



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0153

## HOUSE TAXATION ENGROSSED NO. **HB 1017** - 1/24/2008

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the taxation of  
2 products transferred electronically.

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 at the same rate as that imposed upon sales of tangible  
7 personal property in this state upon the gross receipts of all sales, leases, or rentals of any  
8 product transferred electronically.

9 The tax is imposed if:

10 (1) The sale is to an end user;

11 (2) The sale is to a person who is not an end user, unless otherwise exempted by this  
12 chapter;

13 (3) The seller grants the right of permanent or less than permanent use of the products  
14 transferred electronically; or



1 (4) The sale is conditioned or not conditioned upon continued payment.

2 For the purposes of this section, the term, end user, does not include any person who  
3 received by contract any product transferred electronically for further commercial broadcast,  
4 rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or  
5 exhibition of the product, in whole or in part, to another person.

6 For the purposes of this section, the term, permanent use, means perpetual or for an  
7 indefinite or unspecified length of time. The sale of a digital code that may be utilized to obtain  
8 a product transferred electronically shall be taxed in the same manner as the product transferred  
9 electronically. A digital code is a code that permits a purchaser to obtain at a later date a product  
10 transferred electronically.

11 Section 2. That subdivision (4) of § 10-45-1 be amended to read as follows:

12 (4) "Delivery charges," charges by the retailer for preparation and delivery to a location  
13 designated by the purchaser of tangible personal property, any product transferred  
14 electronically, or services including transportation, shipping, postage, handling,  
15 crating, and packing;

16 Section 3. That subdivision (11) of § 10-45-1 be amended to read as follows:

17 (11) "Retailer," any person engaged in the business of selling tangible goods, wares, or  
18 merchandise at retail, or the furnishing of gas, electricity, water, and communication  
19 service, and tickets or admissions to places of amusement and athletic events as  
20 provided in this chapter, and the sale at retail of products transferred electronically.

21 The term also includes any person subject to the tax imposed by §§ 10-45-4 and 10-  
22 45-5. The isolated or occasional sale of tangible personal property or any product  
23 transferred electronically at retail by a person who does not hold himself or herself  
24 out as engaging in the business of selling such tangible personal property or products

1           transferred electronically at retail does not constitute such person a retailer;

2           Section 4. That § 10-45-1 be amended by adding thereto a NEW SUBDIVISION to read as  
3 follows:

4           "Product transferred electronically," any product obtained by the purchaser by means other  
5 than tangible storage media. A product transferred electronically does not include any intangible  
6 such as a patent, stock, bond, goodwill, trademark, franchise, or copyright.

7           Section 5. That § 10-45-1.3 be amended to read as follows:

8           10-45-1.3. For purposes of the tax imposed by this chapter, if any tangible personal property  
9 or any product transferred electronically is taken in trade or in a series of trades as a credit or  
10 part payment of a retail sale taxable under this chapter, and the tangible personal property or the  
11 product transferred electronically taken in trade is subject to the sales tax imposed by this  
12 chapter when sold, the credit or trade-in value allowed by the retailer may not be included as  
13 gross receipts.

14           Section 6. That § 10-45-1.5 be amended to read as follows:

15           10-45-1.5. For the purposes of the tax imposed by this chapter, the term, lease or rental,  
16 means any transfer of possession or control of tangible personal property or any product  
17 transferred electronically for a fixed or indeterminate term for consideration. A lease or rental  
18 may include future options to purchase or extend. Lease or rental does not include:

19           (1) A transfer of possession or control of property under a security agreement or deferred  
20 payment plan that requires the transfer of title upon completion of the required  
21 payments;

22           (2) A transfer or possession or control of property under an agreement that requires the  
23 transfer of title upon completion of required payments and payment of an option  
24 price does not exceed the greater of one hundred dollars or one percent of the total

1 required payments; or

2 (3) Providing tangible personal property along with an operator for a fixed or  
3 indeterminate period of time. A condition of this exclusion is that the operator is  
4 necessary for the equipment to perform as designed. For the purpose of this  
5 subdivision, an operator shall do more than maintain, inspect, or set-up the tangible  
6 personal property.

7 Section 7. That § 10-45-1.12 be amended to read as follows:

8 10-45-1.12. For the purposes of this chapter, the term, bundled transaction, does not include:

9 (1) A transaction that includes the retail sale of real property or services to real property;

10 (2) A transaction that includes the retail sale of any products in which the gross receipts  
11 varies, or is negotiable, based on the selection by the purchaser of the products  
12 included in the transaction;

13 (3) A transaction that includes the retail sale of tangible personal property and a service  
14 where the tangible personal property is essential to the use of the service, and is  
15 provided exclusively in connection with the service, and the true object of the  
16 transaction is the service;

17 (4) A transaction that includes the retail sale of any product transferred electronically and  
18 a service where the product transferred electronically is essential to the use of the  
19 service, and is provided exclusively in connection with the service, and the true  
20 object of the transaction is the service;

21 (5) A transaction that includes the retail sale of services where one service is provided  
22 that is essential to the use or receipt of a second service and the first service is  
23 provided exclusively in connection with the second service and the true object of the  
24 transaction is the second service;

1       ~~(5)(6)~~ A transaction that includes the retail sale of taxable products and nontaxable products  
2                   and the purchase price or gross receipts of the taxable products is de minimis; or

3       ~~(6)(7)~~ A transaction that includes the retail sale of exempt tangible personal property and  
4                   taxable tangible personal property where:

5           (a)    The transaction includes food and food ingredients, drugs, durable medical  
6                   equipment, mobility enhancing equipment, or prosthetic devices all as defined  
7                   in chapter 10-45, or over-the-counter drugs or medical supplies; and

8           (b)    The retailer's purchase price or gross receipts of the taxable tangible personal  
9                   property is fifty percent or less of the total purchase price or gross receipts of  
10                  the bundled tangible personal property. No retailer may use a combination of  
11                  the purchase price and gross receipts of the tangible personal property when  
12                  making the fifty percent determination for a transaction.

13       Section 8. That § 10-45-1.14 be amended to read as follows:

14       10-45-1.14. For the purposes of this chapter, the term, gross receipts, means the total amount  
15       or consideration, including cash, credit, property, and services, for which tangible personal  
16       property, any product transferred electronically, or services are sold, leased, or rented, valued  
17       in money, whether received in money or otherwise, without any deduction for the following:

- 18       (1)    The retailer's cost of the property or service sold;
- 19       (2)    The cost of materials used, labor or service cost, interest, losses, all costs of  
20           transportation to the retailer, all taxes imposed on the retailer, and any other expense  
21           of the retailer; and
- 22       (3)    Except as provided in chapter 10-46A or 10-46B, charges by the retailer for any  
23           services necessary to complete the sale whether or not separately stated, including  
24           delivery charges.

1 Section 9. That § 10-45-1.16 be amended to read as follows:

2 10-45-1.16. Gross receipts, as defined in § 10-45-1.14, do not include:

- 3 (1) Discounts, including cash, term, or coupons that are not reimbursed by a third party  
4 that are allowed by a retailer and taken by a purchaser on a sale;
- 5 (2) Interest, financing, and carrying charges from credit extended on the sale of tangible  
6 personal property, any product transferred electronically, or services, if the amount  
7 is separately stated on the invoice, bill of sale, or similar document given to the  
8 purchaser; and
- 9 (3) Any taxes legally imposed directly on the consumer that are separately stated on the  
10 invoice, bill of sale, or similar document given to the purchaser.

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

12 10-45-5. There is imposed a tax at the rate of four percent upon the gross receipts of any  
13 person from engaging or continuing in any of the following businesses or services in this state:  
14 abstracters; accountants; architects; barbers; beauty shops; bill collection services; blacksmith  
15 shops; car washing; dry cleaning; dyeing; exterminators; garage and service stations; garment  
16 alteration; cleaning and pressing; janitorial services and supplies; specialty cleaners; laundry;  
17 linen and towel supply; membership or entrance fees for the use of a facility or for the right to  
18 purchase tangible personal property, any product transferred electronically, or services;  
19 photography; photo developing and enlarging; tire recapping; welding and all repair services,  
20 except farm machinery, farm attachment units, or irrigation equipment repair services; cable  
21 television; and rentals of tangible personal property except leases of tangible personal property  
22 between one telephone company and another telephone company, motor vehicles as defined by  
23 § 32-5-1 leased under a single contract for more than twenty-eight days and mobile homes.  
24 However, the specific enumeration of businesses and professions made in this section does not,

1 in any way, limit the scope and effect of § 10-45-4.

