



Property Taxation

Introduction

Previously, an interim study request was proposed to evaluate how property taxes are apportioned to local political subdivisions and how other local governmental revenues are distributed. While the state does not apportion the property tax revenue between the local political subdivisions, it does place limitations on how property tax revenue may be increased from one year to the next. The state does monitor the taxing districts to ensure that the taxing districts comply with the property tax limitations and provisions established in SDCL chapter 10-13. These provisions do not apply to property taxes levied by school districts.

Scope of Memorandum

There are general purpose political subdivisions and special purpose political subdivisions with authority to levy property taxes, but this paper is primarily focused on counties and municipalities. Townships, which are primarily tasked to provide local transportation infrastructure and fire protection, are only briefly discussed. School districts, which have a general fund tax levy set by the Legislature and have certain flexibility in the special purpose property tax levies such as capital outlay tax and pension tax, are also only discussed briefly. The special purpose districts which have limited property taxing authority and annual property tax revenue are not discussed.

Assessment of real property and the collection of property taxes are administered by the counties on behalf of the state and the other political subdivisions, herein after referred to as taxing districts. Beginning with property taxes payable in 2011, this revenue source for all local governments annually exceeds over one billion dollars annually. The counties distribute the revenue to each taxing district based on its property tax levy request, not a formula prescribed by the state. Prior to 1997,

each governing board set the property tax levy, not to exceed the maximum levy set by statute, without any substantive state oversight (the maximum property tax levies are shown in Appendix A).

History of Property Tax Reduction Program

In 1995, Governor Janklow's Property Tax Reduction Program was enacted by the Legislature to address state-aid-to-education and the local property tax burden. Previous to the adoption of this program, the local property tax burden was the subject of failed constitutional amendments in 1980, 1988, and 1990 as well as a failed initiated measure in 1994. While the state-aid-to-education has been tweaked and modified since 1995 concerning school district funding, not much has changed concerning the property tax budget limitation provisions applied to the other taxing districts. These budget limitation provisions, which were first applied to property taxes paid in 1997, specifically limit property taxes levied by the taxing districts for the annual budget. The program provided immediate relief for property taxes through a 20% property tax credit program for agricultural property and owner-occupied single-family dwellings.

Property taxpayers realized certain long-term property tax benefits from the controls and limitations on property taxes placed on the taxing districts. Based on historical growth, total property taxes on a statewide basis would be about \$1.7 billion for taxes payable in 2014 if that trend had continued, but the actual property taxes levied were about \$1.1 billion in 2014.

Property taxes, pursuant to § 10-13-35, for each taxing district are limited to an annual increase by an index factor, which is the rate of inflation or 3%, whichever amount is less. The average increase

index factor as defined in § 10-13-38 since 1997 has been about 2.35% per year. A taxing district may also increase the revenue payable from taxes

on real property using the growth factor. Since its inception, the index factor has been ranged from 0.0% to 3.0% as shown in the following table:

Index Factor (Rate of Inflation)				
Taxes Payable	CPI (%)		Taxes Payable	CPI (%)
1997	2.90		2007	3.00
1998	2.90		2008	3.00
1999	2.30		2009	2.90
2000	1.57		2010	3.00
2001	2.20		2011	0.00
2002	3.00		2012	2.10
2003	2.80		2013	3.00
2004	1.60		2014	2.10
2005	2.20		2015	1.40
2006	2.60		Average	2.35

At the beginning of property tax reduction program some taxing districts were handicapped, as property tax levies were limited based on one set year whether it was the lowest it had been in a few years or at its highest point. Prior to the property tax reduction program being enacted, several taxing districts had been encouraged to expend their reserves in part due to the recent constitutional amendments and initiatives concerning property taxation. Some taxing districts had lowered the property tax levy in anticipation of expending such reserves. When the Property Tax Reduction Program was enacted, the law locked these taxing districts at the current levy.

Current property tax revenues for each taxing district are a function of what the taxes were in 1997 after annually applying the statewide index factor and the local growth factor for each taxing district plus any opt-out that may have been adopted.

