

PROPERTY TAX EXEMPTIONS COMMITTEE

Study Assignment

A study of the property tax exemptions provided to nonprofit organizations and the criteria required to receive such property tax exemptions, including a study of budget limitations and optioning out of those limitations.

Summary of Interim

During the first meeting on June 10, Mr. Paul Kinsman, Director of the Division of Property and Special Taxes, provided an overview of property tax exemptions by outlining various provisions in statute. Mr. David Wiest from the Attorney General's office provided a synopsis of several Supreme Court cases concerning tax exempt property. The committee also heard from Mr. Dick Howard, Executive Director of the Association of County Commissioners, and several other county officials on the administration of tax exempt property and the burden placed on the local governments. The Department of Revenue also addressed property tax limitations and the opt out procedure.

The interim committee held its second meeting on September 15 and 16. On the first day, the committee was divided into three subcommittees. The subcommittees met in Aberdeen, Rapid City, and Sioux Falls for the purpose of making site visits to tax exempt and taxable properties and to provide local officials an opportunity to give testimony on tax exempt property and budget limitations. Each subcommittee visited five to ten properties and received testimony from local officials and individuals.

On the second day, the full committee met in Pierre and heard reports from each subcommittee. Mr. Marty Guindon, the Auditor General from Legislative Audit, provided charts and information concerning the governmental funds revenue summary for the state, counties, municipalities, schools, and townships. Mr. Michael Kenyon, the Director of the Division of Property and Special Taxes, discussed opt outs, tax limitations, and property tax exemptions. The committee heard testimony requesting that the Legislature level the playing field and that the rules not be changed for nonprofits because many nonprofits have made substantial infrastructure investments based on the existing statutes. The committee also received additional information distinguishing the differences between assisted living facilities and congregate housing. They also heard testimony from county officials outlining the financial issues facing several counties concerning budget limitations and cash flow issues.

During the final meeting on October 15, Mr. Chris Nelson, Secretary of State, explained to the committee that statute defines a nonprofit corporation as a nonprofit corporation subject to the provisions of chapters 47-22 to 47-28, inclusive, except a foreign corporation. Mr. Nelson said that there is no language

in these chapters requiring a corporation to have an IRS classification as an exempt organization pursuant to 501(c). There are 1,446 nonprofit churches in the state and approximately 6,600 other nonprofit corporations. He said that the Office of the Secretary of State primarily acts as a filing agency in regard to nonprofits.

Mr. Stan Wiatros, an Internal Revenue Agent, visited with the committee about 501(c) corporations. Mr. Wiatros explained the application process in order for corporations to receive 501(c) nonprofit status. Applications must be submitted within fifteen months from the day of the inception of the corporation; however, extensions may be granted. He said that there is information available on these nonprofit corporations on the Internet at www.guidestar.org.

Mr. Mike Vogel, Department of Social Services (DSS), gave an overview on how persons residing in assisted living and nursing home facilities may qualify for Medicaid assistance. Assisted living facilities provide an alternative to nursing homes, which saves money for both the family and the taxpayer. Mr. Vogel listed the following as the Medicaid eligibility requirements for an individual staying in an assisted living facility:

- Person must be at least sixty-five years of age or disabled;
- Person must have medical needs that require a certain level of care to be provided;
- Person must be a resident of South Dakota and a citizen of the United States;
- Person's monthly income limit is \$1,656, which is 300 percent of the Social Security Standard Benefit Amount; and
- Person's resource limit is \$2,000, which includes savings and checking accounts and certificates of deposit.

The committee reviewed ten legislative proposals and approved four. The committee reviewed draft legislation revising the definition of congregate housing for property tax exemptions, reporting requirements for nonprofit organizations, budget limitations, and tax incremental financing districts.

Listing of Legislation Adopted

1. An Act to revise the criteria for congregate housing to be exempt from property taxation.

This legislation sets the definition and exemption for congregate housing in a separate section. It also provides additional thresholds for congregate housing facilities to meet for a property tax exemption. Existing facilities were grandfathered in under the current threshold qualifications.

2. An Act to revise the reporting requirements for domestic nonprofit corporations.

This legislation deletes certain financial data from the annual reports. The financial data that is currently reported is not provided in a useful format.

3. An Act to revise the time frame for measuring the unobligated general fund balance of each county.

This legislation changes the dates for measuring the unobligated general fund balance for counties from December 31 to March 31 and September 30.

4. An Act to limit tax increment financing to the governing body approving the formation of the tax incremental district.

The legislation changes the amount of tax levying capacity that may be used to leverage the bonds for the TIF district. Only the entity that actually approves the formation of the district may commit these resources.

Summary of Meeting Date & Places and Listing of Committee Members

The committee met on June 10, September 15 and 16, and October 15. The committee meetings were located in Pierre, and the subcommittee meetings were held in Aberdeen, Rapid City, and Sioux Falls.

Committee members were: Representative Hal Wick, Chair; Senator Marguerite Kleven, Vice Chair; Senators Kenneth Albers, Patricia de Hueck, Tom Dempster, H. Paul Dennert, Dave Knudson, Michael LaPointe, and Paul Symens; and Representatives Daryl Christensen, Joni Cutler, Justin Davis, Tom Hackl, Gary Hanson, Dale Hargens, Jim Hundstad, Al Koistinen, Alice McCoy, Keri Weems.

Staff members were: Fred Baatz, Principal Research Analyst; Aaron Olson, Fiscal Analyst; and Teresa Retrum, Senior Legislative Secretary.