

M I N U T E S

SPECIAL COMMITTEE ON USE VALUE APPRAISAL

July 11-12, 1977Monday, July 11

The meeting was called to order by Chairman Powell at 10:00 a.m., with all members present. Staff present: Bill Edds, Arden Ensley, Roy Johnson, Richard Ryan, and Robert Taylor.

On a motion by Senator Pomeroy, seconded by Representative Hineman, the minutes of the May 11-12 meeting were approved.

Reports on Studies

Director of Property Valuation Vaughn and Dr. Flinchbaugh reported on meetings held to coordinate the three projects in terms of procedures and data sources. One difference noted by Dr. Flinchbaugh was that the Cloud County and DPV studies will involve actual on-the-spot appraisals, while the KSU statistical impact study will use "secondary" data (Crop Reporting Service, etc.). Dr. Flinchbaugh reported that the Cloud County study would be completed by September 1.

Bob Walters reported that: (1) the DPV 8-county study got under way May 25th, with land classification now completed in all but one of the counties (Greenwood, which is primarily grassland, where classification would start the week of July 18); (2) still to be completed in Shawnee County is a study of selected areas to illustrate what might happen under various rollback options; (3) data gathering will be completed by August 1, the first draft of the report by September 1, and the final report by October 1.

Mr. Walters also reported unanimous agreement among those participating in the study that the best data source for yields and expenses is records of local owners and operators and farm management companies. He also reported increased difficulty in securing this data for more than five years back. After that period, farm management company records are about the only useable source. He also noted that the Federal Land Bank has yield data on sample farms. In response to a question, he said that these records had not yet been compared with the Crop Reporting Service data.

Mr. Walters also explained the summary table (a copy of which is attached to these minutes) which will be "the bottom line" of the report on each of the eight sample counties. He noted that a minimum of ten 1976 sales would be used as the basis for the estimated market value. Each of the three areas will include four sections, with a total of 12 sections per county. He also noted that to make projections from these samplings it will be necessary to make certain assumptions as to how representative they are of the county and then how representative that county is of neighboring counties.

Review of H.B. 2631 Amendments

Staff reviewed the mock-up of the amendments adopted at the May meeting. When asked what the five-year period would be under the language added in line 88, assuming 1978 as the year of valuation, Lyle Clark, DPV, stated that the five-year period would include 1976 and the preceding four years, explaining that preparation of the figure for use in 1978 would have to be made in 1977 before complete data for that year was available.

After discussion of the language added to the provision re change of use through exercise of eminent domain, Senator Pomeroy moved (seconded by Senator Simpson) that the language be changed to parallel language in the Internal Revenue Code (exercise of the power "or the threat or imminence thereof"). Motion carried.

In reply to a question about "effective" rate of interest on Federal Land Bank Loans, Mr. Walters repeated statements by a Land Bank official in Wichita that this would be difficult and almost impossible to determine. (See further discussion of this subject on second day.)

Sections 6 et seq. of H.B. 2631

Director of Property Valuation Vaughn reported that his office had not completed a series of meetings with local officials to discuss related provisions and procedures, and would be better prepared to offer suggestions for revising other sections to conform to use value appraisal after doing so. He indicated that suggested changes not specifically related to use value also might result from the discussions with local officials. For instance, some local officials are suggesting a procedure whereby valuations would be determined throughout one year (say 1977) and used for budget and levy purposes throughout the following year (1978) with no valuation changes after January 1 and no proration for classes of property like motor vehicles and merchants inventories.

Appeals

Lyle Clark listed three areas of possible appeals for consideration: (1) qualification to come under use value appraisal; (2) classification of land; and (3) valuation; and suggested continuation of present procedures as one approach, with the possible exception of some limitation on valuation appeals in light of the Director's responsibilities in providing valuation schedules. As to the latter, he suggested the possibility of providing for appeals direct to the State Board of Tax Appeals (BTA). Another suggestion was to provide for the first appeal to the county appraiser, who would make the classification on which the valuation was based and should be prepared to defend such classification. It also was suggested that, with or without a formal appeal procedure, first recourse could be to the appraiser with regard not only to valuations but to qualification and classification also.

Other possible alternatives suggested included:

1. Appeals from the valuation schedule only to the BTA, with the Division of Property Valuation a necessary party.
2. Appeal to BTA but require review by the Division, with report filed with the Board.
3. Provide for valuation appeals to be decided by the Director.
4. Provide for an advisory committee to the Director in formulating the valuation schedule, with valuation appeals decided by such committee.

Director Vaughn expressed the opinion that in cases of appeals as to classification, an expert (soil scientist) should be involved in some way. The Chairman requested further suggestions along this line.

Conference with County Appraisers

County appraisers in attendance were Tim Hagemann, Association President, Stevens and Haskell Counties; George Schnellbacher, Association Legislative Chairman, Shawnee County; Sam Schmidt, Butler County; and Eugene Bryan, McPherson County.

