

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

807C0844

HOUSE BILL NO. 1275

Introduced by: Representative Munson (Donald)

1 FOR AN ACT ENTITLED, An Act to increase certain state sales and use taxes, exempt
2 transportation services from sales and use taxes, revise the exemptions for inheritance taxes,
3 provide property tax relief, repeal certain municipal sales and use taxes, and replace the
4 municipal revenue lost from sales and use taxes.

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

6 Section 1. That § 10-45-2 be amended to read as follows:

7 10-45-2. There is hereby imposed a tax upon the privilege of engaging in business as a
8 retailer, a tax of ~~four~~ six percent upon the gross receipts of all sales of tangible personal property
9 consisting of goods, wares, or merchandise, except as taxed by § 10-45-3 and except as
10 otherwise provided in this chapter, sold at retail in the State of South Dakota to consumers or
11 users.

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

13 10-45-5. There is imposed a tax at the rate of three percent upon the gross receipts of any
14 person from engaging in the business of leasing farm machinery or irrigation equipment used for
15 agricultural purposes and ~~four~~ six percent upon the gross receipts of any person from engaging
16 or continuing in any of the following businesses or services in this state: abstracters; accountants;
17 architects; barbers; beauty shops; bill collection services; blacksmith shops; car washing; dry

1 cleaning; dyeing; exterminators; garage and service stations; garment alteration; cleaning and
2 pressing; janitorial services and supplies; specialty cleaners; laundry; linen and towel supply;
3 membership or entrance fees for the use of a facility or for the right to purchase tangible personal
4 property or services; photography; photo developing and enlarging; tire recapping; welding and
5 all repair services; cable television; and rentals of tangible personal property except leases of
6 tangible personal property between one telephone company and another telephone company,
7 motor vehicles as defined by § 32-5-1 leased under a single contract for more than twenty-eight
8 days and mobile homes provided, however, that the specific enumeration of businesses and
9 professions made in this section does not, in any way, limit the scope and effect of § 10-45-4.

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

11 10-45-5.3. There is imposed, at the rate of ~~three~~ five percent, an excise tax on the gross
12 receipts of any person engaging in oil and gas field services (group no. 138) as enumerated in
13 the Standard Industrial Classification Manual, 1987, as prepared by the Statistical Policy Division
14 of the Office of Management and Budget, Office of the President.

15 Section 4. That § 10-45-6 be amended to read as follows:

16 10-45-6. There is hereby imposed a tax of ~~four~~ six percent upon the gross receipts from sales,
17 furnishing, or service of gas, electricity, and water, including the gross receipts from such sales
18 by any municipal corporation furnishing gas, and electricity, to the public in its proprietary
19 capacity, except as otherwise provided in this chapter, when sold at retail in the State of South
20 Dakota to consumers or users.

21 Section 5. That § 10-45-6.1 be amended to read as follows:

22 10-45-6.1. There is hereby imposed on amounts paid for local telephone services, toll
23 telephone services, and teletypewriter services, a tax of ~~four~~ six percent of the amount so paid.
24 The taxes imposed by this section shall be paid by the person paying for the services. If a bill is
25 rendered the taxpayer for local telephone service or toll telephone service, the amount on which

1 the tax with respect to such services shall be based shall be the sum of all charges for such
2 services included in the bill; except that if a person who renders the bill groups individual items
3 for purposes of rendering the bill and computing the tax, then the amount on which the tax for
4 each such group shall be based shall be the sum of all items within that group, and the tax on the
5 remaining items not included in any such group shall be based on the charge for each item
6 separately. If the tax imposed by this section with respect to toll telephone service is paid by
7 inserting coins in coin operated telephones, the tax shall be computed to the nearest multiple of
8 five cents, except that, where the tax is midway between multiples of five cents, the next higher
9 multiple shall apply. The tax so paid shall be remitted at the same time as the sales tax imposed
10 by this chapter.

11 Section 6. That § 10-45-8 be amended to read as follows:

12 10-45-8. There is imposed a tax of ~~four~~ six percent upon the gross receipts from all sales of
13 tickets or admissions to places of amusement and athletic events, except as otherwise provided
14 in this chapter.

