

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

195L0598

## SENATE BILL NO. 165

Introduced by: Senators McNenny, Apa, Broderick, Gray, Kelly, McCracken, and Smidt and  
Representatives Frost, Brunner, Hennies, Hills, Valandra, Wick, and  
Willadsen

1 FOR AN ACT ENTITLED, An Act to impose a sales and use tax on certain advertising services  
2 and to dedicate the revenue received.

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

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

6 There is hereby imposed a tax of four percent upon the gross receipts from advertising  
7 services for political campaigns. The gross receipts from any political campaign includes the  
8 cost of promoting any candidate, initiative, referendum, or cause in a public election of the state  
9 or any of its political subdivisions.

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

12 There is hereby imposed a tax of four percent upon the gross receipts from advertising  
13 services for political campaigns. The gross receipts from any political campaign includes the  
14 cost of promoting any individual, initiative, referendum, or cause in a public election of the state  
15 or any of its political subdivisions.



1 Section 3. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 There is hereby created in the state treasury the sales tax advertising fund. The first one  
4 million six hundred thousand dollars of revenue received each year from the tax imposed by  
5 sections 1 and 2 of this Act shall be deposited in the sales tax advertising fund. Any amount of  
6 revenue received each year from the tax imposed by sections 1 and 2 of this Act in excess of one  
7 million six hundred thousand dollars shall be deposited in the property tax reduction fund. The  
8 secretary shall distribute money in the sales tax advertising fund as follows:

- 9 (1) Thirty-one percent to the South Dakota's future fund created pursuant to § 61-5-24.2;
- 10 (2) Thirty-one percent to the tourism promotion fund created pursuant to § 1-42-31;
- 11 (3) Sixteen percent to the South Dakota-bred racing fund created pursuant to § 42-7-71;
- 12 (4) Ten percent to the water and environment fund created pursuant to § 46A-1-60; and
- 13 (5) Six percent to the Department of Social Services to provide grants to qualifying  
14 contractors according to the provisions of §§ 25-10-26 to 25-10-33, inclusive.

15 Section 4. That § 10-45-12.1 be amended to read as follows:

16 10-45-12.1. The following services enumerated in the Standard Industrial Classification  
17 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and  
18 Budget, Office of the President are exempt from the provisions of this chapter: health services  
19 (major group 80); educational services (major group 82) except schools and educational services  
20 not elsewhere classified (industry no. 8299); social services (major group 83); agricultural  
21 services (major group 07) except veterinarian services (group no. 074) and animal specialty  
22 services, except veterinary (industry no. 0752); forestry services (group no. 085); radio and  
23 television broadcasting (group no. 483); railroad transportation (major group 40); local and  
24 suburban passenger transportation (group no. 411) except limousine services; school buses

1 (group no. 415); trucking and courier services, except air (group no. 421) except collection and  
2 disposal of solid waste; farm product warehousing and storage (industry no. 4221);  
3 establishments primarily engaged in transportation on rivers and canals (group no. 444);  
4 establishments primarily engaged in air transportation, certified carriers (group no. 451);  
5 establishments primarily engaged in air transportation, noncertified carriers (group no. 452)  
6 except chartered flights (industry no. 4522) and airplane, helicopter, balloon, dirigible, and  
7 blimp rides for amusement or sightseeing; pipe lines, except natural gas (major group 46);  
8 arrangement of passenger transportation (group no. 472); arrangement of transportation of  
9 freight and cargo (group no. 473); rental of railroad cars (group no. 474); water supply (industry  
10 no. 4941); sewerage systems (industry no. 4952); security brokers, dealers and flotation  
11 companies (group no. 621); commodity contracts brokers and dealers (group no. 622); credit  
12 counseling services provided by individual and family social services (industry no. 8322);  
13 construction services (division C) except industry no. 1752 and locksmiths and locksmith shops;  
14 consumer credit reporting agencies, mercantile reporting agencies, and adjustment and  
15 collection agencies (group no. 732), if the debt was incurred out-of-state and the client does not  
16 reside within the state. The following are also specifically exempt from the provisions of this  
17 chapter: financial services of institutions subject to tax under chapter 10-43 including loan  
18 origination fees, late payment charges, nonsufficient fund check charges, stop payment charges,  
19 safe deposit box rent, exchange charges, commission on travelers checks, charges for  
20 administration of trusts, interest charges, and points charged on loans; commissions earned or  
21 service fees paid by an insurance company to an agent or representative for the sale of a policy;  
22 services of brokers and agents licensed under Title 47; the sale of trading stamps; rentals of  
23 motor vehicles as defined by § 32-5-1 leased under a single contract for more than twenty-eight  
24 days; advertising services except advertising services provided for political campaigns; services

1 provided by any corporation to another corporation which is centrally assessed having identical  
2 ownership and services provided by any corporation to a wholly owned subsidiary which is  
3 centrally assessed; continuing education programs; tutoring; vocational counseling, except  
4 rehabilitation counseling; and motion picture rentals to a commercially operated theater  
5 primarily engaged in the exhibition of motion pictures.

6 Section 5. That § 10-45-108 be amended to read as follows:

7 10-45-108. For purposes of the tax imposed by this chapter, a retailer shall source sales of  
8 tangible personal property and services to the location where the tangible personal property or  
9 service is received. The department shall promulgate rules, pursuant to chapter 1-26, defining  
10 the location of receipt. The rules promulgated pursuant to this section may provide an alternative  
11 method of sourcing telecommunication services and advertising services for political  
12 campaigns.