2 Section 11. That § 10-45-7.1 be amended to read as follows:

3 10-45-7.1. There are hereby exempted from the provisions of this chapter and the  
4 computation of the tax imposed by it, gross receipts from membership fees paid to any lodging  
5 house and hotel membership organization operated for the benefit of its members. However, this  
6 exemption does not apply to any membership fee that represents payment for tangible personal  
7 property, any product transferred electronically, and services provided by the membership  
8 organization.

9 Section 12. That § 10-45-9 be amended to read as follows:

10 10-45-9. There are hereby specifically exempted from the provisions of this chapter and  
11 from the computation of the amount of tax imposed by it, the gross receipts from sales of  
12 tangible personal property and any product transferred electronically which this state is  
13 prohibited from taxing under the Constitution or laws of the United States or under the  
14 Constitution or laws of the State of South Dakota.

15 Section 13. That § 10-45-9.1 be amended to read as follows:

16 10-45-9.1. Gross receipts from the sale of tangible personal property and any product  
17 transferred electronically to a person who intends to lease the property to persons in this state  
18 and actually does so are exempted from the provisions of this chapter and the tax composed by  
19 it.

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

21 10-45-10. There are hereby specifically exempted from the provisions of this chapter and  
22 from the computation of the amount of tax imposed by it, the gross receipts from sales of  
23 tangible personal property, any product transferred electronically, and ~~the sale, furnishing or~~  
24 ~~service of electrical energy, natural and artificial gas and communication service~~ services to the

1 United States, to the State of South Dakota or to any other state of the United States or the  
2 District of Columbia if the other state provides a reciprocal exemption for South Dakota, to  
3 public or municipal corporations of the State of South Dakota or of any other state of the United  
4 States or the District of Columbia if the other state provides a reciprocal exemption to South  
5 Dakota public or municipal corporations, to any nonprofit charitable organization which devotes  
6 its resources exclusively to the relief of the poor, distressed or underprivileged, and has been  
7 recognized as an exempt organization under § 501(c)(3) of the Internal Revenue Code, or to any  
8 Indian tribe.

9 Section 15. That § 10-45-11.1 be amended to read as follows:

10 10-45-11.1. There are hereby specifically exempted from the provisions of this chapter and  
11 from the computation of the amount of tax imposed by it, the gross receipts from furnishing  
12 goods or services to the purchaser or ~~his~~ the purchaser's successor in interest of tangible personal  
13 property and any product transferred electronically to fulfill a warranty obligation of the  
14 manufacturer to the extent that ~~such~~ the goods or services are not charged to ~~such~~ the purchaser  
15 or ~~his~~ the purchaser's successor in interest.

16 Section 16. That § 10-45-12.5 be amended to read as follows:

17 10-45-12.5. Unless otherwise specifically subject to tax, the gross receipts resulting from  
18 fees or commissions received for rendering a service which provides for the sale of tangible  
19 personal property, any product transferred electronically, or services is exempt from the tax  
20 imposed by this chapter.

21 Section 17. That § 10-45-13 be amended to read as follows:

22 10-45-13. There are specifically exempted from the provisions of this chapter and from the  
23 computation of the amount of tax imposed by it, the gross receipts from the following:

24 (1) Sales of tickets or admissions to the grounds and grandstand attractions of state,

- 1 county, district, regional, and local fairs;
- 2 (2) Admissions to nonprofit historic sites and repertory theater performances operated  
3 by nonprofit organizations;
- 4 (3) Admissions to community operated celebrations and shows sponsored by a chamber  
5 of commerce or other similar nonprofit organization if the county or municipality in  
6 which the activity takes place officially sponsors the activity and no charge is made  
7 to the operators of the celebration or show for the use of county, city or town  
8 facilities or services;
- 9 (4) Admissions to events or receipts from activities sponsored and operated by colleges  
10 or vocational schools or elementary or high schools or related clubs or supporting  
11 organizations approved or supervised by a school or college when the entire net  
12 proceeds are spent for educational purposes and any associations of them and receipts  
13 from tangible personal property or any product transferred electronically sold at such  
14 events. However, receipts from tangible personal property or any product transferred  
15 electronically sold at such events or activities are included in the measure of sales tax  
16 at the time of purchase by the college or school or related club or supporting  
17 organization;
- 18 (5) Religious, benevolent, fraternal, youth association or charitable activities, including  
19 any bingo or lottery conducted pursuant to § 22-25-25, where the entire amount of  
20 such receipts after deducting all costs directly related to the conduct of such activities  
21 is expended for religious, benevolent, fraternal, youth association or charitable  
22 purposes, and, except for any bingo or lottery, the receipts are not the result of  
23 engaging in business for more than three consecutive days. However, receipts from  
24 tangible personal property, any product transferred electronically, or services

- 1 purchased for use in the activity are included in the measure of sales tax;
- 2 (6) Sales of tangible personal property or any product transferred electronically when the  
3 net receipts therefrom are used primarily for the restoration or maintenance of the  
4 Governor's mansion and capitol grounds;
- 5 (7) Any charge or entry fee made to persons for engaging in participatory events limited  
6 to tournaments, contests and league activities. However, receipts from tangible  
7 personal property, any product transferred electronically, or services purchased for  
8 use in tournaments, contests and league activities shall be included in the measure of  
9 the tax imposed by this chapter;
- 10 (8) Admissions to events or receipts from activities sponsored and operated by county  
11 or municipal historical societies or centennial committees when the entire net  
12 proceeds are spent for centennial celebration purposes. However, receipts from  
13 tangible personal property, any product transferred electronically, or services  
14 purchased for use in the activity are included in the measure of sales tax;
- 15 (9) Religious, benevolent, fraternal, youth association or charitable activities conducted  
16 at county fairs, if the entire amount of such receipts after deducting all costs directly  
17 related to the conduct of such activities is expended for religious, benevolent,  
18 fraternal, youth association or charitable purposes, and the receipts are not the result  
19 of engaging in business for more than five consecutive days. However, receipts from  
20 tangible personal property, any product transferred electronically, or services  
21 purchased for use in the activity are included in the measure of sales tax;
- 22 (10) Admissions to circus performances sponsored or operated by religious, benevolent,  
23 fraternal or youth associations, if the entire amount of the receipts after deducting all  
24 costs directly related to the conduct of the circus performances is expended for

1 religious, benevolent, fraternal, youth associations or charitable purposes;

2 (11) Admissions to events or receipts from activities sponsored and operated by religious,  
3 benevolent, or charitable organizations for a period not to exceed thirty days in any  
4 calendar year, if the entire amount of the receipts after deducting all costs directly  
5 related to the conduct of the event or activity is expended for the benefit of homeless  
6 persons.

7 Section 18. That § 10-45-13.1 be amended to read as follows:

8 10-45-13.1. Membership organizations, major group 86, as enumerated in the Standard  
9 Industrial Classification Manual, 1987, as prepared by the Statistical Policy Division of the  
10 Office of Management and Budget, Office of the President, are exempt from the tax imposed  
11 by this chapter on receipts from sales of services by them and their membership fees. This  
12 exemption does not apply to the tax imposed upon the gross receipts of sales of tangible  
13 personal property or any product transferred electronically by such organizations. This section  
14 does not exempt the gross receipts of a retailer which are the result of sales to organizations in  
15 major group 86 or exempt such organizations from payment of use tax on goods and services  
16 used in the conduct of their activities.

17 Section 19. That § 10-45-13.2 be amended to read as follows:

18 10-45-13.2. There are specifically exempted from the provisions of this chapter and the  
19 computation of the tax imposed by it, the fair market value of any tangible personal property,  
20 product transferred electronically, or service given without charge to an institution, organization,  
21 or group exempt from the tax imposed by this chapter.

22 Section 20. That § 10-45-14 be amended to read as follows:

23 10-45-14. There are specifically exempted from the provisions of this chapter and from the  
24 computation of the amount of tax imposed by it, the gross receipts from sales of tangible

1 personal property, any product transferred electronically, and ~~the gross receipts from sales,~~  
2 ~~furnishing, or service of electrical energy, natural and artificial gas, water, and communication~~  
3 ~~service services~~ to and for use by religious educational institutions, private educational  
4 institutions currently recognized as exempt under section 501(c)(3) of the Internal Revenue  
5 Code as in effect on January 1, 1983, and nonprofit, charitable hospitals when purchases are  
6 made by authorized officials, payment made from the institution funds and title to the property  
7 retained in the name of such institution. For the purposes of this section, a private educational  
8 institution shall be defined as an institution currently recognized as exempt under section  
9 501(c)(3) of the Internal Revenue Code as in effect on January 1, 1995, maintaining a campus  
10 physically located within this state; and accredited by the South Dakota Department of  
11 Education or the North Central Association of Colleges and Schools.

12 This exemption does not extend to sales to or purchases of tangible personal property or any  
13 product transferred electronically for the personal use of officials, members or employees of  
14 such institutions or to sales to or purchases of tangible personal property or any product  
15 transferred electronically used in the operation of a taxable retail business.