15 Section 7. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 There is imposed a tax of four percent upon the gross receipts from all sales of food, as
18 defined by the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as
19 amended through January 1, 1999.

20 Section 8. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 There is imposed a tax of four percent upon the gross receipts from all sales of food, as
23 defined by the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as
24 amended through January 1, 1999.

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

1 10-46-2.1. For the privilege of using services in South Dakota, except those types of services
2 exempted by § 10-46-17.3, there is imposed on the person using the service an excise tax equal
3 to ~~four~~ six percent of the value of the services at the time they are rendered. However, this tax
4 may not be imposed on any service rendered by a related corporation as defined in subdivision
5 10-43-1(11) for use by a financial institution as defined in subdivision 10-43-1(4) or on any
6 service rendered by a financial institution as defined in subdivision 10-43-1(4) for use by a related
7 corporation as defined in subdivision 10-43-1(11). For the purposes of this section, the term,
8 related corporation, includes a corporation which together with the financial institution is part
9 of a controlled group of corporations as defined in 26 U.S.C. § 1563 as in effect on January 1,
10 1989, except that the eighty percent ownership requirements set forth in 26 U.S.C.
11 § 1563(a)(2)(A) for a brother-sister controlled group are reduced to fifty-one percent. For the
12 purpose of this chapter, services rendered by an employee for the use of his employer are not
13 taxable.

14 Section 10. That § 10-46-2.2 be amended to read as follows:

15 10-46-2.2. An excise tax is imposed upon the privilege of the use of rented tangible personal
16 property in this state at the rate of ~~four~~ six percent of the rental payments upon the property.

17 Section 11. That § 10-58-1 be amended to read as follows:

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

21 Section 12. That § 10-45-12.1 be amended to read as follows:

22 10-45-12.1. The following services enumerated in the Standard Industrial Classification
23 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and
24 Budget, Office of the President are exempt from the provisions of this chapter: health services
25 (major group 80); educational services (major group 82) except schools and educational services

1 not elsewhere classified (industry no. 8299); social services (major group 83); agricultural
2 services (major group 07) except veterinarian services (group no. 074) and animal specialty
3 services, except veterinary (industry no. 0752); forestry services (group no. 085); radio and
4 television broadcasting (group no. 483); railroad transportation (major group 40); local and
5 suburban passenger transportation (group no. 411) except limousine services; school buses
6 (group no. 415); trucking and courier services, except air (group no. 421), except the collection
7 and disposal of solid waste; farm product warehousing and storage (industry no. 4221);
8 establishments primarily engaged in transportation on rivers and canals (group no. 444);
9 establishments primarily engaged in air transportation, certified carriers (group no. 451);
10 establishments primarily engaged in air transportation, noncertified carriers (group no. 452)
11 except chartered flights (industry no. 4522) and airplane, helicopter, balloon, dirigible, and blimp
12 rides for amusement or sightseeing; pipe lines, except natural gas (major group 46); arrangement
13 of passenger transportation (group no. 472); arrangement of transportation of freight and cargo
14 (group no. 473); rental of railroad cars (group no. 474); water supply (industry no. 4941);
15 sewerage systems (industry no. 4952); security brokers, dealers and flotation companies (group
16 no. 621); commodity contracts brokers and dealers (group no. 622); credit counseling services
17 provided by individual and family social services (~~group~~ industry no. 8322); construction services
18 (division C) except industry no. 1752 and locksmiths and locksmith shops; consumer credit
19 reporting agencies, mercantile reporting agencies, and adjustment and collection agencies (group
20 no. 732), if the debt was incurred out-of-state and the client does not reside within the state. The
21 following are also specifically exempt from the provisions of this chapter: financial services of
22 institutions subject to tax under chapter 10-43 including loan origination fees, late payment
23 charges, nonsufficient fund check charges, stop payment charges, safe deposit box rent, exchange
24 charges, commission on travelers checks, charges for administration of trusts, interest charges,
25 and points charged on loans; commissions earned or service fees paid by an insurance company

1 to an agent or representative for the sale of a policy; services of brokers and agents licensed
2 under Title 47; the sale of trading stamps; rentals of motor vehicles as defined by § 32-5-1 leased
3 under a single contract for more than twenty-eight days; advertising services; services provided
4 by any corporation to another corporation which is centrally assessed having identical ownership
5 and services provided by any corporation to a wholly owned subsidiary which is centrally
6 assessed; continuing education programs, tutoring, vocational counseling, except rehabilitation
7 counseling and; motion picture rentals to a commercially operated theater primarily engaged in
8 the exhibition of motion pictures; and charges made by a telecommunications company for the
9 origination, transmission, switching, reception, or termination of an interstate telephone or
10 telegraph communication.

