

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

400W0261

SENATE ENGROSSED NO. **HB 1050** - 03/03/2015

Introduced by: The Committee on Appropriations at the request of the Bureau of Finance and Management

1 FOR AN ACT ENTITLED, An Act to repeal certain funds, to make revisions to receipts
2 dedicated to the property tax reduction fund, and to create the general revenue replacement
3 fund.

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

5 Section 1. That § 10-45C-14 be repealed.

6 ~~—10-45C-14. There is hereby created in the state treasury the tax relief fund. The revenue~~
7 ~~collected pursuant to § 10-45C-15 shall be deposited in the tax relief fund for the purpose of~~
8 ~~reducing the rate of taxation or reducing property taxes. The fund shall be invested as provided~~
9 ~~by law, and the interest earned shall be credited to the fund. The Legislature may not appropriate~~
10 ~~any money from the tax relief fund until the second fiscal year after Congress approves~~
11 ~~legislation giving states the authority to require retailers to collect South Dakota's sales and use~~
12 ~~tax.~~

13 Section 2. That § 10-45C-15 be repealed.

14 ~~—10-45C-15. The additional net revenue received by the state from voluntary retail licensees~~
15 ~~shall be deposited in the tax relief fund created pursuant to § 10-45C-14. For the purposes of~~



1 ~~§ 10-45C-14 and this section, a voluntary retail licensee is any person licensed through the~~
2 ~~Streamlined Sales and Use Tax Agreement to remit sales and use tax pursuant to chapters 10-45~~
3 ~~and 10-46 who does not otherwise have a legal obligation to remit such taxes.~~

4 Section 3. That § 4-5-45 be repealed.

5 ~~— 4-5-45. There is hereby created in the state treasury the education enhancement tobacco tax~~
6 ~~fund. All moneys in the education enhancement tobacco tax fund are subject to appropriation~~
7 ~~by the Legislature through the General Appropriations Act or special appropriations acts for~~
8 ~~education enhancement programs. Any interest earned shall be credited to the fund.~~

9 Section 4. That § 4-5-46 be repealed.

10 ~~— 4-5-46. There is hereby created in the state treasury the health care tobacco tax fund. All~~
11 ~~moneys in the health care tobacco tax fund are subject to appropriation by the Legislature~~
12 ~~through the General Appropriations Act or special appropriations acts for health care related~~
13 ~~programs. Any interest earned shall be credited to the fund.~~

14 Section 5. That § 10-13-44 be repealed.

15 ~~— 10-13-44. The property tax reduction fund is hereby created in the state treasury. The~~
16 ~~Department of Revenue shall distribute any money appropriated to the fund. Effective January~~
17 ~~1, 1996, through December 31, 1996, the State of South Dakota may remit tax credit payments~~
18 ~~on a monthly basis for eligible property taxpayers on or about the last day of every month. Tax~~
19 ~~credit payments shall be sent to counties based upon information received from the counties~~
20 ~~pursuant to § 10-13-43. In fiscal year 1997 and each year thereafter, the commissioner of finance~~
21 ~~and management may transfer moneys available from the property tax reduction fund to the~~
22 ~~general fund necessary to provide property tax relief through state aid to education.~~

23 Section 6. That § 10-50-52 be amended to read as follows:

24 10-50-52. The first thirty million dollars in revenue collected annually pursuant to this

1 chapter shall be deposited in the general fund. ~~All revenue~~ The next five million dollars in
2 excess of thirty million dollars collected annually shall be deposited in the tobacco prevention
3 and reduction trust fund. ~~Five million dollars of the revenue deposited annually in the tobacco~~
4 ~~prevention and reduction trust fund pursuant to this section and~~ shall be used to implement the
5 tobacco prevention and reduction program. ~~Thirty-three percent of any revenue deposited in the~~
6 ~~tobacco prevention and reduction trust fund in excess of five million dollars shall be transferred~~
7 ~~to the property tax reduction fund. Thirty-three percent of any revenue deposited in the tobacco~~
8 ~~prevention and reduction trust fund in excess of five million dollars shall be transferred to the~~
9 ~~education enhancement tobacco tax fund. Thirty-four percent of any revenue deposited in the~~
10 ~~tobacco prevention and reduction trust fund in excess of five million dollars shall be transferred~~
11 ~~to the health care tobacco tax fund. All revenue collected pursuant to this chapter in excess of~~
12 thirty-five million dollars shall be deposited in the general fund.

