

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

400S0168

## SENATE TAXATION ENGROSSED NO. **HB 1029** 2/7/2011

Introduced by: The Committee on Taxation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the taxation of  
2 telecommunications companies.

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

4 Section 1. That § 10-33-1 be amended to read as follows:

5 10-33-1. On April fifteenth of each year, each telephone company ~~in this state~~ subject to the  
6 tax imposed by § 10-33-21 shall file with the secretary of revenue and regulation on forms  
7 prescribed by ~~him~~ the secretary a report of its gross receipts derived from the furnishing of ~~such~~  
8 the telephone and exchange service, rental and toll service, during the preceding calendar year.  
9 ~~Such~~ The report shall set forth ~~the miles of line, the number of main stations,~~ the total gross  
10 receipts of ~~such~~ the company in the State of South Dakota, together with the gross receipts ~~from~~  
11 ~~each county in which such company operates, and shall further contain the total gross receipts~~  
12 ~~received by such company within each school district in each county in which such~~ the company  
13 operates, ~~and each.~~ Each company shall furnish such other further information as the secretary  
14 shall from time to time require. ~~Such~~ The report shall be sworn to and verified by an officer of



1 the company.

2 Section 2. That § 10-33-3 be repealed.

3 ~~10-33-3. Each company as herein defined, shall keep on file with the county auditor of each~~  
4 ~~county through or into which its line or lines run, a map or blueprints showing correctly the~~  
5 ~~location of its line or lines in such county and in each government subdivision thereof.~~

6 Section 3. That § 10-33-4 be amended to read as follows:

7 10-33-4. ~~It shall be the duty of the~~ The president, secretary, general manager, or  
8 superintendent of ~~every~~ each telephone company ~~doing business in this state, to not subject to~~  
9 the tax imposed by § 10-33-21 shall furnish to the Department of Revenue and Regulation on  
10 or before April fifteenth, each year, a report under oath, on the forms furnished and according  
11 to the instructions issued by the ~~Department of Revenue and Regulation~~ department, with  
12 reference to the property owned, leased, or controlled on December thirty-first of the preceding  
13 calendar year.

14 Section 4. That § 10-33-10 be amended to read as follows:

15 10-33-10. All property, real and personal, which is actually and necessarily used in  
16 providing telephone and exchange service comprising rental and toll service by means of wired  
17 circuits and otherwise in this state, and which belongs to any telephone company in this state  
18 which is not subject to the ~~provisions of §§ 10-33-21 and 10-33-22~~ tax imposed by § 10-33-21  
19 shall be assessed for the purpose of taxation by the Department of Revenue and Regulation, and  
20 not otherwise.

21 Section 5. That § 10-33-11 be amended to read as follows:

22 10-33-11. The Department of Revenue and Regulation shall assess the property of all  
23 telephone companies not subject to the tax imposed by § 10-33-21 on the fifth day of July of  
24 each year. In making the assessment, the department shall consider all the reports, facts,

1 information filed, with any other information obtainable, concerning the value of the property  
2 of all telephone companies and may add any property omitted from the return of the companies.  
3 In making the assessment, which shall be with reference to value and ownership on January first  
4 of the year for which the assessment is made, the department shall take into consideration,  
5 among other things, the amount of gross earnings and net incomes, and the value to each  
6 telephone company of its franchises, rights, and privileges, granted under the laws of this state  
7 to do business in this state. ~~In making the assessment the department shall fix a value on all the~~  
8 ~~property of each company which is situated within the limits of any city or incorporated town,~~  
9 ~~and any and all exchanges maintained by the company.~~

10 Section 6. That § 10-33-14 be amended to read as follows:

11 10-33-14. For the purpose of aiding the Department of Revenue and Regulation in ~~making~~  
12 ~~an assessment of the property of telephone companies, it is hereby made the duty of the Public~~  
13 ~~Utilities Commission to collect information and facts concerning the value of property of each~~  
14 ~~telephone company in this state, including the value of the franchises, if any, and to make an~~  
15 ~~estimate of the value thereof, and to make and file with the Department of Revenue and~~  
16 ~~Regulation, on or before the first day of June of each year, a written and detailed report of such~~  
17 ~~facts, information, and estimate, and for the purpose of securing facts and information such~~  
18 ~~commission is authorized to inspect the books, records, and property of such companies, and~~  
19 ~~employ an expert when deemed necessary, whose compensation shall first be fixed by such~~  
20 ~~public utilities commission. Failure to furnish such report, however, shall in no manner~~  
21 ~~invalidate the assessment or tax~~ implementing the taxes imposed by this chapter, the Public  
22 Utilities Commission shall provide any information requested by the secretary and deemed  
23 necessary by the secretary to ensure uniform and fair taxation.