11 Section 13. That § 10-45-70 be repealed.

12 ~~10-45-70. There is imposed a tax of four percent on the gross receipts from the~~
13 ~~transportation of tangible personal property. The tax imposed by this section shall apply to any~~
14 ~~transportation of tangible personal property if both the origin and destination of the tangible~~
15 ~~personal property are within this state.~~

16 Section 14. That § 10-45-72 be amended to read as follows:

17 10-45-72. The tax imposed by §§ ~~10-45-70 to 10-45-81, inclusive~~; § 10-45-71 does not
18 apply to any transportation service which the state is prohibited from taxing by federal law or the
19 United States Constitution.

20 Section 15. That § 10-45-73 be repealed.

21 ~~10-45-73. The transportation of agricultural products by the agricultural producer thereof~~
22 ~~is exempt from the tax imposed by §§ 10-45-70 to 10-45-81, inclusive, if the producer transports~~
23 ~~such products in a mode of transportation which is owned, leased, or rented by the producer.~~
24 ~~However, if an agricultural producer transports another person's products for hire, such~~
25 ~~transportation is subject to the tax imposed by §§ 10-45-70 to 10-45-81, inclusive.~~

1 Section 16. That § 10-45-74 be repealed.

2 ~~10-45-74. Transportation services may only be sold for resale under the following~~
3 ~~circumstances:~~

4 ~~(1) A transportation company may sell its services for resale to another transportation~~
5 ~~company; or~~

6 ~~(2) A retailer that regularly delivers a majority of the tangible personal property which it~~
7 ~~sells to its customers by truck or other mode of transportation owned, leased, or~~
8 ~~rented by such retailer may purchase for resale the services of a transportation~~
9 ~~company for the delivery of such retailer's tangible personal property.~~

10 Section 17. That § 10-45-75 be repealed.

11 ~~10-45-75. Terms used in §§ 10-45-76 to 10-45-78, inclusive, mean:~~

12 ~~(1) "Cargo vessel," a single transport truck as defined in subdivision 10-47B-3(47);~~

13 ~~(2) "Fuel," gasoline, ethanol, methanol, liquefied petroleum gas, petroleum distillates,~~
14 ~~lubricating oils and greases, glycol-based antifreezes, fuels used for off-highway~~
15 ~~racing, solvents such as, but not limited to, petroleum naphtha, mineral spirits, or~~
16 ~~stoddard solvents, and any other petroleum product delivered to a terminal by~~
17 ~~pipeline, truck, or rail, any other motor fuel as defined in subdivision 10-47B-3(27),~~
18 ~~and special fuel as defined in subdivision 10-47B-3(39);~~

19 ~~(3) "Fuel terminal transportation," the transportation of fuel from a terminal to a location~~
20 ~~in South Dakota at which the fuel is unloaded. Fuel terminal transportation does not~~
21 ~~include the transportation of fuel from a location other than a terminal;~~

22 ~~(4) "Terminal," as defined in subdivision 10-47B-3(42);~~

23 ~~(5) "Trip," the distance in road miles traveled by a cargo vessel from the fuel terminal at~~
24 ~~which it was loaded with fuel to the most distant location in South Dakota at which~~
25 ~~the fuel is unloaded, excluding miles not traveled within this state.~~

1 Section 18. That § 10-45-76 be repealed.

2 ~~10-45-76. In lieu of the tax imposed by §§ 10-45-70 and 10-46-57 on the transportation of~~
3 ~~fuel, a transportation company may elect to be taxed on the fuel terminal transportation services~~
4 ~~under the provisions of §§ 10-45-75 to 10-45-78, inclusive.~~