Mr. Hagemann referred to changes from dry land to farm land as a possible source of confusion; expressed concern about the appeal process bogging down if implementation of a rollback tax resulted in automatic appeals to the BTA every-time; and suggested that the Division of Property Valuation employ a soil scientist to be available to the counties for consultation. As to the latter, Mr. Vaughn commented that this might not be needed "after the first go round." He suggested a possible alternative of contracting with perhaps three soil scientists during the initial implementation of use value appraisal but not keeping one on the payroll permanently.

A Committee member asked if irrigation changed the land classification or just its productivity. Mr. Hagemann said that changing the slope through machine levelling does change the topography and hence changes the classification. He added that Haskell County is undergoing a great deal of such change and that he now automatically changes the classification following machine levelling. This prompted a question by another Committee member as to whether a soil scientist would be needed for just a change in slope from machine levelling.

When asked if the first appeal should be to the appraiser, Mr. Hagemann stated that appraisers generally would welcome an opportunity to visit with taxpayers, but that he was not sure about a mandatory provision for appeal first to the appraiser.

Among other subjects discussed were whether a fish farm operation would qualify for use value appraisal, whether there should be some acreage limitation on the homesite (which Mr. Hagemann felt would be hard to determine) and when actions such as platting a tract result in a change in valuation at the present time. As to the latter, Mr. Hagemann said that, following a 1967 BTA opinion, he makes no change following platting only. He does not change the valuation until actual development takes place.

Asked for his preference as between an appeal to the BTA or the Division, Mr. Hagemann stated that if he were appealing as a taxpayer he would prefer the BTA but as an appraiser he would prefer an appeal to the Division.

Mr. Schnellbacher reported that, following the mailing of copies of the amended first four sections of H.B. 2631 to the appraisers with a request to direct their questions or comments to Mr. Schnellbacher, he received letters from three appraisers relating to the effect of one type of irrigation; the status of roadways, waterways, yard plots and shelter belts; and the eligibility for use value appraisal of small tracts used by retired persons as garden plots or for the raising of chickens to supplement their retirement income.

He suggested the need for a decision as to whether appraisers would be under state (DPV) control or under the control of 105 boards of county commissioners; consideration of a separate committee of at least five technical members for appeals and hearings (commenting that BTA could not handle all of the appeals likely to result from implementation of use value appraisal); consideration of how use value appraisal would relate to tax exemptions for water impoundments (Supp. 82a-405, 82a-409, 79-201g); recodification of existing statutes; and reappraisal or updating of all valuations. Mr. Schnellbacher also reviewed blanket adjustments of valuation levels of various classes of real property made by the Shawnee County commissioners following reappraisal in an attempt to equalize with surrounding counties.

When asked how valuations of urban property could be brought into line, Mr. Schnellbacher mentioned the mass appraisal multiple regression analysis technique but questioned whether we are ready for this. In reply to other questions, he stated that reappraisal is going to be needed whether or not use value appraisal of agricultural land is adopted, and that inflation of automobile valuations is a big problem at this time. As to reappraisal, he suggested as one possibility a procedure of doing one-fourth of a county each year in a program of continuous reappraisal. A question of constitutionality (uniform and equal) was raised, and a possible solution of waiting until the end of the fourth year to put all of the new values on the tax roll was suggested. However, it was noted that this still would leave a lag between the first and fourth years in reflecting the effects of inflation.

In further discussion, Mr. Hagemann reported that he is now carrying on a program recommended by the Director in which he is updating residential property valuations using a 1976 cost manual. He is now adjusting the valuations back to a 1967 level but upon completion of the project, hopefully in 1980, will bring them up to date with appropriate adjustments and place them all on the tax roll at once. Mr. Vaughn commented that this procedure has been recommended for all types of property -- residential, commercial, etc.-- with the choice of where to start left up to the individual counties.

Representative Jarchow reported that Sedgwick County now is working on a program with a 1980 target date. Mr. Schnellbacher reported that his staff has been working with agricultural land cards, but the problem has been keeping up with changes. He reported that use of Marshall Swift construction guide books has provided records that will permit updating of residential values quickly following inspection to determine depreciation that also must be taken into account.

Mr. Vaughn commented that incompleteness of SCS mapping remains a big stumbling block. He also suggested that if use value appraisal is implemented as now written and contemplated it ultimately will take a load off the appraisers and give them more time to devote to other types of property.

Other Conferee

Mr. Phil Rhoads, representing Bread for the World, Third Congressional District, requested and was granted an opportunity to speak on use value appraisal. He referred to the three-year recoupment in H.B. 2631 as a fairly low penalty for a change in use and expressed the fear that the bill as drafted might encourage speculators rather than retaining land in agricultural use.