16 The exemption provided in this section does not, in any manner, relieve the institution from  
17 the payment of the additional and further license fee imposed on the registration of motor  
18 vehicles.

19 All institutions claiming this exemption shall prepare and maintain a list of all purchases on  
20 which exemption was claimed, fully itemized, showing name and address of vendors,  
21 description of property purchased, date or dates of purchase, purchase price and brief  
22 explanation of use or intended use.

23 Section 21. That § 10-45-20.1 be amended to read as follows:

24 10-45-20.1. Payments made by one member of the controlled group to another member of

1 a controlled group which represent an allocation, reimbursement, or charge for services  
2 provided by or rendered by the members of the controlled group are specifically exempted from  
3 the provisions of this chapter and the computation of the tax imposed by it. The exemption  
4 provided in this section does not apply to the lease of tangible personal property or any product  
5 transferred electronically unless the sales or use tax has been paid on the property by the lessor.

6 Section 22. That § 10-45-20.5 be amended to read as follows:

7 10-45-20.5. There are specifically exempted from the provisions of this chapter and the  
8 computation of the tax imposed by it, gross receipts from the sale of services rendered by a  
9 related corporation as defined in subdivision 10-43-1(11) for use by a financial institution as  
10 defined in subdivision 10-43-1(4) or on any service rendered by a financial institution as defined  
11 in subdivision 10-43-1(4) for use by a related corporation as defined in subdivision 10-43-1(11).  
12 For the purposes of this section, the term, related corporation, includes a corporation which  
13 together with the financial institution is part of a controlled group of corporations as defined in  
14 26 U.S.C. § 1563 as in effect on January 1, 1989, except that the eighty percent ownership  
15 requirements set forth in 26 U.S.C. § 1563(a)(2)(A) for a brother-sister controlled group are  
16 reduced to fifty-one percent. The exemption provided in this section does not apply to the lease  
17 of tangible personal property or any product transferred electronically unless the sales or use tax  
18 has been paid on the property by the lessor.

19 Section 23. That § 10-45-29.1 be amended to read as follows:

20 10-45-29.1. In determining the amount of tax due under this chapter, attorneys licensed  
21 pursuant to chapter 16-16 and accountants licensed pursuant to chapter 36-20A may deduct from  
22 gross receipts amounts which represent charges to clients for tangible personal property, any  
23 product transferred electronically, or services purchased by the attorney or accountant on behalf  
24 of a client. However, the sale of the property or service to the attorney or accountant is not a sale

1 for resale if this deduction is taken. This deduction may only be taken if the amount to be  
2 deducted represents an expense specifically incurred for a particular client and the amount is  
3 itemized and separately billed as a reimbursable expense by the attorney or accountant.

4 Section 24. That § 10-45-61 be amended to read as follows:

5 10-45-61. Notwithstanding § 10-54-1, a seller, who possesses an exemption certificate from  
6 a purchaser of tangible personal property, any product transferred electronically, or services  
7 which indicates the items or services being purchased are exempt, may rely on the exemption  
8 certificate and not charge sales tax to the provider of the exemption certificate until the provider  
9 of the exemption certificate gives notice that the items or services being purchased are no longer  
10 exempt by filing a new exemption certificate with the seller.

11 The exemption certificate shall be signed by the purchaser, provide the purchaser's name,  
12 address, and valid state tax license number, if applicable, and shall describe the types of tangible  
13 personal property, any product transferred electronically, and services being purchased exempt  
14 by the purchaser. However, any person filing an electronic exemption certificate is not required  
15 to sign the exemption certificate.

16 The purchaser claiming the protection of an exemption certificate is responsible for assuring  
17 that the goods and services delivered thereafter are of a type covered by the exemption  
18 certificate. If there are items covered under the exemption certificate which are not being  
19 purchased exempt, it is the responsibility of the purchaser when ordering goods from a seller  
20 to indicate if any of the items purchased are not exempt, and the appropriate sales tax shall be  
21 charged on the portion of the sale that is not exempt. A seller of property, any product  
22 transferred electronically, or services which are generally described under the exemption  
23 certificate is not responsible for the collection of the tax unless otherwise directed by the  
24 purchaser.

1 If the purchaser later determines there is any tax due and owing, the purchaser shall remit  
2 the tax owed by the purchaser to the state. If the purchaser makes an exempt purchase and later  
3 determines that the goods or services purchased are not exempt, the purchaser shall report the  
4 transaction and pay the use tax on the next filing of the purchaser's return.

5 Any purchaser who knowingly and intentionally lists on an exemption certificate personal  
6 property, any product transferred electronically, or services which the purchaser knows, at the  
7 time the exemption certificate is filed with the seller, are not exempt, or provides an invalid  
8 exemption certificate with the intent to evade payment of the tax, and fails to timely report the  
9 same with the department is guilty of a Class 1 misdemeanor. The secretary of revenue and  
10 regulation may assess a penalty of up to fifty percent of the tax owed, in addition to the tax  
11 owed. No interest may be charged on the penalty.

12 The seller shall retain the exemption certificate for a period of three years from the date it  
13 is filed by the purchaser and provide the exemption certificate to the department upon request.

14 The secretary may promulgate rules pursuant to chapter 1-26 to adopt forms for exemption  
15 certificates.

16 Section 25. That § 10-45-83 be amended to read as follows:

17 10-45-83. The provisions of §§ 10-45-82 and 10-46-62 do not apply to the gross receipts  
18 from interest paid any pawnbroker from the tax imposed by chapters 10-45 and 10-46. For the  
19 purposes of this section, a pawnbroker means any person who is engaged in the business of  
20 lending money and who accepts the possession of tangible personal property or any product  
21 transferred electronically as security for the loan.

22 Section 26. That § 10-45-84 be amended to read as follows:

23 10-45-84. Any fee or commission received by a retailer for arranging or assisting in the  
24 arrangement of a loan for a customer to pay for tangible personal property or any product

1 transferred electronically sold by such retailer does not constitute gross receipts subject to the  
2 tax imposed by this chapter.

3 Section 27. That § 10-45-92 be amended to read as follows:

4 10-45-92. In determining the amount of tax due under this chapter, auctioneers may deduct  
5 from gross receipts amounts which represent direct expense charges for clients for tangible  
6 personal property, any product transferred electronically, or services purchased by the auctioneer  
7 on behalf of a client. However, the sale of the property or service to the auctioneer is not a sale  
8 for resale if this deduction is taken. This deduction may only be taken if the amount to be  
9 deducted represents an expense specifically incurred for a particular client and the amount is  
10 itemized and paid from the client's auction proceeds by the auctioneer or closing agent. The  
11 deduction shall be disallowed if the auctioneer receives any profit or remuneration directly or  
12 indirectly from the client's expense.

13 Section 28. That § 10-45-92.1 be amended to read as follows:

14 10-45-92.1. All auction sales and consignment sales of tangible personal property, any  
15 product transferred electronically, and services are sales at retail. The auction clerk shall file the  
16 return and remit the tax imposed by this chapter on the gross receipts from each auction after  
17 applying the deductions provided by § 10-45-92. However, the auctioneer is responsible for the  
18 payment of the tax imposed by this chapter if the auction clerk is an employee of the auctioneer  
19 or if the auction clerk does not have a permit as required by this chapter. In addition to any other  
20 information required to be kept by this chapter, each auction clerk shall keep records that  
21 identify the owner of the property sold at auction and the auctioneer who conducts the sale of  
22 such property.

23 Section 29. That § 10-45-108 be amended to read as follows:

24 10-45-108. For purposes of the tax imposed by this chapter, a retailer shall source sales of

1 tangible personal property, any product transferred electronically, and services to the location  
2 where the tangible personal property, the product transferred electronically, or service is  
3 received. The department shall promulgate rules, pursuant to chapter 1-26, defining the location  
4 of receipt. The rules promulgated pursuant to this section may provide an alternative method  
5 of sourcing telecommunication services.

6 Section 30. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 An excise tax is hereby imposed on the use, storage, or consumption in this state of any  
9 product transferred electronically purchased for use in this state at the same rate of percent of  
10 the purchase price of any product transferred electronically as is imposed pursuant to chapter  
11 10-45.

12 The tax is imposed if:

- 13 (1) The sale is to an end user;
- 14 (2) The sale is to a person who is not an end user, unless otherwise exempted by this  
15 chapter;
- 16 (3) The seller grants the right of permanent or less than permanent user of the products  
17 transferred electronically; or
- 18 (4) The sale is conditioned or not conditioned upon continued payment.

19 For the purposes of this section, the term, end user, does not include any person who  
20 received by contract any product transferred electronically for further commercial broadcast,  
21 rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or  
22 exhibition of the product, in whole or in part, to another person.