5 Section 19. That § 10-45-77 be repealed.

6 ~~10-45-77. There is imposed a tax on the imputed gross receipts of any transportation~~
7 ~~company engaged in fuel terminal transportation who elects to be taxed under this section. The~~
8 ~~tax imposed by this section shall be on the imputed gross receipts as provided in this section. The~~
9 ~~imputed gross receipts from fuel terminal transportation shall be calculated on the basis of the~~
10 ~~number of cargo vessels and distance traveled on each trip as follows:~~

| 11 | Length of Trip | | Number of Cargo Vessels | Imputed Gross |
|----|----------------|---------------------------------|-------------------------|---------------|
| 12 | Zone | (in miles) | per Trip Transportation | Receipts from |
| 13 | A | 50 or Less | 1 | \$ 64.00 |
| 14 | A | 50 or Less | 2 or more | \$ 88.00 |
| 15 | B | More than 50, but less than 100 | 1 | \$120.00 |
| 16 | B | More than 50, but less than 100 | 2 or more | \$165.00 |
| 17 | C | 100 or more, but less than 150 | 1 | \$176.00 |
| 18 | C | 100 or more, but less than 150 | 2 or more | \$242.00 |
| 19 | D | 150 or more, but less than 200 | 1 | \$224.00 |
| 20 | D | 150 or more, but less than 200 | 2 or more | \$308.00 |
| 21 | E | 200 or more | 1 | \$280.00 |
| 22 | E | 200 or more | 2 or more | \$385.00 |

23 Section 20. That § 10-45-78 be repealed.

24 ~~10-45-78. For the fuel terminal transportation subject to tax under §§ 10-45-75 to 10-45-77,~~
25 ~~inclusive, all subsequent transportation of that fuel is exempt from the tax imposed under this~~
26 ~~chapter.~~

27 Section 21. That § 10-45-79 be repealed.

1 ~~10-45-79. The provisions of § 10-45-22 shall also apply to any taxes imposed by §§ 10-45-75~~
2 ~~to 10-45-77, inclusive, on transportation services regardless of any special reporting election the~~
3 ~~taxpayer may have made.~~

4 Section 22. That § 10-45-81 be repealed.

5 ~~10-45-81. There are exempted from the provisions of this chapter and the tax imposed by it,~~
6 ~~the gross receipts from transportation services associated with timber sale contracts entered into~~
7 ~~prior to July 1, 1996, provided such contract has a duration of one year or less.~~

8 Section 23. That § 10-46-57 be repealed.

9 ~~10-46-57. There is imposed a tax of four percent on the privilege of the use of any~~
10 ~~transportation of tangible personal property. The tax imposed by this section shall apply to any~~
11 ~~transportation of tangible personal property if both the origin and destination of the tangible~~
12 ~~personal property are within this state.~~

13 Section 24. That § 10-46-59 be amended to read as follows:

14 10-46-59. The tax imposed by §§ ~~10-46-57 to 10-46-61, inclusive,~~ § 10-46-58 does not
15 apply to any transportation service which the state is prohibited from taxing by federal law or the
16 United States Constitution.

17 Section 25. That § 10-46-60 be repealed.

18 ~~10-46-60. The transportation of agricultural products by the agricultural producer thereof~~
19 ~~is exempt from the tax imposed by §§ 10-46-57 to 10-46-61, inclusive, if the producer transports~~
20 ~~such products in a mode of transportation which is owned, leased, or rented by the producer.~~
21 ~~However, if an agricultural producer transports another person's products for hire, such~~
22 ~~transportation is subject to the tax imposed by §§ 10-46-57 to 10-46-61, inclusive.~~

23 Section 26. That § 10-46-61 be repealed.

24 ~~10-46-61. There are exempted from the provisions of this chapter and the tax imposed by it,~~
25 ~~the use of transportation services associated with timber sale contracts entered into prior to~~

1 ~~July 1, 1996, provided such contract has a duration of one year or less.~~

2 Section 27. That § 10-40-23 be amended to read as follows:

3 10-40-23. The following exemptions from the tax are hereby allowed:

4 (1) All property transferred to public corporations within the state for strictly county,
5 township, school, or municipal purposes, all property which escheats to the State of
6 South Dakota for the benefit of the common school permanent school fund, and all
7 property transferred in any manner to the State of South Dakota for the benefit of any
8 permanent school fund;