13 Section 7. That § 42-7A-24 be amended to read as follows:

14 42-7A-24. Net proceeds from the sale of instant lottery tickets shall be transferred to the
15 state general fund on an annual basis after July first each year. The commission shall maximize
16 the net proceeds to the state from the sale of instant and on-line lottery tickets. In no event may
17 yearly lottery expenses for the sale of lottery tickets, excluding expenditures from retained
18 earnings, exceed the amount of combined net proceeds transferred to the state general fund and
19 the state capital construction fund. Net machine income from video lottery games shall be
20 directly deposited in the ~~state property tax reduction~~ general fund upon receipt. Net proceeds
21 are funds in the lottery operating fund which are not needed for the payment of prizes, lottery
22 expenses, and total retained earnings up to one and one-half million dollars cash deemed
23 necessary by the executive director and commission for replacement, maintenance, and upgrade
24 of business systems, product development, legal, and operating contingencies of the lottery.

1 In each fiscal year, the commission shall transfer the first one million four hundred thousand
2 dollars from the net proceeds from the sale of on-line lottery tickets collected pursuant to § 42-
3 7A-24 to the general fund. The commission shall then transfer an amount equal to the remaining
4 net proceeds from the sale of on-line lottery tickets collected pursuant to § 42-7A-24 to the state
5 capital construction fund created in § 5-27-1.

6 Section 8. That § 42-7A-63 be amended to read as follows:

7 42-7A-63. The commission shall maximize revenues to the state from video lottery. The
8 state's percentage of net machine income shall be fifty percent. The state's percentage of net
9 machine income shall be directly deposited to the ~~property tax reduction~~ general fund, except
10 for one-half of one percent of net machine income authorized for deposit into the video lottery
11 operating fund. ~~The effective date of this section is July 1, 1996.~~

12 Section 9. That § 10-35-22 be amended to read as follows:

13 10-35-22. Any company requiring transmission lines or wind farm collector systems or both
14 in South Dakota for a wind farm or a power generation facility as described in § 10-35-1.3, is
15 eligible for a partial rebate of the tax paid under § 10-35-19. The company shall apply for the
16 rebate on forms prescribed by the secretary. The total amount of tax rebated shall be no more
17 than fifty percent of the cost of the transmission lines and wind farm collector systems in South
18 Dakota.

19 The maximum rebate any company may receive in one year is ninety percent of the tax paid
20 under § 10-35-19 for the first five years and fifty percent of the tax paid under § 10-35-19 for
21 the next five years. The secretary shall determine when the wind farm is commercially
22 operational. No wind farm may receive a rebate under this section after this ten year period.

23 The secretary shall rebate the tax from the wind energy tax fund prior to the distribution of
24 any money as provided in § 10-35-21. The secretary may provide a tax credit, in lieu of full

1 payment of the gross receipts tax, of up to eighty percent of the transmission rebate value that
2 has been approved by the secretary. Any revenue in the wind energy tax fund after the rebates
3 are paid shall be deposited in the ~~property tax reduction~~ general fund.

4 Section 10. That § 10-33A-5.1 be amended to read as follows:

5 10-33A-5.1. The secretary shall deposit sixty percent of the revenue collected from the tax
6 imposed by this chapter into the ~~property tax reduction~~ general fund and forty percent of the
7 revenue collected from the tax imposed by this chapter into the county telecommunications
8 gross receipts fund. There is hereby created in the state treasury the county telecommunications
9 gross receipts fund.

10 Section 11. That chapter 4-7 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 There is hereby established within the state treasury the general revenue replacement fund.
13 The state treasurer shall transfer any funds remaining in the property tax reduction fund as of
14 June 30, 2015, to the general revenue replacement fund. In fiscal year 2016 and each year
15 thereafter, the commissioner of finance and management may transfer moneys available from
16 the general revenue replacement fund to the general fund necessary to balance the annual budget
17 due to an unforeseen revenue shortfall.

18 Section 12. That § 4-7-39 be amended to read as follows:

19 4-7-39. The commissioner of the Bureau of Finance and Management shall transfer any
20 unobligated cash remaining after the transfer into the budget reserve fund as required by § 4-7-
21 32 into the ~~property tax reduction~~ general revenue replacement fund if the amount in the
22 ~~property tax reduction~~ general revenue replacement fund does not exceed fifteen percent of the
23 general fund appropriations in the General Appropriations Act for the previous fiscal year.