23 For the purposes of this section, the term, permanent use, means perpetual or for an  
24 indefinite or unspecified length of time. The sale of a digital code that may be utilized to obtain

1 a product transferred electronically shall be taxed in the same manner as the product transferred  
2 electronically. A digital code is a code that permits a purchaser to obtain at a later date a product  
3 transferred electronically.

4 Section 31. That subdivision (3) of § 10-46-1 be amended to read as follows:

5 (3) "Delivery charges," charges by the retailer for preparation and delivery to a location  
6 designated by the purchaser of tangible personal property, any product transferred  
7 electronically, or services including transportation, shipping, postage, handling,  
8 crating, and packing;

9 Section 32. That subdivision (4) of § 10-46-1 be amended to read as follows:

10 (4) "Fair market value," the price at which a willing seller and willing buyer will trade.  
11 Fair market value shall be determined at the time of purchase. If a public corporation  
12 is supplying tangible personal property or any product transferred electronically that  
13 will be used in the performance of a contract, fair market value shall be determined  
14 pursuant to § 5-18-5.1. This definition also applies to chapter 10-45;

15 Section 33. That subdivision (6) of § 10-46-1 be amended to read as follows:

16 (6) "Included in the measure of tax," the tangible personal property, any product  
17 transferred electronically, or the service was purchased from a retailer licensed under  
18 chapter 10-45 and that retailer has included the tax in the amount received from the  
19 sale;

20 Section 34. That subdivision (11) of § 10-46-1 be amended to read as follows:

21 (11) "Retailer," any person performing services in this state or engaged in the business of  
22 selling tangible personal property or products transferred electronically for use,  
23 storage or other consumption within the meaning of this chapter. However, if in the  
24 opinion of the secretary of revenue and regulation, it is necessary for the efficient

1 administration of this chapter to regard any salesmen, representatives, truckers,  
2 peddlers, or canvassers as agents of the dealers, distributors, supervisors, employers,  
3 or persons under whom they operate or from whom they obtain the tangible personal  
4 property or any product transferred electronically sold by them irrespective of  
5 whether they are making sales on their own behalf or on behalf of such dealers,  
6 distributors, supervisors, employers, or persons, the secretary of revenue and  
7 regulation may so regard them and may regard the dealers, distributors, supervisors,  
8 employers, or persons as retailers for purposes of this chapter;

9 Section 35. That subdivision (17) § 10-46-1 be amended to read as follows:

10 (17) "Use," the exercise of right or power over tangible personal property or any product  
11 transferred electronically incidental to the ownership of that property, except that it  
12 does not include the sale of that property in the regular course of business. Use also  
13 includes the use of the types of services, the gross receipts from the sale of which are  
14 to be included in the measure of the tax imposed by chapter 10-45, ~~and any~~  
15 ~~amendments thereto~~ and the delivery or causing delivery into this state of tangible  
16 personal property or any product transferred electronically intended to advertise  
17 ~~products or services~~ any product or service or promote or facilitate sales any sale to  
18 South Dakota residents.

19 Section 36. That § 10-46-1 be amended by adding thereto a NEW SUBDIVISION to read  
20 as follows:

21 "Product transferred electronically," any product obtained by the purchaser by means other  
22 than tangible storage media. A product transferred electronically does not include any intangible  
23 such as a patent, stock, bond, goodwill, trademark, franchise, or copyright.

24 Section 37. That § 10-46-1.1 be amended to read as follows:

1        10-46-1.1. For the purpose of the tax imposed by this chapter, the term, lease or rental,  
2 means any transfer of possession or control of tangible personal property or any product  
3 transferred electronically for a fixed or indeterminate term for consideration. A lease or rental  
4 may include future options to purchase or extend. Lease or rental does not include:

5        (1) A transfer of possession or control of property under a security agreement or deferred  
6 payment plan that requires the transfer of title upon completion of the required  
7 payments;

8        (2) A transfer or possession or control of property under an agreement that requires the  
9 transfer of title upon completion of required payments and payment of an option  
10 price does not exceed the greater of one hundred dollars or one percent of the total  
11 required payments; or

12        (3) Providing tangible personal property along with an operator for a fixed or  
13 indeterminate period of time. A condition of this exclusion is that the operator is  
14 necessary for the equipment to perform as designed. For the purpose of this  
15 subdivision, an operator shall do more than maintain, inspect, or set-up the tangible  
16 personal property.

17        Section 38. That § 10-46-2.2 be amended to read as follows:

18        10-46-2.2. An excise tax is imposed upon the privilege of the use of rented tangible personal  
19 property and any product transferred electronically in this state at the rate of four percent of the  
20 rental payments upon the property.

21        Section 39. That § 10-46-2.3 be amended to read as follows:

22        10-46-2.3. The use, storage, or consumption of tangible personal property and any product  
23 transferred electronically actually leased to persons in this state is exempted from the provisions  
24 of this chapter and the tax imposed by it.

1 Section 40. That § 10-46-3 be amended to read as follows:

2 10-46-3. An excise tax is imposed on the privilege of the use, storage or consumption in this  
3 state of tangible personal property or any product transferred electronically not originally  
4 purchased for use in this state, but thereafter used, stored or consumed in this state, at the same  
5 rate of percent of the fair market value of the property at the time it is brought into this state as  
6 is imposed by § 10-45-2. The use, storage, or consumption of tangible personal property or any  
7 product transferred electronically more than seven years old at the time it is brought into the  
8 state by the person who purchased such property for use in another state is exempt from the tax  
9 imposed herein. The secretary may promulgate rules pursuant to chapter 1-26 relating to the  
10 determination of the age and value of the tangible personal property or the product transferred  
11 electronically brought into this state.

12 Section 41. That § 10-46-5 be amended to read as follows:

13 10-46-5. If a contractor or subcontractor, as defined in chapters 10-46A and 10-46B, uses  
14 tangible personal property or any product transferred electronically in the performance of ~~his~~  
15 a contract or to fulfill contract or subcontract obligations, whether the title to the property is in  
16 the name of the contractor, subcontractor, contractee, subcontractee, or any other person, or  
17 whether the titleholder of the property would be subject to pay the sales or use tax, the  
18 contractor or subcontractor shall pay a tax at the rate prescribed by § 10-45-2, measured by the  
19 purchase price or fair market value of the property, whichever is greater, unless the property has  
20 been previously subjected to a sales or use tax, in this state and the tax due thereon has been  
21 paid. However, if the contractor or subcontractor fabricates tangible personal property for use  
22 in the performance of ~~his~~ a contract, fair market value excludes the value of the contractor's or  
23 subcontractor's fabrication costs.

24 Section 42. That § 10-46-5.4 be amended to read as follows:

1 10-46-5.4. Notwithstanding the provisions of § 10-46-5, the use in this state of tangible  
2 personal property and any product transferred electronically that becomes an integral and  
3 component part of a final product manufactured by a business classified in signs and advertising  
4 specialities, (industry no. 3993) in the Standard Industrial Classification Manual, 1987, as  
5 prepared by the Statistical Policy Division of the Office of Management and Budget, Office of  
6 the President, that is installed by ~~such~~ the manufacturer outside of this state is exempt from the  
7 tax imposed by this chapter.

8 Section 43. That § 10-46-6 be amended to read as follows:

9 10-46-6. The use in this state of tangible personal property, any product transferred  
10 electronically, or services, the gross receipts from the sale of which are to be included in the  
11 measure of the tax imposed by chapter 10-45, and any amendments made or which may  
12 hereafter be made thereto, is hereby specifically exempted from the tax imposed by this chapter.

13 Section 44. That § 10-46-6.1 be amended to read as follows:

14 10-46-6.1. The amount of any use tax imposed with respect to tangible personal property,  
15 any product transferred electronically, or services shall be reduced by the amount of any sales  
16 or use tax previously paid by the taxpayer with respect to the property on account of liability to  
17 another state or its political subdivisions. ~~Provided, however~~ However, no credit ~~shall~~ may be  
18 given under this section where taxes paid on tangible personal property, any product transferred  
19 electronically, or services in another state or its political subdivisions of that state does not  
20 reciprocally grant a credit for taxes paid on similar tangible personal property or any product  
21 transferred electronically.

22 Section 45. That § 10-46-7 be amended to read as follows:

23 10-46-7. Tangible personal property and any product transferred electronically, the storage,  
24 use, or other consumption of which this state is prohibited from taxing under the Constitution

1 or laws of the United States of America or under the Constitution of this state, or tangible  
2 personal property and any product transferred electronically sold to the United States, the State  
3 of South Dakota, or any public or municipal corporation of the state which is for the use,  
4 storage, or consumption of such public corporations is hereby specifically exempt from the tax  
5 imposed by this chapter.