9 (2) Property transferred to a nonprofit hospital, nonprofit nursing facility, nonprofit
10 foundation, elementary and secondary school, college, university, seminary of
11 learning, church, or to an organization operating the same within the state or to a
12 health care organization or charitable, benevolent, or religious society or institution
13 or foundation as defined in §§ 10-4-9 to 10-4-9.3, inclusive. However, property
14 transferred after July 1, 1949, to any such institution or organization operating the
15 same without the state shall also be exempt if the laws of the state, territory, or
16 country in which such institution is located at the time of the transfer contained a
17 reciprocal exemption provision under which was allowed a similar exemption of
18 transfers to such institutions or organization operating the same within this state;

19 (3) Property of the clear value of ~~thirty~~ one hundred thousand dollars transferred to each
20 of the lineal issue of the decedent, or any child adopted as such in conformity with the
21 laws of any state, or any stepchild, or any child to whom the decedent for not less
22 than ten years prior to such transfer stood in mutually acknowledged relation of a
23 parent, if such relationship began at or before the child's fifteenth birthday and was
24 continuous for ten years thereafter, or any lineal issue of such adopted, step, or
25 mutually acknowledged child. For purposes of this subdivision, a stepchild is any child

1 of a decedent's spouse;

2 (4) Property of the clear value of ~~three~~ six thousand dollars transferred to each of the
3 lineal ancestors of the decedent;

4 (5) Property of the clear value of ~~five hundred~~ one thousand dollars transferred to each
5 of the persons described in subdivision 10-40-21(3);

6 (6) Property of the clear value of ~~two~~ four hundred dollars transferred to each of the
7 persons described in subdivision 10-40-21(4);

8 (7) Property of the clear value of ~~one~~ two hundred dollars transferred to each of the
9 persons and corporations described in subdivision 10-40-21(5).

10 Section 28. That § 10-12-42 be amended to read as follows:

11 10-12-42. For taxes payable in 1999 and each year thereafter, the levy for the general fund
12 of a school district shall be as follows:

13 (1) The maximum tax levy shall be ~~sixteen~~ fifteen dollars ~~and twenty-five cents~~
14 thousand dollars of taxable valuation subject to the limitations on agricultural property
15 as provided in subdivision (2) of this section, owner-occupied property as provided
16 for in subdivision (3) of this section, and nonagricultural acreage property as provided
17 for in subdivision (4);

18 (2) The maximum tax levy on agricultural property for such school district shall be four
19 dollars ~~and seventy-three cents~~ per thousand dollars of taxable valuation. If the
20 district's levies are less than the maximum levies as stated in chapter 10-13, the levies
21 shall maintain the same proportion to each other as represented in the mathematical
22 relationship at the maximum levies;

23 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
24 § 10-13-40, for such school district may not exceed seven dollars ~~and sixty-one cents~~
25 per thousand dollars of taxable valuation. If the district's levies are less than the

1 maximum levies as stated in chapter 10-13, the levies shall maintain the same
2 proportion to each other as represented in the mathematical relationship at the
3 maximum levies;

4 (4) The maximum tax levy on nonagricultural acreage property as defined in
5 § 10-6-33.14, for such school district shall be six dollars ~~and sixty-six cents~~ per
6 thousand dollars of taxable valuation. If the district's levies are less than the maximum
7 levies as stated in chapter 10-13, the levies shall maintain the same proportion to each
8 other as represented in the mathematical relationship at the maximum levies.

9 All levies in this section shall be imposed on valuations where the median level of assessment
10 represents eighty-five percent of market value as determined by the Department of Revenue.
11 These valuations shall be used for all school funding purposes. If the district has imposed an
12 excess levy pursuant to § 10-12-43, the levies shall maintain the same proportion to each other
13 as represented in the mathematical relationship at the maximum levies in this section. The school
14 district may elect to tax at less than the maximum amounts set forth in this section.