The growth factor reflects the percentage increase of value resulting from any improvements or change in use of real property, annexation, minor

boundary changes, and any adjustments in taxation of certain property separately classified. If not for this growth factor variable, the opportunity to increase property tax revenue from one year to the next would be equivalent for each taxing district.

Provisions were also made to allow taxing districts to opt-out of the property tax limitation for a set amount of dollars. The first few years the opt-out provision was in place there was no restriction on how long the opt-out may be applied by each taxing district. Beginning on July 1, 2002, the governing body of the taxing district was required to specify in the resolution the year or number of years the excess tax levy would be applied. The governing body is required to give notice to the public that an opt-out is being considered and a two-thirds vote by the governing board in favor of adopting the opt-out is required. The opt-out decision may be referred to a vote by the governing body of the taxing district or by a petition signed by 5% of the registered voters in the taxing district. The table on the next page shows the number of opt-outs passed and failed.

Opt-Outs by All Governmental Units:						
	Opt Outs passed by local entity	Went into effect without election	Passed at election	Failed at Election	\$\$ Amount of Opt-outs Wanted	\$\$ Amount allowed to go into effect
1996 pay 1997	80	72	5	3	\$2,527,582	\$1,842,582
1997 pay 1998	173	163	3	7	\$3,887,450	\$1,833,461
1998 pay 1999	52	50	0	2	\$1,733,456	\$1,039,699
1999 pay 2000	46	43	1	2	\$1,358,878	\$1,007,519
2000 pay 2001	31	26	2	3	\$3,007,587	\$2,053,587
2001 pay 2002	116	103	9	4	\$8,514,306	\$6,514,306
2002 pay 2003	66	36	14	16	\$24,341,076	\$9,206,076
2003 pay 2004	39	23	8	8	\$6,063,924	\$2,843,491
2004 pay 2005	41	18	14	9	\$5,462,605	\$3,287,605
2005 pay 2006	41	24	10	7	\$6,415,900	\$4,605,900
2006 pay 2007	69	52	7	10	\$11,229,346	\$8,810,346
2007 pay 2008	51	46	4	1	\$3,172,215	\$2,547,215
2008 pay 2009	57	50	4	3	\$5,868,362	\$5,028,362
2009 pay 2010	65	57	5	3	\$5,867,260	\$3,967,260
2010 pay 2011	121	110	8	3	\$15,679,299	\$13,479,299
2011 pay 2012	109	94	11	4	\$22,624,097	\$16,694,097
2012 pay 2013	80	71	11	4	\$11,782,226	\$9,092,226
2013 pay 2014	60	52	6	2	\$4,847,598	\$4,507,598
2014 pay 2015	93	84	5	4	\$7,027,899	\$6,377,899

Dependency on Property Taxes

Some types of taxing districts are much more dependent on property taxes than others. For example, municipalities on a statewide basis receive approximately 23% of their revenue from property taxation while counties receive 58% of their revenue from property taxation. School

districts and townships receive 47% and 49%, respectively, from property taxation.

Municipalities are much less reliant on property taxes as they have the authority to levy a 2% general sales and use tax and 1% municipal gross receipts tax, which tax is sometimes referred to as the bed, board, and booze tax. Two hundred

forty-eight municipalities out of three hundred nine municipalities have imposed one or both of these taxes. Municipal sales tax revenue comprises approximately 51% of municipal revenue. In FY 2014, the municipal sales tax revenue was approximately \$330 million, far exceeding the municipal property tax revenue of \$150 million during that same time period. Please keep in mind that the municipal revenue from enterprise funds is not included in this analysis. Enterprise funds include utilities, alcoholic beverages, telecommunications, etc. if operated by the municipality.

