

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

717E0142

SENATE BILL NO. 177

Introduced by: Senators de Hueck, Apa, Drake, Hutmacher, Koskan, and Vitter and
Representatives Duenwald, Bartling, Hennies (Thomas), Juhnke, Kooistra,
Napoli, and Slaughter

1 FOR AN ACT ENTITLED, An Act to impose an excise tax on the gross receipts of wireless,
2 cellular, and personal communications system telephone companies.

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

4 Section 1. That chapter 10-33 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 On April fifteenth of each year, each wireless telephone company, cellular telephone
7 company, and personal communications system telephone company in this state shall file with
8 the secretary of revenue on forms prescribed by the secretary a report of its gross receipts
9 derived from the furnishing of communication services and equipment, during the preceding
10 calendar year. The report shall set forth the gross receipts from each county in which such
11 company operates and each company shall furnish such other information as the secretary shall
12 require. The report shall be sworn to and verified by an officer of the company.

13 Section 2. That chapter 10-33 be amended by adding thereto a NEW SECTION to read as
14 follows:

1 The term, gross receipts, as used in this Act means all earnings of wireless telephone
2 companies, cellular telephone companies, or personal communications system telephone
3 companies derived from the furnishing of communication services and equipment, excluding
4 receipts for capital stock issued, state sales and use taxes paid, federal excise taxes paid,
5 uncollected bills, tolls not retained by a company, and directory advertising receipts not retained
6 by a company. Gross receipts for wireless telephone companies, cellular telephone companies,
7 or personal communications system telephone companies shall be computed using the earnings
8 generated for communication services and equipment, whether intrastate or interstate, when the
9 billing address for the services is located in South Dakota and the communication is either
10 originated or terminated in South Dakota. Earnings for wireless telephone companies, cellular
11 telephone companies, or personal communications system telephone companies includes the
12 value of any consideration received for the provision of communications services and equipment.

13 Section 3. That chapter 10-33 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Notwithstanding any other provision of this chapter, each wireless telephone company,
16 cellular telephone company, or personal communications system telephone company shall pay
17 a gross receipts tax of three and one half percent on its gross receipts derived from the furnishing
18 of communication services and equipment. However, no wireless telephone company, cellular
19 telephone company, or personal communications system telephone company operating in this
20 state may be taxed less than an amount equal to fifty cents per year per telephone or
21 communications device serviced. This tax is due and payable in the same manner as paid by
22 taxpayers pursuant to § 10-33-21 and sixty-five percent of this tax revenue shall be deposited
23 in the county general fund and thirty-five percent shall be distributed to the school district or
24 school districts within the county. If the county has more than one school district within its

1 boundaries, the amount distributed to each school district shall be proportional to the valuation
2 of real property in the school district compared to the total valuation of real property in the
3 county.

4 Section 4. That chapter 10-33 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any personal and real property owned and utilized exclusively for the transmission of
7 telecommunications services by any wireless telephone company, cellular telephone company,
8 or personal communications system telephone company which pays gross receipts tax under this
9 chapter is not subject to central or local assessment for purposes of property taxation. However,
10 any other real property or portions of real property owned by such company shall be taxed as
11 other real property of the same class is taxed.

12 Section 5. Whereas, this Act is necessary for the support of the state government and its
13 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
14 force and effect from and after its passage and approval.