6 Section 46. That § 10-46-8 be amended to read as follows:

7 10-46-8. The use in this state of all articles of tangible personal property and any product  
8 transferred electronically brought into the State of South Dakota by a nonresident individual  
9 thereof for his or her personal use or enjoyment while within the state, is hereby specifically  
10 exempted from the tax imposed by this chapter.

11 Section 47. That § 10-46-9.5 be amended to read as follows:

12 10-46-9.5. Unless otherwise specifically subject to tax, the gross receipts resulting from fees  
13 or commissions received for rendering a service which provides for the sale of tangible personal  
14 property, any product transferred electronically, or services is exempt from the tax imposed by  
15 this chapter.

16 Section 48. That § 10-46-15 be amended to read as follows:

17 10-46-15. The gross receipts from sales of tangible personal property, any product  
18 transferred electronically, and the gross receipts from sales, furnishing or service of electrical  
19 energy, natural and artificial gas, water and communication service to and for use by religious  
20 educational institutions and private educational institutions currently recognized as exempt  
21 under section 501(c)(3) of the Internal Revenue Code as in effect on January 1, 1983, and  
22 nonprofit, charitable hospitals when purchases are made by authorized officials, payment made  
23 from the institution's funds and title to the property retained in the name of the institutions, are  
24 specifically exempted from the tax imposed by this chapter. For the purposes of this section, a

1 private educational institution shall be defined as an institution currently recognized as exempt  
2 under section 501(c)(3) of the Internal Revenue Code as in effect on January 1, 1995,  
3 maintaining a campus physically located within this state; and accredited by the South Dakota  
4 Department of Education or the North Central Association of Colleges and Schools.

5 This exemption does not extend to sales to or purchases of tangible personal property or any  
6 product transferred electronically for the personal use of officials, members, or employees of  
7 such institutions or to sales to or purchases of tangible personal property or any product  
8 transferred electronically used in the operation of a taxable retail business. The exemption  
9 provided in this section does not, in any manner, relieve the institution from the payment of the  
10 additional and further license fee imposed on the registration of motor vehicles. All institutions  
11 claiming this exemption shall, at the end of each quarter of each calendar year, file with the  
12 Department of Revenue and Regulation a list of all purchases on which exemption was claimed,  
13 fully itemized, showing name and address of vendors, description of property purchased,  
14 purchase price, and brief explanation of use or intended use.

15 Section 49. That § 10-46-15.4 be amended to read as follows:

16 10-46-15.4. There are specifically exempted from the provisions of this chapter and the  
17 computation of the tax imposed by it, the fair market value of any tangible personal property,  
18 product transferred electronically, or service given without charge to an institution, organization,  
19 or group exempt from the tax imposed by this chapter.

20 Section 50. That § 10-46-18 be amended to read as follows:

21 10-46-18. For the purpose of the proper administration of this chapter and to prevent the  
22 evasion of the tax, evidence that tangible personal property or any product transferred  
23 electronically was sold by any person for delivery in this state shall be prima facie evidence that  
24 ~~such~~ the tangible personal property or the product transferred electronically was sold for use in

1 this state.

2 Section 51. That § 10-46-20 be amended to read as follows:

3 10-46-20. Any retailer maintaining a place of business in this state, and making sales of  
4 tangible personal property, any product transferred electronically, or services for storage, use  
5 or other consumption in this state, not exempted under the provisions of §§ 10-46-6 to 10-46-  
6 17.5, inclusive, shall, at the time of making such sale, whether within or without the state,  
7 collect the tax imposed by this chapter from the purchaser, and give to the purchaser a receipt  
8 therefor in the manner and form prescribed by the secretary of revenue and regulation, if the  
9 secretary of revenue and regulation ~~shall~~, by rule promulgated pursuant to chapter 1-26, ~~require~~  
10 ~~such~~ requires a receipt. ~~Such~~ The retailer shall list with the secretary of revenue and regulation  
11 the name and address of all ~~his~~ the retailer's agents operating in this state, and the location of  
12 any ~~and all his~~ of the retailer's distribution or sales houses or offices or other places of business  
13 in this state.

14 Section 52. That § 10-46-21 be amended to read as follows:

15 10-46-21. Every retailer maintaining a place of business in this state and making sales of  
16 tangible personal property or any product transferred electronically for storage, use, or other  
17 consumption in this state, shall, twice annually furnish the secretary of revenue and regulation  
18 with a list, covering the six-month period just preceding the submission of such list, which shall  
19 contain the names and addresses of all persons within the State of South Dakota who have made  
20 purchases of tangible personal property or any product transferred electronically from ~~said~~ the  
21 retailer for use, storage, or consumption, ~~and which~~. The list shall contain the total amount of  
22 the purchase price of all such personal property so purchased during ~~said~~ the period by such  
23 persons. ~~Said~~ The list required to be submitted ~~as above stated~~ need not contain any information  
24 on the sale of tangible personal property ~~when~~ or any product transferred electronically if

1 exempt under §§ 10-46-6 to 10-46-15, inclusive.

2 Section 53. That § 10-46-22 be amended to read as follows:

3 10-46-22. The secretary of revenue and regulation may, upon application, authorize the  
4 collection of the tax imposed by this chapter by any retailer not maintaining a place of business  
5 within this state, who, to the satisfaction of the secretary of revenue and regulation furnishes  
6 adequate security to ensure collection and payment of the tax. ~~Such~~ The retailer shall be issued,  
7 without charge, a permit to collect ~~such~~ the tax in such manner, and subject to such  
8 requirements as the secretary of revenue and regulation may prescribe by rule promulgated  
9 pursuant to chapter 1-26. If so authorized, the retailer shall collect the tax upon ~~all~~ any tangible  
10 personal property or any product transferred electronically sold to ~~his~~ the retailer's knowledge  
11 for use, storage, or other consumption within this state, in the same manner and subject to the  
12 same requirements as a retailer maintaining a place of business within this state. ~~Such~~ The  
13 authority and permit may be canceled ~~when~~ if, at any time, the secretary of revenue and  
14 regulation considers the security inadequate, or that such tax can more effectively be collected  
15 from the person using ~~such~~ the property in this state.

16 Section 54. That § 10-46-23 be amended to read as follows:

17 10-46-23. The tax upon the use, storage, or other consumption of all tangible personal  
18 property or any product transferred electronically which is sold by a retailer maintaining a place  
19 of business in this state, or by such other retailer as the secretary of revenue and regulation shall  
20 authorize pursuant to § 10-46-22, shall be collected by ~~such~~ the retailer and remitted to the  
21 Department of Revenue and Regulation pursuant to the provisions of §§ 10-46-24 to 10-46-31,  
22 inclusive.

23 Section 55. That § 10-46-28 be amended to read as follows:

24 10-46-28. At the time specified in § 10-46-27, the retailer shall file with the secretary of

1 revenue and regulation a return for the preceding reporting period in such form as may be  
2 prescribed by the secretary of revenue and regulation showing the sales price of any ~~or all~~  
3 tangible personal property, any product transferred electronically, or services sold by the retailer  
4 during ~~such~~ the preceding reporting period, the use, storage, or consumption of which is subject  
5 to the tax imposed by this chapter, and such other information as the secretary of revenue and  
6 regulation may deem necessary for the proper administration of this chapter. ~~Returns~~ Each  
7 return shall be accompanied by a remittance of the amount of such tax for the period covered  
8 by the return.

9 Section 56. That § 10-46-31 be amended to read as follows:

10 10-46-31. If tangible personal property or any product transferred electronically is sold under  
11 a conditional sales contract, or under any other form of sale wherein the payment of the  
12 principal sum, or a part thereof, is extended over a period longer than sixty days from the date  
13 of the sale thereof, the retailer may collect and remit for each month that portion of the tax equal  
14 to the rate of tax as provided for in this chapter of that portion of the purchase price actually  
15 received during ~~such~~ the month.

16 Section 57. That § 10-46-33 be amended to read as follows:

17 10-46-33. The tax upon the use, storage, or consumption of ~~all~~ any tangible personal  
18 property or any product transferred electronically not paid pursuant to §§ 10-46-23 and 10-46-32  
19 shall be paid to the secretary of revenue and regulation directly by any person using such  
20 property within this state, pursuant to the provisions of § 10-46-34.

21 Section 58. That § 10-46-34.1 be amended to read as follows:

22 10-46-34.1. The amount of use tax imposed with respect to tangible personal property and  
23 any product transferred electronically in the form of equipment brought into this state on a  
24 permanent basis for direct use in a manufacturing, fabricating, or processing business shall be

1 reduced by the amount of any sales or use tax previously paid by the taxpayer with respect to  
2 the property on account of liability to another state or its political subdivisions to the extent that  
3 such tax equals or exceeds the rate of the tax in this state. If the sales or use tax of the other state  
4 is less than the tax of this state, the taxpayer shall be subject to the payment of the balance to  
5 this state. No credit ~~shall~~ may be given under this section for taxes paid on tangible personal  
6 property or any product transferred electronically subject to the credit of this section in another  
7 state or its political subdivisions if that state does not reciprocally grant a credit for taxes paid  
8 on similar tangible personal property or any product transferred electronically in this state.

