

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

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## HOUSE BILL NO. 1182

Introduced by: The Committee on Appropriations at the request of the Office of the  
Governor

1 FOR AN ACT ENTITLED, An Act to increase the state sales tax, the state use tax, the excise  
2 tax on farm machinery, and amusement device tax for the purpose of increasing education  
3 funding and reducing property taxes, and to declare an emergency.

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

5 Section 1. That § 10-45-2 be amended to read:

6 10-45-2. There is hereby imposed a tax upon the privilege of engaging in business as a  
7 retailer, a tax of four and one-half percent upon the gross receipts of all sales of tangible  
8 personal property consisting of goods, wares, or merchandise, except as otherwise provided in  
9 this chapter, sold at retail in the State of South Dakota to consumers or users.

10 Section 2. That § 10-45-5 be amended to read:

11 10-45-5. There is imposed a tax at the rate of four and one-half percent upon the gross  
12 receipts of any person from engaging or continuing in any of the following businesses or  
13 services in this state: abstracters; accountants; ancillary services; architects; barbers; beauty  
14 shops; bill collection services; blacksmith shops; car washing; dry cleaning; dyeing;  
15 exterminators; garage and service stations; garment alteration; cleaning and pressing; janitorial



1 services and supplies; specialty cleaners; laundry; linen and towel supply; membership or  
2 entrance fees for the use of a facility or for the right to purchase tangible personal property, any  
3 product transferred electronically, or services; photography; photo developing and enlarging;  
4 tire recapping; welding and all repair services, except repair services for farm machinery,  
5 attachment units, and irrigation equipment used exclusively for agricultural purposes; cable  
6 television; and rentals of tangible personal property except leases of tangible personal property  
7 between one telephone company and another telephone company, motor vehicles as defined  
8 pursuant to § 32-5-1 leased under a single contract for more than twenty-eight days and mobile  
9 homes. However, the specific enumeration of businesses and professions made in this section  
10 does not, in any way, limit the scope and effect of the provisions of § 10-45-4.

11 Section 3. That § 10-45-5.3 be amended to read:

12 10-45-5.3. There is imposed, at the rate of four and one-half percent, an excise tax on the  
13 gross receipts of any person engaging in oil and gas field services (group no. 138) as enumerated  
14 in the Standard Industrial Classification Manual, 1987, as prepared by the Statistical Policy  
15 Division of the Office of Management and Budget, Office of the President.

16 Section 4. That § 10-45-6 be amended to read:

17 10-45-6. There is hereby imposed a tax of four and one-half percent upon the gross receipts  
18 from sales, furnishing, or service of gas, electricity, and water, including the gross receipts from  
19 such sales by any municipal corporation furnishing gas, and electricity, to the public in its  
20 proprietary capacity, except as otherwise provided in this chapter, when sold at retail in the State  
21 of South Dakota to consumers or users.

22 Section 5. That § 10-45-6.1 be amended to read:

23 10-45-6.1. Except as provided in § 10-45-6.2, there is hereby imposed a tax of four and one-  
24 half percent upon the gross receipts from providing any intrastate, interstate, or international

1 telecommunications service that originates or terminates in this state and that is billed or  
2 charged to a service address in this state, or that both originates and terminates in this state.

3 However, the tax imposed by this section does not apply to:

4 (1) Any eight hundred or eight hundred type service unless the service both originates  
5 and terminates in this state;

6 (2) Any sale of a telecommunication service to a provider of telecommunication  
7 services, including access service, for use in providing any telecommunication  
8 service; or

9 (3) Any sale of interstate telecommunication service provided to a call center that has  
10 been certified by the secretary of revenue to meet the criterion established in § 10-45-  
11 6.3 and the call center has provided to the telecommunications service provider an  
12 exemption certificate issued by the secretary indicating that it meets the criterion.

13 If a call center uses an exemption certificate to purchase services not meeting the criterion  
14 established in § 10-45-6.3, the call center is liable for the applicable tax, penalty, and interest.

15 Section 6. That § 10-45-6.2 be amended to read:

16 10-45-6.2. There is hereby imposed a tax of four and one-half percent upon the gross  
17 receipts of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January  
18 1, 2002, that originate and terminate in the same state and are billed to a customer with a place  
19 of primary use in this state or are deemed to have originated or been received in this state and  
20 to be billed or charged to a service address in this state if the customer's place of primary use  
21 is located in this state regardless of where the service actually originates or terminates.

22 Notwithstanding any other provision of this chapter and for purposes of the tax imposed by this  
23 section, the tax imposed upon mobile telecommunication services shall be administered in  
24 accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

1 Section 7. That § 10-45-8 be amended to read:

2 10-45-8. There is imposed a tax of four and one-half percent upon the gross receipts from  
3 all sales of tickets or admissions to places of amusement and athletic contests or events, except  
4 as otherwise provided in this chapter.