County budget revenue alternatives for property taxes are often reliant on the statutory provisions being adopted by the Legislature. Many fees which counties are able to charge for services are set in statute. In contrast municipalities have essentially no limitations on the fees they may charge for services. Counties do receive 19% of their annual budget from state revenue: including such revenue sources such as the bank franchise tax, motor vehicle registration fees, energy mineral severance tax, wireless telecommunications tax, etc. Municipalities only receive four percent of their budget from state revenue including revenue from the occupational tax on alcoholic beverages and motor vehicle registration fees. The municipal sales and use tax and the county wheel tax are not considered state revenue, as each tax is imposed by the taxing district.

County Services and Property Taxes

Counties basically act as agents for state government as they provide many services required by the state that are more effectively delivered in these satellite offices. These services include, administering and managing voter registration and elections, providing law enforcement, operating a court system, paying for indigent care, filing of deeds and certain official documents, collecting motor vehicle excise taxes and registration fees, assessing property and collecting property taxes on behalf of the taxing districts within the county, and managing the local road and bridge infrastructure.

Counties are the government unit most dependent on property taxes and legislative provisions limit their authority to adjust revenue from one year to the next. Many counties are concerned with the rising costs of law enforcement, courts, and jails, given the constraints on revenue growth. The Department of Legislative Audit reported to the 2015 interim committee on County Government that approximately 80% of expenditures are statutory required. The remaining 20% primarily includes statutory authorized expenditures, debt service, and capital outlay.

However, each county is unique and the characteristics that determine the tax base and demand for services vary. For instance, the property tax levy between counties, Bennett County levied a property tax for its purposes at \$10.73 per thousand and Hand County levies a tax of \$1.98 for taxes payable in 2014. Both are rural counties and are required by law to provide similar services, but it is not uncommon to find tax levies that vary substantially between counties.

An evaluation of property taxes over a period of time is further influenced by changes in the total property valuation due to the market or productivity method used to value property. These changes do not provide a tax increase in the property tax revenue for counties or other taxing districts; rather it allows the tax levies to be lowered. There may also be shifts of property taxation from one classification to another or one property to another depending how assessments from one classification to another or one property have moved. The productivity system has substantially increased agricultural land values in some counties, thereby allowing the property tax levy to be lowered for all classes of property. Case in point, the property tax levy in Spink County has decreased from \$4.85 per thousand for the 1997 taxes payable to \$2.09 per thousand for taxes payable in 2014. Agricultural land composes a significant percentage of value in Spink County. Meanwhile in Custer County the property tax levy was \$4.84 per thousand for taxes payable in 1997 and \$4.54 per thousand for taxes payable in 2014. Agricultural land is a fraction of the real property value in Custer County.

There are some interesting cases which have occurred over a period of time, for example, Minnehaha County and Sioux Falls property tax revenues. When the property tax reduction program was enacted in 1995 and first applied with property taxes payable in 1997, Minnehaha County received more revenue from property taxes than Sioux Falls. Now Sioux Falls receives significantly more revenue from property tax dollars today compared to Minnehaha County. This shift has occurred for a couple of reasons. A significant portion of development in Sioux Falls has occurred in Lincoln County. In 1997 about 5% of Sioux Falls property was located in Lincoln County; in 2011 it was about 20%. In addition, much of the growth that has occurred in Minnehaha County is concentrated in the incorporated limits of Sioux Falls. Therefore, the additional authority to levy taxes due to the growth factor has permitted the property tax dollars for Sioux Falls to grow much more than it has for Minnehaha County.

Alternatives for More County Revenues

If it is determined to provide more resources for counties and other local governments there are several alternatives. One alternative may be revising how the index factor is applied for the property tax limitation program. Four out of the last 19 years the index factor has been less than 2% and it was zero in 2011. Five out of the last 19 years it was at the maximum of 3%. Another alternative passed during the 2003 legislative session, for example, was HB 1242 which for a very limited circumstance allowed the county property tax revenue base to be reset if certain limited criteria were met.