24 Section 13. That § 4-7-42 be amended to read as follows:

1 4-7-42. Terms used in §§ 4-7-43 and 4-7-44 mean:

2 (1) "Collective BSDF cash balance," the total cash balance of the:

3 (a) Building South Dakota fund;

4 (b) Local infrastructure improvement grant fund;

5 (c) Economic development partnership fund;

6 (d) Workforce education fund;

7 (e) South Dakota housing opportunity fund; and

8 (f) Funds disbursed pursuant to the provisions of subdivision 1-16G-48(5);

9 (2) "Combined cash balance," the total cash balance of the:

10 (a) Budget reserve fund at the end of the prior fiscal year including any
11 outstanding balance on repayments due to the budget reserve fund pursuant to
12 a legislative act; and

13 (b) ~~Property tax reduction~~ General revenue replacement fund at the end of the
14 prior fiscal year.

15 Section 14. That § 4-7-43 be amended to read as follows:

16 4-7-43. Notwithstanding the provisions of §§ 4-7-32 and 4-7-39, on July first of each fiscal
17 year or at such time that the prior fiscal year general fund ending unobligated cash balance is
18 determined, the commissioner of the Bureau of Finance and Management shall transfer all prior
19 year unobligated cash as follows:

20 (1) If the combined cash balance is less than ten percent of the general fund
21 appropriations from the general appropriations act for the prior year, an amount of
22 unobligated cash shall be transferred to the budget reserve fund, so that the combined
23 cash balance equals ten percent of the general appropriations from the general
24 appropriations act for the prior year;

- 1 (2) If the combined cash balance is equal to or greater than ten percent of the general
2 fund appropriations from the general appropriations act for the prior year, or there is
3 additional unobligated cash after the provisions in subdivision (1) are satisfied, an
4 amount of unobligated cash shall be transferred to the building South Dakota fund,
5 so that the collective BSDF cash balance does not exceed one percent of the general
6 fund appropriations in the general appropriations act for the previous fiscal year; and
- 7 (3) If the collective BSDF cash balance exceeds one percent of the general fund
8 appropriations in the general appropriations act for the previous year, or if there is
9 additional unobligated cash remaining after the transfers in subdivisions (1) and (2),
10 the remaining unobligated cash shall be transferred to the budget reserve fund and
11 ~~property tax reduction~~ general revenue replacement fund pursuant to the provisions
12 of §§ 4-7-32 and 4-7-39.

13 Section 15. That § 4-7-44 be amended to read as follows:

14 4-7-44. If the collective BSDF cash balance is less than one half percent of the general fund
15 appropriations in the general appropriations act for the previous fiscal year, the commissioner
16 shall transfer an amount of money from the ~~property tax reduction~~ general revenue replacement
17 fund to the building South Dakota fund so that the total of the amount deposited pursuant to this
18 section and § 4-7-43 does not exceed one half percent of the general fund appropriations in the
19 general appropriations act for the previous fiscal year. However, the combined cash balance may
20 not be reduced to less than ten percent of the general fund appropriations from the general
21 appropriations act for the prior year by any transfer made to the building South Dakota fund
22 pursuant to this section.

23 Section 16. That § 13-13-72.1 be amended to read as follows:

24 13-13-72.1. Any adjustments in the levies specified in § 10-12-42 made pursuant to §§ 13-

1 13-71 and 13-13-72 shall be based on maintaining the relationship between statewide local
2 effort as a percentage of statewide local need in the fiscal year succeeding the fiscal year in
3 which the adjustment is made. However, for fiscal year 2013 and each year thereafter, if the
4 levies specified in § 10-12-42 are not adjusted to maintain this relationship, the per student
5 allocation as defined in § 13-13-10.1(4) shall be reduced to maintain the relationship between
6 statewide local effort as a percentage of statewide local need. Any adjustment to the levy for
7 agricultural property shall be based upon the change in the statewide agricultural taxable
8 valuation and the reclassification of agricultural property to another property classification. Any
9 adjustment to the levies for nonagricultural property and owner-occupied single-family
10 dwellings shall be based upon the change in the statewide nonagricultural property and owner-
11 occupied single-family dwellings taxable valuations. However, if any new project with a total
12 taxable valuation of one hundred fifty million dollars or more is constructed, the levies shall be
13 proportionately decreased for agricultural property, nonagricultural property, and owner-
14 occupied single-family dwellings. ~~In addition to the adjustments in the levies provided by this~~
15 ~~section, the levies shall also be annually adjusted as necessary to reduce the portion of local~~
16 ~~need paid by local effort by an amount equal to nine million dollars from those funds transferred~~
17 ~~into the property tax reduction fund pursuant to § 10-50-52 subsequent to July 1, 2007. In~~
18 addition to the adjustments in the levies provided by this section, the levies for nonagricultural
19 property and owner-occupied single-family dwellings shall also be adjusted as necessary to
20 account for the additional increase in the total assessed value for nonagricultural property and
21 owner-occupied single-family dwellings pursuant to the phasing out and repeal of the provisions
22 provided in § 10-6-74.