15 Section 29. That § 10-52-2 be repealed.

16 ~~— 10-52-2. Any incorporated municipality within this state may impose any non-ad valorem tax~~
17 ~~in accordance with the provisions of this chapter, except upon fuel used for motor vehicles, by~~
18 ~~ordinance enacted by its local governing board. However, no tax may be levied on the sale, use,~~
19 ~~storage, and consumption of items taxed under chapters 10-45 and 10-46, unless such tax~~
20 ~~conforms in all respects to the state tax on such items with the exception of the rate, and the rate~~
21 ~~levied does not exceed two percent.~~

22 ~~— If a municipality increases its tax rate above one percent, the revenue generated from the tax~~
23 ~~increase may only be used for capital improvement, to include lease-purchase agreements of~~
24 ~~realty, land acquisition, the funding of public ambulances and medical emergency response~~
25 ~~vehicles, public hospitals, or nonprofit hospitals with fifty or fewer licensed beds, and other~~

1 ~~public health care facilities or nonprofit health care facilities with fifty or fewer licensed beds, the~~
2 ~~transfer to the special 911 fund authorized by § 34-45-12, the purchasing of fire fighting vehicles~~
3 ~~and equipment, debt retirement and the minor rehabilitation, major rehabilitation, or~~
4 ~~reconstruction of streets as defined in the June, 1994, South Dakota Department of~~
5 ~~Transportation Pavement Condition Survey Guide for City Streets.~~

6 Section 30. That § 10-52-2.1 be repealed.

7 ~~10-52-2.1. All local taxes duly enacted under § 10-52-2 before July 3, 1977, are hereby~~
8 ~~ratified and may continue in force; provided, that no rate, which as of July 1, 1977, is in excess~~
9 ~~of the rate specified in § 10-52-2, shall be increased.~~

10 Section 31. That § 10-52-2.2 be repealed.

11 ~~10-52-2.2. A municipality of the second and third class as defined by § 9-2-1 may levy a tax~~
12 ~~on the sale or use of motor and special fuel as defined in chapter 10-47B by motor vehicles~~
13 ~~operated upon the public highways of the state and the streets and highways of the municipality.~~
14 ~~This tax may not exceed the rate of one cent per gallon. The tax authorized pursuant to this~~
15 ~~section may not apply to motor or special fuel for the purpose of operating or propelling~~
16 ~~stationary gas engines, tractors used for agricultural purposes, or the purchase of fuel for~~
17 ~~lighting, heating, cleaning, or other commercial use.~~

18 Section 32. That § 10-52-2.3 be repealed.

19 ~~10-52-2.3. A municipality may not impose both a municipal non-ad valorem tax as provided~~
20 ~~for in this chapter and a tax on motor fuel and on users of fuel as provided for and defined in~~
21 ~~§ 10-52-2.2.~~

22 Section 33. That § 10-52-2.4 be repealed.

23 ~~10-52-2.4. A municipality which has warranted indebtedness in an amount which is fifty~~
24 ~~percent or more of its current budget, may, upon a two-thirds vote of the members of its~~
25 ~~governing body, adopt a non-ad valorem tax of one percent over and above the other limits~~

1 allowed by this chapter.

2 ~~—The tax authorized by this section may be referred:~~

3 ~~—The amount of warranted indebtedness to be eliminated under this section shall be specified~~
4 ~~in the ordinance adopting the tax. The tax shall cease at the end of the quarter in which the~~
5 ~~amount of the warranted indebtedness is eliminated. No municipality using this section may~~
6 ~~impose the tax allowed herein for two years after the warranted indebtedness is eliminated as~~
7 ~~provided herein.~~

8 Section 34. That § 10-52-2.5 be repealed.

9 ~~—10-52-2.5. The gross receipts from selling food, as defined by the Food Stamp Act of 1977~~
10 ~~(P.L. 95-113), codified at 7 U.S.C. § 2012(g), as amended through January 1, 1983, in rules~~
11 ~~promulgated pursuant thereto, are exempt from the provisions of this chapter and from the tax~~
12 ~~imposed by it if the tax rate imposed by a municipality through the provisions of § 10-52-2 is in~~
13 ~~excess of one percent. The provisions of this section do not apply to municipalities qualifying~~
14 ~~under § 10-52-2.1 unless such municipalities increase their existing non-ad valorem tax and the~~
15 ~~new rate is in excess of one percent. A municipality may, by local option, exempt food, as~~
16 ~~defined by the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as~~
17 ~~amended through January 1, 1983, from the tax imposed by § 10-52-2 if the tax rate is one~~
18 ~~percent or less. A municipality with a tax rate in excess of one percent on January 1, 1983,~~
19 ~~pursuant to § 10-52-2.1, may, by local option, exempt food, as defined by the Food Stamp Act~~
20 ~~of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as amended through January 1, 1983,~~
21 ~~from the tax.~~