The Legislature has also considered legislation involving new sources of revenue or redistribution of existing revenue in areas such as the wireless telecommunications tax, wind energy tax, and alcoholic beverage tax. The Legislature has also heard legislation amending the fee schedules set

by statute and has passed certain fee revisions concerning sheriffs in 2007 and register of deeds in 2013. If there are proposed changes to the existing revenue distribution formulas there will be winners and losers, which may make passage of legislation more difficult. Enacting new revenue sources is not an easy task, nor is the enhancement of current revenue sources.

Other possibilities include repealing or reassigning certain duties assigned to counties. The counties work closely with several constitutional officers and departments in the services provided to the public relating to many areas including elections, recording documents, law enforcement, court services, tax and fee collections, etc. However, the question is what services should no longer be provided or how to pay for the administration of any reassigned duties.

Conclusion

The county tax base predominantly consists of property taxes and fees set by statute, while the municipal tax base predominantly consists of sales and use taxes. School districts and townships also rely heavily on property tax revenue. A table is provided in Appendix B outlining the total property taxes levied by each unit of local government.

Statistics can communicate a story and there are numerous statistics available regarding taxes and fees for local governments. How the statistics are studied, analyzed, and reported could support various positions. This becomes even more difficult when considering whether these statistics should be examined on a statewide basis, urban vs. rural, regionally, or case by case.

There are number of financial concerns expressed by local government from counties to schools to municipalities to townships. Although some of the problems may have evolved over time, there are no simple solutions.

This issue memorandum was written by Fred Baatz, Principal Research Analyst on 11/16/2015 for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.

Appendix A – Local Government Tax Levies

LEVY LIMITS AND CODE SITES

COUNTIES

General	SDCL 10-12-21	limit of \$12.00/thousand
(Purpose of general levy 10-12-9 and 10-12-9.2)		

County Levies in addition to the \$12.00/thousand limit:

Snow Removal & Special Emergency Fund	SDCL 34-5-2	limit of \$1.20/thousand
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Courthouse Bldg.	SDCL 7-25-1	limit of \$0.90/thousand
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Ag. Bldg.	SDCL 7-27-1	limit of \$0.30/thousand
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Hospital Bldg.	SDCL 34-8-5	limit of \$0.60/thousand
Hospital Oper. & Maint.	SDCL 34-8-19	MUST BE INCLUDED IN COUNTY GENERAL

Bond Redemption	SDCL 7-24-18	amount required
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County Road & Bridge	SDCL 10-12-13	limit of \$1.20/thousand
(Limit dependent on total taxable valuation)		\$.90/thousand
		\$.60/thousand

Secondary Road	SDCL 31-12-27	unlimited
(Levy applied only to unorganized portion of county and not within a road district)		

Fire Fighting	SDCL 34-31-3	limit of \$0.60/thousand
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Railroad Authority	SDCL 49-17A-22, 23	limit of \$2.40/thousand
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Airport Authority	SDCL 50-6A-24, 25	limit of \$2.40/thousand
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OTHER TAXING DISTRICTS

Ambulance Districts	SDCL 34-11A-20	limit of \$0.60/thousand
Capital Outlay	SDCL 34-11A-32	limit of \$0.50/thousand

Rural Fire Protection Districts		
Capital Outlay	SDCL 34-31A-22	limit of \$0.60/thousand
Maintenance	SDCL 34-31A-21	limit of \$1.00/thousand
(See also AG Opinion 82-57)		

Water Development Districts	SDCL 46A-3E-1 SDCL 46A-3E-9	limit of \$0.30/thousand contracting authority
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Water Project Districts	SDCL 46A-18-32	limit of \$1.00/thousand
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Watershed Districts	SDCL 46A-14-60	limit of \$1.00/thousand
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Sanitary Districts	SDCL 34A-5-26 (same as Municipal)	limit of \$27.00/thousand
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Appendix A – Local Government Tax Levies

