

AN ACT

ENTITLED, An Act to revise certain terms relating to centrally assessed property and the taxation of certain centrally assessed property.

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

Section 1. That § 10-28-12 be amended to read as follows:

10-28-12. The secretary of revenue shall, in determining the fair market value of the property, value all the property of any railroad company as a unit, but shall make due allowance for any nonoperating property.

Section 2. That § 10-28-13 be amended to read as follows:

10-28-13. For the purpose of determining the fair market value of the property of any railroad company, the secretary of revenue shall take into consideration the cost approach, the market approach, and the income approach to appraisal. In the market approach, the secretary shall consider the actual or market value of the shares of stock outstanding, the actual or market value of all bonds outstanding and all other indebtedness as may be applicable, for operating the road. In the income approach, the secretary may consider the company's growth rate and the rate of inflation in determining the capitalization rate. The secretary of revenue may take into consideration any other information or data of any kind or nature which the secretary deems material in arriving at the fair market value of the property.

Section 3. That § 10-29-9 be amended to read as follows:

10-29-9. In making such assessment, which is in reference to value and ownership on February first of the year for which the assessment is made, the secretary of revenue shall determine the fair market value of that flight property actually providing service in this state.

Section 4. That § 10-29-9.1 be amended to read as follows:

10-29-9.1. The flight property of an airline company that owns or leases aircraft the majority of which are turboprops and other propeller driven aircraft, and which provides, during six months or

more of the year that the taxes are levied, scheduled passenger service to three or more airports inside or outside of this state that serve communities of one hundred thousand or less population, shall be assessed at fifty percent of its fair market value as provided in § 10-29-9.

Section 5. That § 10-33-14.1 be amended to read as follows:

10-33-14.1. For the purpose of determining the fair market value of the property of any telephone company, the Department of Revenue shall take into consideration the cost approach, the market approach, and the income approach to appraisal. In the market approach, the department shall consider the actual or market value of the shares of stock outstanding, the actual or market value of all bonds outstanding, and all other indebtedness as may be applicable for operating the company. In the income approach, the department may consider the company's growth rate and the rate of inflation in determining the capitalization rate. The Department of Revenue may take into consideration any other information or data of any kind or nature which the department may deem material in arriving at the fair market value of the property.

Section 6. That § 10-34-9 be amended to read as follows:

10-34-9. The Department of Revenue shall carefully consider all reports and statements made as provided in §§ 10-34-3 and 10-34-4, all other facts and evidence collected or available and any and all other matters necessary to enable the Department of Revenue to make a just and equitable assessment of such property. The Department of Revenue may change the valuation given by the telegraph company, or add any property omitted therefrom, and shall proceed to determine the fair market value of the entire property of each of such telegraph companies in this state, according to the rule set forth in § 10-34-10.

Section 7. That § 10-34-10.1 be amended to read as follows:

10-34-10.1. For the purpose of determining the fair market value of the property of any telegraph company, the Department of Revenue shall take into consideration the cost approach, the market approach, and the income approach to appraisal. In the market approach, the department shall

consider the actual or market value of the shares of stock outstanding, the actual or market value of all bonds outstanding, and all other indebtedness as may be applicable for operating the company. In the income approach, the department may consider the company's growth rate and the rate of inflation in determining the capitalization rate.

The Department of Revenue may take into consideration any other information or data of any kind or nature which the department may deem material in arriving at the fair market value of the property.

Section 8. That § 10-35-10.1 be amended to read as follows:

10-35-10.1. For the purpose of determining the fair market value of the property of any public utility company, the Department of Revenue shall take into consideration the cost approach, the market approach, and the income approach to appraisal. In the market approach, the department shall consider the actual or market value of the shares of stock outstanding, the actual or market value of all bonds outstanding, and all other indebtedness as may be applicable for operating the company. In the income approach, the department may consider the company's growth rate and the rate of inflation in determining the capitalization rate. The Department of Revenue may take into consideration any other information or data of any kind or nature which the department may deem material in arriving at the fair market value of the property.

Section 9. That § 10-37-8 be amended to read as follows:

10-37-8. The property shall be valued at its fair market value, and the assessment shall be made upon the fair market value of the entire pipeline property within the state and shall include the rights-of-way, easements, the pipelines, stations, grounds, shops, buildings, pumps and all other property, real and personal, exclusively used in the operation of the pipeline. In assessing any pipeline company and its equipment, the Department of Revenue shall take into consideration the gross earnings and the net earnings for the entire property, and per mile, for the year ending December thirty-first preceding, and any and all other matters necessary to enable the department to make a just

and equitable assessment of pipeline property.

Section 10. That § 10-37-9.1 be amended to read as follows:

10-37-9.1. For the purpose of determining the fair market value of the property of any pipeline company, the Department of Revenue shall take into consideration the cost approach, the market approach, and the income approach to appraisal. In the market approach, the department shall consider the actual or market value of the shares of stock outstanding, the actual or market value of all bonds outstanding, and all other indebtedness as may be applicable for operating the company. In the income approach, the department may consider the company's growth rate and the rate of inflation in determining the capitalization rate. The Department of Revenue may take into consideration any other information or data of any kind or nature which the department may deem material in arriving at the fair market value of the property.

Section 11. That § 10-38-1 be amended to read as follows:

10-38-1. All utilities assessed by the Department of Revenue shall have an opportunity for a hearing before the department during the months of June and July, for the purpose of determining the fair market value of the utilities or of obtaining additional information or of making corrections on the reports of utilities as previously submitted. The hearings prescribed by this section shall be held upon ten days' notice to the utility concerned and subsequent to the hearing the Department of Revenue shall notify the company, in writing, of the amount of its taxable gross receipts or fair market value for the year.

Section 12. That § 10-38-14 be amended to read as follows:

10-38-14. If any tax assessment or tax assessed or levied originally and directly by the Department of Revenue is adjudged illegal and nonenforceable, or set aside by any court of competent jurisdiction, the secretary of revenue, whether any part of the taxes assessed or levied has been paid or not, shall reascertain and redetermine the fair market value of all the taxable property of the utility.

Section 13. As used in this Act, the term, fair market value, means the price in money that

property will bring in a competitive and open market under all conditions requisite to a fair sale between a willing buyer and a willing seller, each acting prudently and with full knowledge of the relevant facts, and assuming the price is not affected by any undue stimulus.

Section 14. That chapter 10-29 be amended by adding thereto a NEW SECTION to read as follows:

The tax imposed by this chapter on aircraft is in lieu of the tax imposed by chapter 10-46 on tangible personal property that is used or consumed or stored for use and consumption in the service, repair, or maintenance of such aircraft.

An Act to revise certain terms relating to centrally assessed property and the taxation of certain centrally assessed property.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1005

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Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1005  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_ ,

19\_\_ at \_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 19\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 19\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State