22 Section 35. That § 10-52-2.6 be repealed.

23 ~~—10-52-2.6. Parts or repairs on machinery or equipment which are clearly identifiable as used~~
24 ~~primarily for agricultural purposes, if the part replaces a farm machinery part assigned a specific~~
25 ~~or generic part number by the manufacturer of the farm machinery, farm machinery and~~

1 ~~equipment, and agricultural animal health products and medicines are exempt from the tax~~
2 ~~imposed by this chapter.~~

3 Section 36. That § 10-52-2.7 be repealed.

4 ~~10-52-2.7. No tax increase imposed after March 9, 1984, may be levied on materials~~
5 ~~incorporated in construction work pursuant to construction contracts bid or entered into on or~~
6 ~~before the effective date of the tax increase.~~

7 Section 37. That § 10-52-2.9 be repealed.

8 ~~10-52-2.9. Any municipality which increases its tax rate above the rate it had on January 1,~~
9 ~~1983, may exempt therefrom those items which were exempt before the increase.~~

10 Section 38. That § 10-52-2.10 be amended to read as follows:

11 10-52-2.10. Any incorporated municipality imposing a non-ad valorem tax in accordance
12 ~~with § 10-52-2, or imposing an additional non-ad valorem tax in accordance with § 10-52-8, may~~
13 ~~issue municipal non-ad valorem tax revenue bonds pursuant to this section and chapter 6-8B in~~
14 ~~anticipation of the collection of the taxes. The bonds shall be payable solely from the collections~~
15 ~~of the taxes imposed by the municipality under § 10-52-2 or 10-52-8, or both, as determined by~~
16 ~~the governing body § 10-52-8. The governing body shall, in the resolution or ordinance~~
17 ~~authorizing the bonds, agree that it will continue to impose and collect the taxes so long as the~~
18 ~~bonds are outstanding. The governing body shall also pledge so much of the collections of the~~
19 ~~taxes as may be necessary to pay the principal premium and interest on the bonds and to maintain~~
20 ~~any debt service reserve established for the bonds. The proceeds of the bonds may be used for~~
21 ~~land acquisition, the funding of public ambulances and medical emergency response vehicles,~~
22 ~~public hospitals or nonprofit hospitals with fifty or fewer licensed beds and other public health~~
23 ~~care facilities or nonprofit health care facilities with fifty or fewer licensed beds, capital asset~~
24 ~~acquisition and capital improvements, to establish a debt service reserve fund for the bonds, and~~
25 ~~to pay not more than one year's capitalized interest on the bonds. If the proceeds of the tax~~

1 imposed by § 10-52-8 are pledged to payment of the bonds, the land acquisition and capital
2 improvements financed with the proceeds of the bonds shall relate to the purposes enumerated
3 in § 10-52-8.

4 No election is required to authorize the issuance of municipal non-ad valorem tax revenue
5 bonds. The bonds shall be issued and sold as provided in chapter 6-8B.

6 Section 39. That § 10-52-4 be amended to read as follows:

7 10-52-4. The administration of non-ad valorem taxes adopted under this chapter shall be by
8 the State Department of Revenue ~~whenever~~ if a similar tax is imposed by the state ~~except the tax~~
9 ~~on motor and use fuel authorized pursuant to this chapter.~~ The State Department of Revenue
10 may prescribe forms and promulgate rules pursuant to chapter 1-26 for the making of returns and
11 for the ascertainment, assessment, and collection of the tax imposed pursuant ~~hereto including~~
12 ~~the tax on motor and use fuel as provided by~~ to this chapter. ~~It~~ The Department of Revenue shall
13 keep full and accurate records of all moneys received and distributed under this chapter. ~~Nothing~~
14 ~~in this chapter prevents incorporated municipalities from contracting with the State Department~~
15 ~~of Revenue for the administration and collection of other taxes imposed pursuant to this chapter.~~