24 Section 7. That § 10-33-14.1 be amended to read as follows:

1        10-33-14.1. For the purpose of determining the fair market value of the property of any  
2 telephone company not subject to the tax imposed by § 10-33-21, the Department of Revenue  
3 and Regulation shall take into consideration the cost approach, the market approach, and the  
4 income approach to appraisal. In the market approach, the department shall consider the actual  
5 or market value of the shares of stock outstanding, the actual or market value of all bonds  
6 outstanding, and all other indebtedness as may be applicable for operating the company. In the  
7 income approach, the department may consider the company's growth rate and the rate of  
8 inflation in determining the capitalization rate. The ~~Department of Revenue and Regulation~~  
9 department may take into consideration any other information or data of any kind or nature  
10 which the department may deem material in arriving at the fair market value of the property.

11        Section 8. That § 10-33-15 be amended to read as follows:

12        10-33-15. After the assessment is made on each company not subject to the tax imposed by  
13 § 10-33-21, the Department of Revenue and Regulation shall give notice by mail to the officers  
14 of each telephone company making return to the ~~Department of Revenue and Regulation~~  
15 department, setting out the assessment and fixing a date at least ten days in advance when the  
16 representatives of any telephone company, so desiring, may appear before the secretary of  
17 revenue and regulation and be heard in all matters relating to the correctness of the assessment  
18 of the property of the company. The secretary of revenue and regulation may promulgate rules  
19 pursuant to chapter 1-26 concerning the conduct of the hearings.

20        Section 9. That § 10-33-16 be amended to read as follows:

21        10-33-16. After ~~such~~ the date of hearing, and on or before the fourth Monday of August, the  
22 Department of Revenue and Regulation shall finally equalize the ~~assessments~~ assessment of  
23 each company not subject to the tax imposed by § 10-33-21 and notify each company ~~thereof~~  
24 by mail.

1       The ~~Department of Revenue and Regulation~~ department shall certify the value finally  
2 determined to the county auditor of each county in which the company assessed owns property.

3       Section 10. That § 10-33-19 be amended to read as follows:

4       10-33-19. All laws relating to the enforcement of the payment of delinquent taxes ~~shall be~~  
5 are applicable to all taxes levied under the provisions of this chapter. Whenever any taxes levied  
6 under the provisions of this chapter shall become delinquent, the county treasurer having control  
7 of such delinquent taxes may proceed to collect the same in the same manner and with the same  
8 right and power as the sheriff under execution, except that no process shall be necessary to  
9 authorize him to sell any property belonging to any telephone company for the collection of such  
10 taxes each company not subject to the tax imposed by § 10-33-21.

11       Section 11. That § 10-33-21 be amended to read as follows:

12       10-33-21. ~~All persons, corporations, cooperatives, and associations~~ Each telephone company  
13 engaged in furnishing and providing telephone and exchange service comprising rental and toll  
14 service by means of wired circuits and otherwise ~~and whose annual gross receipts are less than~~  
15 ~~seventy-five million dollars~~ shall be taxed on the basis of gross receipts at the rate of four  
16 percent. This tax does not apply to any company that does not provide local exchange telephone  
17 service to patrons.

18       However, no telephone company operating in this state may be taxed less than an amount  
19 equal to fifty cents per year per telephone serviced.

20       Section 12. That § 10-33-23 be repealed.

21       ~~10-33-23. Sections 10-33-21 and 10-33-22 shall apply only to those persons, corporations,~~  
22 ~~cooperatives, and associations actually providing local exchange telephone service to patrons.~~