9 Section 59. That § 10-46-43 be amended to read as follows:

10 10-46-43. ~~Every~~ Each retailer required or authorized to collect taxes imposed by this chapter  
11 and ~~every~~ each person using, storing or otherwise consuming in this state tangible personal  
12 property or any product transferred electronically purchased on or after July 1, 1939, shall keep  
13 such records, receipts, invoices, and other pertinent papers as the secretary of revenue and  
14 regulation shall require, in such form as the secretary of revenue and regulation shall require.  
15 The secretary of revenue and regulation and any of ~~his~~ the secretary's duly authorized agents ~~are~~  
16 ~~hereby authorized to~~ may examine the books, papers, records, and equipment of any person  
17 either selling tangible personal property or products transferred electronically or liable for the  
18 tax imposed by this chapter, and investigate the character of the business of any such person in  
19 order to verify the accuracy of any return made, or if ~~such~~ the return was made by such person,  
20 to ascertain and determine the amount due under the provisions of this chapter. Any such books,  
21 papers, and records shall be made available within this state for such examination upon  
22 reasonable notice ~~when~~ if the secretary of revenue and regulation ~~shall deem~~ deems it advisable  
23 and ~~shall~~ so ~~order~~ orders.

24 Section 60. That § 10-46-66 be amended to read as follows:

1       10-46-66. All auction sales and consignment sales of tangible personal property, any product  
2 transferred electronically, and services are sales at retail. The auction clerk shall file the return  
3 and remit the tax imposed by this chapter on the gross receipts from each auction after applying  
4 the deductions provided by § 10-45-92. However, the auctioneer is responsible for the payment  
5 of the tax imposed by this chapter if the auction clerk is an employee of the auctioneer or if the  
6 auction clerk does not have a permit as required by this chapter. In addition to any other  
7 information required to be kept by this chapter, each auction clerk shall keep records that  
8 identify the owner of the property sold at auction and the auctioneer who conducts the sale of  
9 such property.

10       Section 61. That § 10-46-68 be amended to read as follows:

11       10-46-68. There are hereby exempted from the provisions of this chapter and the  
12 computation of the tax imposed by it, gross receipts from membership fees paid to any lodging  
13 house and hotel membership organization operated for the benefit of its members. However, this  
14 exemption does not apply to any membership fee that represents payment for tangible personal  
15 property, any product transferred electronically, and services provided by the membership  
16 organization.

17       Section 62. That subdivision (7) of § 10-45D-1 be amended to read as follows:

18       (7) "Visitor intensive business," any antique shop, book store, candy store, flea market,  
19 gift shop, indigenous arts and crafts shop, jewelry, lapidary shop, leather goods shop,  
20 marina, novelty shop, pottery shop, rock shop, souvenir shop, and tee shirt shop if  
21 fifty percent or more of annual total receipts are derived from the sale of tangible  
22 personal property or any product transferred electronically, during the months of  
23 June, July, August, and September. No postsecondary, college, and university book  
24 store is, however, included.

1 Section 63. That § 10-45D-2 be amended to read as follows:

2 10-45D-2. There is hereby imposed a tax of one percent on the gross receipts from any  
3 lodging establishment, campground, motor vehicle rental, visitor attraction, recreational  
4 equipment rental, recreational service, spectator event, and visitor-intensive business. The tax  
5 imposed by this section on the gross receipts of any visitor-intensive business shall apply to the  
6 gross receipts received by such business during the months of June, July, August, and  
7 September. The tax imposed by this section is in addition to any other tax imposed by chapters  
8 10-45 and 10-46. Tangible personal property, any product transferred electronically, services,  
9 and admissions are subject to the tax imposed by this section only if subject to tax by chapters  
10 10-45 and 10-46.

11 Section 64. That § 10-45D-6 be amended to read as follows:

12 10-45D-6. The tax imposed by § 10-45D-2 applies to the gross receipts from admission to  
13 a visitor attraction and from the sale of tangible personal property, any product transferred  
14 electronically, services, parking, or transportation at a visitor attraction.

15 Section 65. That § 10-45D-7 be amended to read as follows:

16 10-45D-7. The tax imposed by § 10-45D-2 applies to the gross receipts from admission to  
17 a spectator event and from the sale of tangible personal property, any product transferred  
18 electronically, services, parking, or transportation at a spectator event.

19 Section 66. That § 10-52A-1.1 be amended to read as follows:

20 10-52A-1.1. For the purposes of this chapter, the term, gross receipts, means the total  
21 amount or consideration, including cash, credit, property, and services, for which tangible  
22 personal property, any product transferred electronically, or services are sold, leased, or rented,  
23 valued in money, whether received in money or otherwise, without any deduction for the  
24 following:

- 1 (1) The retailer's cost of the property or service sold;
- 2 (2) The cost of materials used, labor or service cost, interest, losses, all costs of
- 3 transportation to the retailer, all taxes imposed on the retailer, and any other expense
- 4 of the retailer; and
- 5 (3) Except as provided in chapter 10-46A or 10-46B, charges by the retailer for any
- 6 services necessary to complete the sale whether or not separately stated, including
- 7 delivery charges.

8 Section 67. That § 10-52A-1.3 be amended to read as follows:

9 10-52A-1.3. Gross receipts, as defined in § 10-52A-1.1, do not include:

- 10 (1) Discounts, including cash, term, or coupons that are not reimbursed by a third party
- 11 that are allowed by a retailer and taken by a purchaser on a sale;
- 12 (2) Interest, financing, and carrying charges from credit extended on the sale of tangible
- 13 personal property, any product transferred electronically, or services, if the amount
- 14 is separately stated on the invoice, bill of sale, or similar document given to the
- 15 purchaser; and
- 16 (3) Any taxes legally imposed directly on the consumer that are separately stated on the
- 17 invoice, bill of sale, or similar document given to the purchaser.

18 Section 68. That § 10-43-5 be amended to read as follows:

19 10-43-5. The tax referred to in §§ 10-43-2 and 10-43-2.1 is in lieu of all other taxes and

20 licenses, state, county and local, except taxes upon the institutions' real property, taxes upon the

21 institutions' leased sites, and tangible personal property and products transferred electronically

22 not normally used in extension of credit or acceptance of deposits and the retail ~~occupational~~

23 sales tax or the use tax on tangible personal property; ~~provided, however, that~~ and any product

24 transferred electronically. However, tangible personal property and any product transferred

1 electronically acquired by the financial institution through a foreclosure proceeding ~~shall be~~ are  
2 exempt from such other taxes. The institutions taxed by §§ 10-43-2 and 10-43-2.1 are exempt  
3 from other net income taxation by this state.

4 Section 69. That § 10-44-8 be amended to read as follows:

5 10-44-8. ~~Every~~ Each company required to pay a tax under this chapter is exempt from all  
6 other taxes, state and local, except taxes upon real property as may be owned by ~~such~~ the  
7 company and the retail ~~occupational~~ sales tax and the use tax on tangible personal property and  
8 any product transferred electronically. An insurance policy or annuity contract is considered  
9 intangible personal property for the purposes of this section.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0270

## HOUSE ENGROSSED NO. **HB 1058** - 1/29/2008

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
State Brand Board

1 FOR AN ACT ENTITLED, An Act to increase the maximum amount allowable for the  
2 livestock ownership inspection fee.

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

4 Section 1. That § 40-18-16 be amended to read as follows:

5 40-18-16. The board may promulgate rules pursuant to chapter 1-26 to:

- 6 (1) Describe prohibited brand symbols for various types of livestock and identify  
7 locations on animals where a brand is permitted;
- 8 (2) Provide for the registration, transfer, and renewal of livestock brands;
- 9 (3) Establish a brand registration fee not to exceed twenty-five dollars;
- 10 (4) Establish a brand renewal fee not to exceed ten dollars per year or a brand renewal  
11 fee not to exceed fifty dollars for each five-year ownership period and a brand  
12 transfer fee not to exceed twenty-five dollars;
- 13 (5) Establish an ownership inspection fee not to exceed ~~eighty cents~~ one dollar for each  
14 head of livestock;
- 15 (6) Establish recordable livestock brands;



- 1       (7)   Establish law enforcement, ownership inspection, and transportation requirements
- 2               within or without the ownership inspection area;
- 3       (8)   Establish a duplicate certificate fee not to exceed five dollars;
- 4       (9)   Establish a mileage fee for inspectors not to exceed the rate set by the State Board of
- 5               Finance.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

284P0335

## SENATE APPROPRIATIONS ENGROSSED NO. **HB 1080** - 2/11/2008

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a student  
2 athlete development center on the campus of South Dakota State University and to make an  
3 appropriation therefor.

