

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

400H0247

## SENATE BILL NO. 36

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to impose a sales and use tax on mobile telecommunications  
2 services and to implement the federal uniform and simplified sourcing rules for mobile  
3 telecommunications services.

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

5 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
6 follows:

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

13 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 There is hereby imposed a tax of four percent upon the privilege of the use of mobile



1 telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that  
2 originate and terminate in the same state and are billed to a customer with a place of primary use  
3 in this state. Notwithstanding any other provision of this chapter and for purposes of the tax  
4 imposed by this section, the tax imposed upon mobile telecommunication services shall be  
5 administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

6 Section 3. That subdivision (7) of § 34-45-1 be amended to read as follows:

7 (7) "911 emergency surcharge," any charge set by the governing body and assessed on  
8 each local exchange access line which physically terminates within the governing  
9 body's designated 911 service area. For a mobile telecommunications service, any  
10 charge set by the governing body and assessed on each local exchange access line  
11 identified within the governing body's designated 911 service area as determined by  
12 the customer's place of primary use as defined in 4 U.S.C. § 124 as in effect on  
13 July 28, 2000;

14 Section 4. That § 49-31-51 be amended to read as follows:

15 49-31-51. There is hereby imposed an access fee of fifteen cents per local exchange service  
16 line per month, fifteen cents per cellular telephone per month in accordance with the provisions  
17 provided in subdivision 34-45-1(7), and fifteen cents per radio pager device per month to pay  
18 for the program established in § 49-31-47. The access fee shall be paid by each local exchange  
19 subscriber to a local exchange service, or by each cellular telephone or radio pager service  
20 subscriber to the service provider, unless the subscriber is otherwise exempt from taxation. The  
21 access fee shall be reported as a separate line or service and collected on the regular monthly bill  
22 by each local exchange telecommunications company or other service provider operating in this  
23 state. On or before the last day of the month following each two-month period, every  
24 telecommunications company providing local exchange service or other service provided

1 specified in this section shall remit to the Department of Revenue on forms furnished by the  
2 department the amount of the access fee collected for that two-month period. The secretary of  
3 revenue may grant an extension of not more than five days for filing a remittance. The  
4 Department of Revenue shall deposit ninety percent of the money received under §§ 49-31-47  
5 to 49-31-56, inclusive, into the telecommunication fund for the deaf and ten percent in the  
6 telecommunication fund for other disabilities.

7 Section 5. The provisions of this Act apply to any customer bill issued on or after August 1,  
8 2002.