to meet with **Mr. Nathan Jones, State Soil Scientist, USDA SD State Office** for help finding potential data sets that might be useful for soil tables in the future. Ms. Semmler shared they were only able to meet recently and she had not yet been able to take an in-depth look at the data but she would share some of the things they had looked at. She said one of the main ones was the National Commodity Crop Productivity Index (CPI) which was a method of arraying soils of the entire U.S. for non-irrigated commodity crop production based on the inherent soil properties. She said it was applicable to both heavily and sparsely populated areas and present land use was not considered in the ratings, and ratings for the index were based on properties that influenced the growth of crops. She said higher numbers indicated higher potential, ranging from 1.0-.01 which was in line with the current ratings system at the county level.

Mr. Owen asked if she knew what percent of cropland is irrigated in South Dakota. Ms. Semmler said she did not. Senator Duvall told him that about 5% of South Dakota acres of cropland were under irrigation.

Ms. Semmler shared another was the web soil survey data Crop Productivity Index (CPI) that the NRCS used which was South Dakota specific rather than national like the last one. She said it relatively ranked soils based on their potential for intensive crop production over a period of time. She said it rated soils from 0-100, with a higher number being higher productive potential, assuming adequate management and natural weather conditions among a couple of others. Ms. Semmler said it looked different than what was currently used, but Mr. Jones said they could divide those numbers by 100.

Representative Chaffee asked if that data set had a rating for each soil type within a county because crop-indexing systems typically only focus on soils associated with cropping and have insufficient data to provide ratings all the way through for every soil type. Ms. Semmler responded she believed there was a CPI for every type of map unit.

Ms. Semmler shared there were also other data sets out there that could be potentially be used in conjunction with one of those productivity indices. She said Mr. Jones did not think they would work well on their own but there was the possibility of combining several of them. She said other potential factors that could be incorporated were the Salinity Risk Index, a relative ranking of soils based on their potential to salinize; Total Range Production (Normal Year), the amount of vegetation that could be expected to grow annually in a well-managed area; Yields of Non-Irrigated Crops (Component), estimated average yield per acre under high level of management although there were not yields for every single map unit; frost-free days; representative slope; K Factor, by water erodibility; and the Wind Erodibility Index. She said all of those were the initial data points Mr. Jones thought could be helpful.

Representative Chaffee said he would still like to follow up on tables because they were the actual mechanism that took a formula and turned it into a dollar amount per soil type and were a key part of the ag land assessment calculation. He said Ms. Semmler had shared that some counties may not have the most accurate tables or updated them since DOR issued them. Representative Chaffee said that was one of the main reasons for [HB 1325](#), to give some of that authority back to the counties to make best fit adjustments for their county. He asked if DOR would agree that fixing table ones were a priority. Ms. Semmler responded it was one of their main priorities. She said in the fall their staff would visit each county to do sales ratio audits, and while there, they would sit down and go

through the tables with counties and discuss if they were interested in making any [HB 1325](#) changes. She said ultimately it was a priority to DOR if it was a priority to the county, and if they were interested in doing a class 4 switch right now they were at the top of the pile.

Representative Chaffee asked if their focus was more on clearing up adjustments and checking on the current soil survey and making sure it accurately represented what it was when it was issued back in the 80s rather than updating the soil rating system. Ms. Semmler responded they were not touching the rating system right now, just making sure soils and tables were correct and level setting those tables for each county. She said they wanted to make sure any changes were legitimate and understand why they were changed.

Ms. Semmler also introduced the new DOR [Property Tax Portal](#) as a useful tool.

### **Task Force Discussion and Adjournment**

Senator Cammack said he saw a huge benefit to the transparency website and bringing more understanding to the public. He said as far as property tax on ag land, one of the big issues had been with rangeland and they had taken some incremental steps towards making that more equitable. He added once local assessors got a good grasp of what was possible with the new tools made available to them they had the potential to make a huge difference.

Senator Foster asked what resources were needed at the county level to implement the tools that were there and asked if being short-staffed was one of the delays. Representative Chaffee said that was accurate and while a lot of tools were there, they did not have control of assessors or their training. He added the turnover rate was high and it took several years to figure out the lay of the land within a county before any major adjustments were made. He said county commissioners played a big role and needed to financially support offices that were important to them and if property taxes were important, they needed to support that office.

Mr. Wiese said DOR did do annual trainings beneficial to the assessors office and their staff and answered questions and provided a good peer group. He added as counties transitioned to digitizing that took time depending on the volume of data. He said because there were different software providers evaluating their ability to integrate information when done with it into the tax system and working with the state to get reports was an overriding consideration and took a lot of research on the part of commissioners, auditors, and the state to find what software worked best, was compatible, and did everything everyone needed it to do and the peer group helped a lot.

Mr. Wiese said in his experience with his own county they had talked about implementation of an updated table and worked with DOR on testing and had found it was pretty consistent and more accurate than what they currently had in their county and would have to make fewer individual adjustments. He agreed the tables were not perfect, but they were heading in a good direction with working on them and said his county wanted to continue to be a partner working on their development. Mr. Wiese said he still wanted to have a conversation about the cap rate and the potential impact on it, and that was maybe something to look at next year.

Representative Chaffee thanked DOR for their efforts on [HB 1325](#) to help get some authority and responsibility to make adjustments back to the county level. He said [HB 1325](#), along with the 8 different micro adjustments that could be made, should provide enough tools in the tool box to reach property equalization for ag land. He said the last piece was updating tables and starting now was important. He said while counties have been served well by table ones and he could not think of a better way to distribute valuation on a macro countywide level, they needed some updating and technology had grown and he would like to see work done on them before they totally expired in usefulness.

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***Mr. Owen moved, seconded by Mr. Wiese, that the Agricultural Land Assessment Implementation and Oversight Advisory Task Force be adjourned. Motion prevailed unanimously on a voice vote.***

The committee meeting adjourned at 10:25 a.m.