16 Section 40. That § 10-52-5.1 be repealed.

17 ~~10-52-5.1. The proceeds of the tax on motor and use fuel authorized by § 10-52-2.2 shall~~
18 ~~be credited to a municipal street fund to be expended under the supervision of the governing~~
19 ~~body of the municipality for the purposes of reconstructing, supervising, and maintaining of~~
20 ~~highways, streets, and bridges under the jurisdiction of the municipality.~~

21 Section 41. That § 10-52-6 be repealed.

22 ~~10-52-6. If any provision of this chapter is declared unconstitutional or the applicability~~
23 ~~thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the~~
24 ~~chapter and applicability thereof to other persons or circumstances shall not be affected thereby.~~

25 Section 42. That § 10-52-8 be amended to read as follows:

1 10-52-8. ~~Notwithstanding the tax rate limitations of § 10-52-2 or 10-52-2.1, any~~ Any
2 municipality may impose ~~an additional~~ a municipal non-ad valorem tax at the rate of one percent
3 upon the gross receipts of all leases or rentals of hotel, motel, campsites, or other lodging
4 accommodations within the municipality for periods of less than twenty-eight consecutive days,
5 or sales of alcoholic beverages as defined in § 35-1-1, or establishments where the public is
6 invited to eat, dine, or purchase and carry out prepared food for immediate consumption, or
7 ticket sales or admissions to places of amusement, athletic, and cultural events, or any
8 combination thereof. The tax shall be levied for the purpose of land acquisition, architectural
9 fees, construction costs, payments for civic center, auditorium, or athletic facility buildings,
10 including the maintenance, staffing, and operations of such facilities, and the promotion and
11 advertising of the city, its facilities, attractions, and activities. ~~Such taxes~~ The tax shall conform
12 in all respects to the state sales and use tax on such items with the exception of the rate.

13 Section 43. That § 10-52-10 be repealed.

14 ~~—10-52-10. A municipality imposing a sales or use tax under this chapter may by ordinance~~
15 ~~enacted by its local governing body provide for a refund for such taxes to the consumer or user~~
16 ~~of machinery or other tangible personal property in the nature of a capital asset which is used~~
17 ~~directly in the manufacturing or processing or fabricating or compounding of personal property~~
18 ~~which is intended to be sold or leased for final use consumption. The ordinance shall provide a~~
19 ~~procedure for making application for refund and the payment of the refund by the municipality.~~

20 Section 44. That § 10-52-11 be repealed.

21 ~~—10-52-11. Veterinarian services (group no. 074) and animal specialty services except~~
22 ~~veterinary (industry no. 0752) as enumerated in the Standard Industrial Classification Manual,~~
23 ~~1987, as prepared by the Statistical Policy Division of the Office of Management and Budget,~~
24 ~~Office of the President are exempt from the provisions of this chapter. In addition, there are~~
25 ~~specifically exempted from the provisions of this chapter and the computation of the tax imposed~~

1 ~~by it, gross receipts from transportation services and the collection and disposal of solid waste.~~

2 Section 45. That § 10-52-12 be repealed.

3 ~~—10-52-12. The following services enumerated in the Standard Industrial Classification~~
4 ~~Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and~~
5 ~~Budget, Office of the President are exempt from the provisions of this chapter: establishments~~
6 ~~primarily engaged in air transportation, noncertified carriers (group no. 452).~~

7 Section 46. That § 10-52-1 and §§ 10-52-3 to 10-52-12, inclusive, be repealed.

8 Section 47. The secretary of revenue shall make distribution from the general fund each
9 October, January, April, and July to replace the revenue lost by each municipality from the tax
10 collected pursuant to § 10-52-2 prior to the repeal of that tax by this Act. The amount of the
11 distribution to each municipality pursuant to this section shall ensure that each municipality
12 receives each fiscal year as much as the municipality received pursuant to the § 10-52-2 during
13 the state fiscal year 1999. The secretary shall approve vouchers and the state auditor shall draw
14 warrants to pay each municipality its share of the distribution.