Tame Grassland

Further discussion of a possible problem of classification in the case of land seeded to grass but capable of production of other crops had been suggested. Dr. Flinchbaugh expressed the opinion that the current use provision covers the situation.

Mr. Walters reported that seeding to tame grass is limited to the eastern third of the state, and that in the study, where tame grass appears primarily in Shawnee and Crawford Counties (with a little in Nemaha County), it is not treated any differently than native grass in terms of carrying capacity. However, he stated that if the bill is enacted there should be a separate category for tame grass. He further stated that this can be handled by regulation.

Other Business

In preparation for the next meeting, the staff and Division were requested to assemble further information, to be sent out in advance if possible, on:

1. Alternatives re appeals (Mr. Vaughn, with Committee approval, will visit with BTA in this regard); and
2. The availability of soil scientists for staff or contract purposes.

Tuesday, July 12

DPV Study Report

Mr. Walters explained that the report on the eight sample county study probably would consist of a total of 150 to 200 pages, including descriptions of the procedures, data sources and results, and asked how many copies would be wanted. After discussion, it was moved by Representative Jarchow and seconded by Representative Wilkin that 300 copies of the full report be requested. Motion carried. (Distribution contemplated will include members of the standing committees on assessment and taxation, county appraisers, and committees of organizations such as the Farm Bureau, Livestock Association, and KAGI.) After further discussion, it was moved by Senator Kerr and seconded by Representative Hineman that 1,000 copies of a summary report, including a few pages of explanatory text and the eight county summary tables, be requested. Motion carried. (Broader distribution contemplated will include all members of the legislature.)

Reappraisal of All Real Estate

Mr. Walters stated that for mass appraisal purposes about 90 percent of the efforts and money is expended on inventorying and about 10 percent on actual appraisal, and that most counties now have pretty good inventories of real estate, especially improvements. He added that land classification records are not as good. In response to a question, he expressed the opinion that implementation of use value appraisal plus reappraisal of other real estate could be accomplished in two years. The Chairman commented on the possibility of use value implementation alone taking until 1980. After further discussion, Mr. Vaughn agreed to provide information at the next meeting on the number of counties with adequate records now and the number requiring updating.

After discussion of possible penalties to force action by county officials, Mr. Walters mentioned a recent Nebraska law which would withhold state school aid, in amounts increasing from 10 percent to 50 percent, for failure to meet appraisal standards. One Committee member noted that withholding school aid would be no penalty in the case of a no aid district, and another suggested that a penalty for non-action in this area more appropriately should apply to county government funds only.

It was agreed that an agenda item for the next meeting would be possible penalties to make reappraisal work along with use value implementation. The staff was asked to provide more information on the Nebraska law and on funds now distributed to counties in Kansas. Mr. Vaughn reported that one county, Atchison, now is reappraising and that this may trigger others.

Capitalization Rate

As requested at the last meeting, Mr. Walters submitted a one page explanation and illustration of the band of investment method of capitalization rate development. In the discussion it was noted that the end result in the illustration was the same as the result from the language now in the bill.

Mr. Dee Likes, Kansas Livestock Association, reported meeting with people in Washington who are "pretty sure" that a Federal Land Bank effective rate of interest can be furnished, and that Land Bank officials and Treasury officials were meeting for further discussions later this month. Chairman Powell commented that the Committee would take another look at the capitalization rate language when more information becomes available.

Change of Use and Rollback Provisions

Staff presented a memorandum summarizing provisions in several states with deferred taxation laws relating to requirements for notifying the appraiser of any change in use, rebuttable presumptions of change of use, and penalties for failure to give notice of a change in use; plus additional information from Montana where the Attorney General has ruled that the mere filing of a subdivision plat does not constitute a change of use.

Staff also provided further generalized illustrations of the operation of the House and Senate bill rollback provisions under hypothetical situations; a reproduction of several pages from a 1976 Montana study, including an illustration of the application of the four-year rollback in that state; and a reproduction of a page from a study by the International Association of Assessment Officers, including an example of the application of an assumed five-year rollback in a hypothetical situation. Both the Montana and IAAO Studies concluded that the usual rollback tax provisions are relatively ineffective as land use control measures.

One of the questions raised by the information from Montana is when the lien of rollback tax liability attaches and the possible need for an express provision thereon. Differences of opinion were expressed as to whether filing of a plat should be declared to constitute a change of use. It was noted that the requirement in Utah that application for use value appraisal be filed each year and recorded has been described as constituting a form of "buyer beware" notice of a potential rollback tax liability. It was suggested that provision could be made in the proposed Kansas law for including on the tax statement a notice of potential rollback tax liability for land being appraised on the basis of its use value.