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

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
7 electric facilities, architectural and engineering services, asbestos abatement, removal of existing  
8 roofing and structures, and such other services and improvements as may be required to erect,  
9 a student athlete development center on the campus of South Dakota State University in  
10 Brookings, in Brookings County, at an estimated cost of six million dollars.

11 Section 2. There is hereby appropriated the sum of six million dollars (\$6,000,000), or so  
12 much thereof as may be necessary, of other fund expenditure authority, payable from funds  
13 donated for the purposes of this Act, to the Board of Regents for the construction authorized by  
14 this Act.

15 Section 3. The design and construction of the facilities approved by this Act shall be under



1 the general supervision of the Bureau of Administration as provided in § 5-14-2. The  
2 commissioner of the Bureau of Administration and the executive director of the Board of  
3 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
4 authorized by this Act.

5 Section 4. No general fund dollars may be used for the maintenance and repair of the  
6 facilities authorized by this Act.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0338

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB** **1081** - 1/25/2008

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to replace storage  
2 facilities at the Cottonwood Agricultural Experiment Station and to make an appropriation  
3 therefor.

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

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
7 electric facilities, architectural and engineering services, asbestos abatement, and such other  
8 services as may be required to construct a new machine and equipment storage shed and hoop  
9 barn at the Cottonwood Agricultural Experiment Station, located near Cottonwood in Jackson  
10 County, in conjunction with the agricultural experiment station, at an estimated cost of two  
11 hundred thousand dollars.

12 Section 2. The Board of Regents shall provide for the removal or demolition of existing  
13 storage sheds pursuant to § 13-51-12.

14 Section 3. There is hereby appropriated from pesticide registration fees designated for the



1 agricultural experiment station in subdivision 38-20A-59(4) the sum of two hundred thousand  
2 dollars (\$200,000), or so much thereof as may be necessary, to the Board of Regents for the  
3 purpose of constructing the facility described in this Act.

4 Section 4. The design and construction of the facilities approved by this Act shall be under  
5 the general supervision of the Bureau of Administration as provided in § 5-14-2. The  
6 commissioner of the Bureau of Administration and the executive director of the Board of  
7 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
8 authorized by this Act.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0339

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB** **1082** - 1/25/2008

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to revise the appropriation for a new dairy manufacturing  
2 plant at South Dakota State University.

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

4 Section 1. That section 2 of chapter 93 of the 2006 Session Laws be amended to read as  
5 follows:

6 Section 2. There is hereby appropriated to the Board of Regents ~~four million dollars~~  
7 ~~(\$4,000,000)~~ five million eight hundred fifty-two thousand dollars (\$5,852,000), or so much  
8 thereof as may be necessary, from private donations and grants received by South Dakota State  
9 University to construct the facility described in section 1 of this Act.

10 Section 2. That section 3 of chapter 93 of the 2006 Session Laws be repealed.

11 ~~Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for~~  
12 ~~these purposes from federal sources, gifts, contributions, or any other source, all of which shall~~  
13 ~~be deemed appropriated to the project authorized by this Act.~~



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0340

## SENATE APPROPRIATIONS ENGROSSED NO. **HB 1083** - 2/11/2008

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a new public  
2 restroom facility at McCrory Gardens on the campus of South Dakota State University and  
3 to make an appropriation therefor.

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

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
7 electric facilities, architectural and engineering services, asbestos abatement, removal of existing  
8 roofing and structures, and such other services and improvements as may be required to erect,  
9 a new public restroom facility at McCrory Gardens on the campus of South Dakota State  
10 University in Brookings, in Brookings County, at an estimated cost of fifty thousand dollars.

11 Section 2. There is hereby appropriated the sum of fifty thousand dollars (\$50,000), or so  
12 much thereof as may be necessary, of other fund expenditure authority, payable from funds  
13 donated for the purposes of this Act, to the Board of Regents for the construction authorized by  
14 this Act.

15 Section 3. The design and construction of the facilities approved by this Act shall be under



1 the general supervision of the Bureau of Administration as provided in § 5-14-2. The  
2 commissioner of the Bureau of Administration and the executive director of the Board of  
3 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
4 authorized by this Act.

5 Section 4. No general fund dollars may be used for the maintenance and repair of the  
6 facilities authorized by this Act.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

724P0140

SENATE COMMERCE

ENGROSSED NO. **HB 1113** - 2/12/2008

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

Introduced by: Representatives Kirkeby, Brunner, Elliott, Gosch, Haverly, Lust, Nelson, Olson (Russell), Pederson (Gordon), Pitts, Rausch, Rhoden, Sigdestad, Turbiville, Van Etten, Vanneman, and Wick and Senators Napoli, Abdallah, Heidepriem, Katus, Kloucek, Koetzle, Lintz, Maher, McCracken, McNenny, and Schmidt (Dennis)

1 FOR AN ACT ENTITLED, An Act to provide minimum notice requirements to persons who  
2 lease real property for their own mobile or manufactured homes.

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

4 Section 1. Any person who leases real property to an owner of a mobile or manufactured  
5 home shall, if the property is developed for an alternate use, give no less than ninety days notice  
6 to vacate and remove the home from the real property. The provisions of this section do not  
7 apply if the notice is based upon a breach of the terms of a lease.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

752P0590

## HOUSE ENGROSSED NO. **HB 1240** - 1/30/2008

Introduced by: Representatives Olson (Russell), Faehn, and Lucas and Senators Hauge, Abdallah, and Gant

1 FOR AN ACT ENTITLED, An Act to increase certain vehicle dealer license fees.

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

3 Section 1. That § 32-6B-13 be amended to read as follows:

4 32-6B-13. Upon making initial application for a dealer's license, the applicant shall pay a  
5 fee to the department. The initial fee required for each type of dealer's license is as follows:

6 (1) Vehicle dealer's license--~~\$250~~\$300;

7 (2) Used vehicle dealer's license--~~\$250~~\$300;

8 (3) Motorcycle dealer's license--~~\$200~~\$250;

9 (4) Trailer dealer's license--~~\$75~~\$125; or

10 (5) Emergency vehicle dealer's license--~~\$250~~\$300.

11 All money collected pursuant to this section shall be deposited in the state motor vehicle  
12 fund.

13 Section 2. That § 32-6B-15 be amended to read as follows:

14 32-6B-15. A renewal application shall be submitted to the department annually, prior to the  
15 expiration of the old license. The applicant shall pay a fee based on the following schedule to



1 the department:

- 2 (1) Vehicle dealer's license--~~\$100~~\$175;
- 3 (2) Used vehicle dealer's license--~~\$100~~\$175;
- 4 (3) Motorcycle dealer's license--~~\$75~~\$150;
- 5 (4) Trailer dealer's license--~~\$50~~\$100; or
- 6 (5) Emergency vehicle dealer's license--~~\$100~~\$175.

7 The renewal application shall contain the same information as required for the initial  
8 application in § 32-6B-6. Any application for renewal made after the expiration date shall be  
9 accompanied by a fee in the amount of the initial license fee as established in § 32-6B-13.

10 Section 3. That § 32-7A-7 be amended to read as follows:

11 32-7A-7. The license fee for a dealer or manufacturer of mobile homes or manufactured  
12 homes is ~~two hundred fifty~~ three hundred dollars and the annual license renewal fee is  
13 ~~seventy-five~~ one hundred fifty dollars. An applicant shall pay the license fees to the county  
14 treasurer at the time an application for license is made. The license is for ~~the full calendar~~ a year,  
15 unless it is revoked for cause. ~~The license shall expire at the end of the calendar year.~~

16 Section 4. That § 32-7B-8 be amended to read as follows:

17 32-7B-8. Each license may be issued for a multiple year period. The application for license  
18 and all applicable fees are due prior to the issuance of the initial license. The initial fee for a  
19 license shall be two hundred fifty dollars , and a renewal license shall be one hundred seventy-  
20 five dollars. All licenses shall be reviewed annually by the department. The department shall  
21 mail to the licensee at the last known address a renewal notice. The department shall establish  
22 by rules promulgated pursuant to chapter 1-26 the review date, if other than October first to  
23 December thirty-first, inclusive. If the licensee fails to return the renewal notice or to pay the  
24 applicable fees, the department shall cancel and revoke the license pursuant to the provisions

1 of §§ 32-7B-16 and 32-7B-17.