5 Section 8. That § 10-45-71 be amended to read:

6 10-45-71. There is imposed a tax of four and one-half percent on the gross receipts from the  
7 transportation of passengers. The tax imposed by this section shall apply to any transportation  
8 of passengers if the passenger boards and exits the mode of transportation within this state.

9 Section 9. That § 10-46-2.1 be amended to read:

10 10-46-2.1. For the privilege of using services in South Dakota, except those types of services  
11 exempted by § 10-46-17.3, there is imposed on the person using the service an excise tax equal  
12 to four and one-half percent of the value of the services at the time they are rendered. However,  
13 this tax may not be imposed on any service rendered by a related corporation as defined in  
14 subdivision 10-43-1(11) for use by a financial institution as defined in subdivision 10-43-1(4)  
15 or on any service rendered by a financial institution as defined in subdivision 10-43-1(4) for use  
16 by a related corporation as defined in subdivision 10-43-1(11). For the purposes of this section,  
17 the term related corporation includes a corporation which together with the financial institution  
18 is part of a controlled group of corporations as defined in 26 U.S.C. § 1563 as in effect on  
19 January 1, 1989, except that the eighty percent ownership requirements set forth in 26 U.S.C.  
20 § 563(a)(2)(A) for a brother-sister controlled group are reduced to fifty-one percent. For the  
21 purpose of this chapter, services rendered by an employee for the use of his employer are not  
22 taxable.

23 Section 10. That § 10-46-2.2 be amended to read:

24 10-46-2.2. An excise tax is imposed upon the privilege of the use of rented tangible personal

1 property and any product transferred electronically in this state at the rate of four and one-half  
2 percent of the rental payments upon the property.

3 Section 11. That § 10-46-58 be amended to read:

4 10-46-58. There is imposed a tax of four and one-half percent on the privilege of the use of  
5 any transportation of passengers. The tax imposed by this section shall apply to any  
6 transportation of passengers if the passenger boards and exits the mode of transportation within  
7 this state.

8 Section 12. That § 10-46-69 be amended to read:

9 10-46-69. There is hereby imposed a tax of four and one-half percent upon the privilege of  
10 the use of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January  
11 1, 2002, that originate and terminate in the same state and are billed to a customer with a place  
12 of primary use in this state. Notwithstanding any other provision of this chapter and for purposes  
13 of the tax imposed by this section, the tax imposed upon mobile telecommunication services  
14 shall be administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

15 Section 13. That § 10-46-69.1 be amended to read:

16 10-46-69.1. Except as provided in § 10-46-69, there is hereby imposed a tax of four and one-  
17 half percent upon the privilege of the use of any intrastate, interstate, or international  
18 telecommunications service that originates or terminates in this state and that is billed or  
19 charged to a service address in this state, or that both originates and terminates in this state.

20 However, the tax imposed by this section does not apply to:

21 (1) Any eight hundred or eight hundred type service unless the service both originates  
22 and terminates in this state;

23 (2) Any sale of a telecommunication service to a provider of telecommunication  
24 services, including access service, for use in providing any telecommunication

1 service; or

2 (3) Any sale of interstate telecommunication service provided to a call center that has  
3 been certified by the secretary of revenue to meet the criterion established in § 10-45-  
4 6.3 and the call center has provided to the telecommunications service provider an  
5 exemption certificate issued by the secretary indicating that it meets the criterion.

6 If a call center uses an exemption certificate to purchase services not meeting the criterion  
7 established in § 10-45-6.3, the call center is liable for the applicable tax, penalty, and interest.

8 Section 14. That § 10-46-69.2 be amended to read:

9 10-46-69.2. There is hereby imposed a tax of four and one-half percent upon the privilege  
10 of the use of any ancillary services.

11 Section 15. That § 10-46E-1 be amended to read:

12 10-46E-1. There is hereby imposed an excise tax of four and one-half percent on the gross  
13 receipts from the sale, resale, or lease of farm machinery, attachment units, and irrigation  
14 equipment used exclusively for agricultural purposes. However, if any trade-in or exchange of  
15 used farm machinery, attachment units, and irrigation equipment is involved in the transaction,  
16 the excise tax is only due and may only be collected on the cash difference.

17 Section 16. That § 10-58-1 be amended to read:

18 10-58-1. There is imposed upon owners and operators a special amusement excise tax of  
19 four and one-half percent of the gross receipts from the operation of any mechanical or  
20 electronic amusement device.

21 Section 17. It is the intent of the Legislature that from the proceeds of this Act, forty million  
22 dollars shall be dedicated to reducing the property tax levies for general education for all classes  
23 of property.

24 Section 18. Whereas, this Act is necessary for the support of the state government and its

1 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
2 full force and effect on June 1, 2016.