SCHOOLS

General	SDCL 10-12-42	limit of \$1.568 / thous. on AG limit of \$4.075 / thous. on O-O limit of \$8.727 / thous. on Other
Bond Redemption	SDCL 13-16-10	sufficient to pay principal and interest
Capital Outlay	SDCL 13-16-7	limit of \$3.00/thousand
Liabilities (Adj)	SDCL 13-6-81	limit of \$6.00/thousand
Pension	SDCL 13-10-6	limit of \$0.30/thousand
Special Ed	SDCL 13-37-16	limit of \$1.409/thousand

MUNICIPALITIES

General	SDCL 10-12-32	limit of \$27.00/thousand
Bonded Indebt	SDCL 10-12-35	sufficient to pay principal and interest
Regional Airport Authority	50-6A-24, 25	limit of \$2.40/thousand

TOWNSHIPS

General	SDCL 10-12-28	limit of \$3.00/thousand
<i>Township Levies in addition to <u>the \$3.00/thousand limit</u></i>		
Fire	SDCL 10-12-28.1	limit of \$1.20/thousand
Snow Removal	SDCL 31-13-22	limit of \$0.60/thousand

OTHER

Business Improvement Districts	SDCL 9-55-13, 14, 15	Special Assessments
Community Improvement Districts	SDCL 7-25A-30	limit of \$10.00/thousand

Appendix B – Property Taxes Payable for Each Local Government

<i>For Taxes Payable In</i>	<i>County</i>	<i>% Of Total</i>	<i>Municipality</i>	<i>% Of Total</i>	<i>School District</i>	<i>% Of Total</i>	<i>Township</i>	<i>% Of Total</i>	<i>Special Assessments</i>	<i>% Of Total</i>	<i>TOTAL</i>
1997	132,306,002	24%	63,030,246	11%	341,703,332	62%	8,935,430	2%	6,597,665	1%	552,572,675
1998	138,413,304	24%	66,159,294	11%	359,703,612	62%	10,102,257	2%	7,378,706	1%	581,757,172
1999	142,493,545	24%	69,357,020	12%	361,591,363	61%	10,196,165	2%	8,011,655	1%	591,649,748
2000	147,698,195	24%	72,234,893	12%	384,503,303	62%	10,269,391	2%	8,165,304	1%	622,871,087
2001	154,771,962	26%	76,628,850	13%	356,034,460	59%	10,522,342	2%	8,783,550	1%	606,741,163
2002	165,080,172	25%	81,296,731	12%	400,493,843	60%	11,508,383	2%	8,774,866	1%	667,153,996
2003	172,099,579	25%	87,349,216	13%	417,257,623	60%	11,735,923	2%	10,279,053	1%	698,721,394
2004	182,029,759	25%	92,005,243	13%	430,465,020	59%	11,827,439	2%	8,835,378	1%	725,162,838
2005	190,946,759	25%	96,379,649	13%	447,203,111	59%	12,066,658	2%	10,120,766	1%	756,716,943
2006	201,763,441	25%	102,625,076	13%	475,005,462	59%	12,326,339	2%	11,422,093	1%	803,142,410
2007	215,590,027	25%	109,964,079	13%	495,863,786	58%	12,798,789	2%	13,675,583	2%	847,892,264
2008	231,487,473	26%	116,772,552	13%	506,618,292	57%	13,487,087	2%	15,057,152	2%	883,422,556
2009	248,284,680	27%	124,481,492	13%	529,246,426	57%	14,170,891	2%	17,091,242	2%	933,274,722
2010	267,475,363	27%	131,066,116	13%	546,181,894	56%	14,734,342	2%	18,467,990	2%	977,925,706
2011	268,440,562	27%	133,749,586	13%	560,022,922	56%	16,462,026	2%	24,485,447	2%	1,003,160,542
2012	281,180,299	27%	139,272,206	14%	574,213,937	56%	18,047,044	2%	18,819,753	2%	1,031,533,239
2013	296,987,309	28%	145,762,092	14%	589,839,803	55%	18,999,061	2%	19,768,706	2%	1,071,356,971
2014	301,699,432	27%	149,893,710	13%	635,031,575	56%	18,578,477	2%	19,323,088	2%	1,124,526,282