

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

459J0618

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1298 - 02/23/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Olson (Ryan), Cutler, Kraus, and Rave and Senators Ham-Burr, Abdallah, de Hueck, Jaspers, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to establish one rate for the telephone gross receipts tax and
2 to provide uniform methods to administer the tax.

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

4 Section 1. That § 10-33-21 be amended to read as follows:

5 10-33-21. All persons, corporations, cooperatives, and associations engaged in furnishing
6 and providing telephone and exchange service comprising rental and toll service by means of
7 wired circuits and otherwise and whose annual gross receipts are less than fifty million dollars
8 shall be taxed on the basis of gross receipts, ~~according to one of the two following schedules at~~
9 the rate of four percent. ~~Whichever schedule provides the lesser percentage of tax shall be~~
10 ~~applied by the Department of Revenue:~~

11 ~~_____ SCHEDULE A~~

12		Percentage of
13	Average Number of Customers	Tax on
14	Per Mile of Line (Density)	Gross Revenue



1	Not more than 1	2
2	More than 1, but not more than 2	3
3	More than 2	4

4 ~~_____~~ SCHEDULE B

5			Percentage of
6			Tax on
7	Gross Annual Revenue		Gross Revenue
8	Not more than	\$ 15,000	2
9	More than \$15,000, but not more than	20,000	3
10	More than \$20,000, but not more than	50,000,000	4

11 However, no telephone company operating in this state ~~shall~~ may be taxed less than an
 12 amount equal to fifty cents per year per telephone serviced. Further, each telephone company
 13 that was taxed in the five percent tax category for the calendar year 2001 shall pay an amount
 14 of tax to each school district of not less than the tax received by such school district in 2002 for
 15 the years 2003 and 2004; ~~and each year thereafter, the tax paid shall be as provided in~~
 16 ~~SCHEDULE A or SCHEDULE B of this section.~~

17 Section 2. That § 10-33-22 be amended to read as follows:

18 10-33-22. ~~The term, average number of customers per mile of line (density), as used in~~
 19 ~~§ 10-33-21 means total number of subscribers, customers, or patrons in this state, divided by~~
 20 ~~the total number of miles of line of such person, company, corporation, cooperative, or~~
 21 ~~association in this state. The term, line, as used in §§ 10-33-21 and 10-33-22 shall not~~
 22 ~~necessarily mean a single circuit but shall be the aggregate of all communications transmission~~
 23 ~~circuits, voice or otherwise, and associated attachments and appurtenances thereto. Such~~
 24 ~~persons, corporations, cooperatives, and associations are herein referred to as "companies." The~~
 25 term, company, means any person, corporation, cooperative, association, or other entity

1 providing telephone and exchange service, rental and toll service.

2 Section 3. That § 10-33-27 be amended to read as follows:

3 10-33-27. If the tax levied under § 10-33-21 is not paid on the due date a penalty of up to
4 five percent of the amount of the tax ~~shall~~ may be imposed for each month of delinquency, and
5 if any telephone company ~~shall fail~~ fails to report its gross receipts to the secretary of revenue
6 and regulation, ~~said the~~ the company ~~shall~~ may be penalized up to twenty-five percent of the tax
7 due. ~~Provided, further, that such~~ Such tax may be enforced and collected by distress and sale of
8 the personal and real property of such company in the same manner as is now provided for the
9 collection of real property taxes and mobile home taxes pursuant to chapter 10-22. The tax
10 levied under § 10-33-21 shall be administered pursuant to chapter 10-59, unless a contrary
11 provision in this chapter applies.