While it seemed to be agreed that in the normal course of events any rollback tax liability would be passed on to the purchaser, some difference of opinion was expressed as to whether this pass on should be clearly noted or allowed as a "hidden tax" not appearing on the closing statement.

With regard to computation of the rollback tax, the House provision now in the bill (difference in tax liability based on applicable mill rates for up to three years prior to the change in use) was described as a true rollback tax (and one localized as to counties by use of the local mill rate), and the Senate version (8 percent of the difference between market and use value at the time of the change in use regardless of the length of time the land had been under use value appraisal) as a penalty. In this connection it was mentioned that one possible approach suggested in the IAAO study would be use of a graduated tax on the difference in values starting at 1 percent the first year and increasing 1 percent a year up to some maximum such as 10 percent.

One advantage claimed for the Senate approach was that it eliminates the need to go back and recalculate market value for prior years. On the other hand, a question was raised as to whether the Senate approach would be permissible under the language of the constitutional amendment. It was suggested that a penalty greater than the actual difference (as could occur in earlier years of use value appraisal) might be held invalid under the language of the amendment.

In connection with discussion of the rollback language in Section 4, Senator Simpson expressed reservations about the reference to valuations determined pursuant to K.S.A. 79-503, preferring "fair market value" alone as used in other laws. On the other side, it was pointed out that if a change in use occurred without a sale the provisions of 79-503 would be used to determine market value.

As to distribution of the rollback tax, Senator Pomeroy suggested distribution in proportion to amounts levied in each of the rollback years rather than only the one preceding year. Staff raised an additional question as to whether a further provision as to distribution among funds should be included. In discussion of the latter point, some of the options mentioned were as follows: (1) leave the language as it now is; (2) specify distribution to the general fund; (3) provide for distribution to any tax levy fund of general application (as in the LAVTR Fund); (4) require distribution to individual funds.

Related Areas

Staff reviewed a memorandum on various areas in which use value appraisal might have an impact, the first being school finance. "District wealth," an important factor in determining local effort and general state aid, is based partly on assessed valuation adjusted to 30 percent. Since such wealth is averaged over four years, any impact from use value would be phased in over such a period. If use value assessments result in state aid entitlements that are not acceptable the local effort rate (LER) could be adjusted. Some of the ramifications of such an adjustment in terms of its varying impact on individual school districts were pointed out.

Other state aids in which assessed valuation is one factor in the distribution formula are the local ad valorem tax reduction fund and the local share of liquor enforcement tax revenues.

Millage rates set or limited by statute that would be affected by changes in assessed valuation include the state building fund levies (1.5 mills) and various county, township, school district, junior college and special district levies. A factoring formula (with a grandfather effect) was suggested as a possible method of preventing reductions in revenues from such levies.

As to the assessment/sales ratio study, several options, in addition to doing nothing, were suggested, including: (1) use of actual agricultural land valuations for computing district wealth (as is the case now with personal and state-assessed properties); (2) determine an appraisal ratio for agricultural lands; (3) change to an appraisal ratio study in lieu of the sales ratio study for all locally assessed properties; or (4) repeal the sales ratio law.

Questions about the role of the county commissioners in the valuation and equalization processes suggested this as another area for further discussion at the next meeting, along with those previously mentioned.

Future Meeting Plans

After review of areas in which further information has been requested and the dates when results of all or parts of the various studies are expected to be available, it was decided to request LCC authority for two two-day meetings on August 15-16 and September 26-27, with the understanding that the Chairman, after conferring with the staff, would decide whether one or two days would be needed for the August meeting at which discussions of the various problem areas will be continued. (The main business at the September meeting will be review of the results of the Cloud County and DPV studies and the county portion of the KSU Impact Study.)

Prepared by Roy H. Johnson

Approved by Committee on:

Date

SUMMARY OF ESTIMATED LAND VALUES

County _____

ESTIMATED VALUES BY LAND CLASS

Dryland Land Classes	Estimated Use Value	Present Appraised Value	% Change	Estimated Market Value	% Change
Class I					
Class II					
Class III					
Class IV					
Irrigated Land Classes					
Class I					
Class II					
Class III					
Class IV					
Rangeland Land Classes					
Class V					
Class VI					
Class VIe - VIs					
Class VII					

TOTAL ESTIMATED VALUES OF AREA 1

No. of Acres	Estimated Use Value	Present Appraised Value	% Change	Estimated Market Value	% Change

TOTAL ESTIMATED VALUES OF AREA 2

No. of Acres	Estimated Use Value	Present Appraised Value	% Change	Estimated Market Value	% Change

TOTAL ESTIMATED VALUES OF AREA 3

No. of Acres	Estimated Use Value	Present Appraised Value	% Change	Estimated Market Value	% Change

TOTAL ESTIMATED VALUES OF COMBINED AREAS

No. of Acres	Estimated Use Value	Present Appraised Value	% Change	Estimated Market Value	% Change