2 Section 5. That § 32-6C-5 be amended to read as follows:

3 32-6C-5. Upon making initial application for a dealer's license, the applicant shall pay a fee  
4 of one hundred fifty dollars to the department. Each license shall be valid from July first through  
5 the following June thirtieth, unless suspended or revoked prior to the expiration date. A renewal  
6 application shall be submitted to the department annually, along with a renewal fee of ~~ffty~~ one  
7 hundred twenty-five dollars, prior to the expiration of the old license. ~~Any snowmobile dealer~~  
8 ~~that was licensed by the department during the period of July 1, 1985, through the following~~  
9 ~~June 30, 1986, shall be eligible to renew his license for a fee of fifty dollars during the period~~  
10 ~~of July 1, 1987, through June 30, 1988.~~ The renewal application shall contain the same  
11 information as is required in § 32-6C-3. Any application for renewal made after the expiration  
12 date shall be accompanied by ~~a one hundred dollars~~ an initial license fee. Any licensee who does  
13 not file his application and renewal fee with the department prior to the expiration date shall  
14 cease to engage in business as a dealer on the license expiration date. All money collected  
15 pursuant to this section shall be deposited in the state motor vehicle fund.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

248P0556

## SENATE TRANSPORTATION ENGROSSED NO. **HB 1241** - 2/12/2008

Introduced by: Representatives Olson (Russell), Faehn, and Lucas and Senators Hauge, Abdallah, and Gant

1 FOR AN ACT ENTITLED, An Act to provide licensed dealers additional time to deliver a title  
2 under certain conditions and to authorize the establishment of a transaction fee for certain  
3 online access to the title and registration system.

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

5 Section 1. That chapter 32-3 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 If a licensed dealer does not deliver title within thirty days as required by § 32-3-7, and the  
8 dealer has satisfied any lien in compliance with chapter 32-6B, 32-6C, 32-7A, or 32-7B and the  
9 delay in delivering title was caused because the lien holder failed to release the lien or deliver  
10 the title document in accordance with § 32-3-44, the dealer may request additional time to  
11 deliver title to the retail purchaser. The dealer's request for an extension shall be made within  
12 forty days of the date of sale. Any request after the forty days shall be denied and the dealer is  
13 in violation of § 32-3-7. The dealer shall provide to the department documentation to support  
14 the steps taken to satisfy the lien in a timely manner and request the title. If the department finds



1 the request for additional time is substantiated, the department may authorize the issuance of  
2 another temporary license permit not to exceed thirty days.

3 Section 2. That § 32-3-57 be amended to read as follows:

4 32-3-57. The secretary of revenue and regulation may promulgate rules pursuant to chapter  
5 1-26 and issue instructions as are necessary to ensure and obtain uniformity in the  
6 administration of the provisions of this chapter. ~~Such rules~~ Rules may be adopted in the  
7 following areas:

- 8 (1) Application requirements for new vehicles, trailers, snowmobiles, and mobile homes;
- 9 (2) Certificate of title for vehicles previously registered, time limits of making  
10 application, duplicate certificates, and transfer of certificate of title;
- 11 (3) Assignment of certificate of title;
- 12 (4) Corrections of titles and procedure when there is a body type change;
- 13 (5) Lien recording, assignment of liens, execution of cancellation of liens, and delivery  
14 of certificate of title;
- 15 (6) Transfer of ownership;
- 16 (7) Registration tax dealers guides for used vehicles or mobile homes, older motor  
17 vehicles and government vehicles, title and license requirements, nonresident  
18 reciprocity, manufacturer's price sticker, wrecked motor vehicles, leased vehicles,  
19 and homemade vehicles; and
- 20 (8) Establishment of a transaction fee for online access to the title and registration system  
21 that does not exceed fifty cents for each transaction.

22 All local officials charged with the administration of the provisions of this chapter are  
23 governed in their official acts by the rules promulgated by the secretary.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

525P0161

HOUSE STATE AFFAIRS

ENGROSSED NO. **HB 1247** - 1/31/2008

Introduced by: Representatives Dykstra, Brunner, Cutler, Deadrick, Faehn, Halverson, Hargens, Krebs, Noem, Nygaard, Pitts, Putnam, Rausch, Rave, Rhoden, Street, Tidemann, and Vanneman and Senators Knudson, Albers, Dempster, Gray, Hansen (Tom), Hanson (Gary), Hauge, and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to prohibit certain contract restrictions on the sale of  
2 renewable motor fuels by retailers.

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

4 Section 1. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Terms used in this Act mean:

- 7 (1) "Franchise-related document," a franchise agreement, branded jobber contract,  
8 branded marketer agreement, and any other contract or directive of a franchisor  
9 relating to terms or conditions of the sale of fuel by a franchisee or customer;
- 10 (2) "Renewable fuel," biodiesel, biodiesel blend, ethyl alcohol, ethanol blend, and E-85,  
11 all as defined in § 10-47B-3.

12 Section 2. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
13 follows:



1 No franchise-related document entered into or renewed on or after the effective date of this  
2 Act may contain any provision allowing a franchisor to restrict the franchisee or any affiliate of  
3 the franchisee from:

4 (1) Installing on the marketing premises of the franchisee a renewable fuel pump or tank,  
5 except that the franchisee's franchisor may restrict the installation of a tank on leased  
6 marketing premises of the franchisor;

7 (2) Converting an existing tank or pump on the marketing premises of the franchisee for  
8 renewable fuel use;

9 (3) Advertising the sale of any renewable fuel, including through the use of signage;

10 (4) Selling renewable fuel in any specified area on the marketing premises of the  
11 franchisee, including any area in which a name or logo of a franchisor or any other  
12 entity appears;

13 (5) Purchasing renewable fuel from sources other than the franchisor if the franchisor  
14 does not offer its own renewable fuel for sale by the franchisee;

15 (6) Listing renewable fuel availability or prices, including on service station signs, fuel  
16 dispensers, or light poles; or

17 (7) Allowing for payment of renewable fuel with any form of payment available for any  
18 other type of fuel.

19 Nothing in this section authorizes any activity that constitutes mislabeling, misbranding,  
20 willful adulteration, or other trademark violations by the franchisee.

21 Section 3. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
22 follows:

23 Nothing in this Act precludes a franchisor from requiring the franchisee to obtain reasonable  
24 indemnification and insurance policies.

1       Section 4. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3       No franchise-related document that requires that three grades of gasoline be sold by the  
4 applicable franchisee may prevent the franchisee from selling a renewable fuel in lieu of one,  
5 and only one, grade of gasoline.

6       Section 5. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8       Any franchisor found guilty of violating the provisions of sections 2 or 4 of this Act is guilty  
9 of a Class 1 misdemeanor.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

923P0179

## HOUSE ENGROSSED NO. **HB 1250** - 2/5/2008

Introduced by: Representatives Lucas, Bradford, Elliott, Gassman, Halverson, Nelson, Rave, Street, Van Etten, Van Norman, and Weems and Senators Koetzle, McCracken, Olson (Ed), and Two Bulls

1 FOR AN ACT ENTITLED, An Act to increase the salary for legislators.

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

3 Section 1. That § 2-4-2 be amended to read as follows:

4 2-4-2. The salary of each member of the Legislature is ~~six~~ eight thousand dollars for ~~every~~  
5 each regular legislative session. In addition, each legislator shall receive:

6 (1) Reimbursement to be paid after the legislative session for actual mileage or its  
7 equivalent traveled to and from home not more than once each weekend or between  
8 days of recess during the regular legislative session, at state rates established by the  
9 Board of Finance;

10 (2) Expenses of one hundred ten dollars per day for each day of a regular or special  
11 legislative session as prepaid reimbursement for living expenses, including meals and  
12 lodging, laundry, cleaning and pressing of clothing, and all other uncompensated  
13 expenses as defined in § 2-4-2.1 incident to the performance of legislative services;  
14 and



1       (3)   Five cents once each session for every mile of necessary travel in going to and  
2            returning from the place of meeting of the Legislature by the most usual route.

3       For each day's attendance at special sessions, each member, in addition to mileage and  
4   expenses, shall receive a per diem calculated by the director of the Legislative Research Council  
5   equal to the normal daily compensation for the regular session immediately preceding the  
6   special session.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

293P0689

## HOUSE ENGROSSED NO. **HB 1276** - 2/6/2008

Introduced by: The Committee on Appropriations at the request of the Office of the  
Governor

1 FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds for elderly  
2 persons and persons with a disability of property tax and sales tax and to revise the income  
3 eligibility requirements for property tax and sales tax refunds.

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

5 Section 1. There is hereby appropriated from the general fund the sum of eight hundred  
6 thousand dollars (\$800,000), or so much thereof as may be necessary, to the Department of  
7 Revenue and Regulation to provide refunds for real property tax and sales tax to elderly persons  
8 and persons with a disability pursuant to chapters 10-18A and 10-45A. An amount not to exceed  
9 twenty thousand dollars in fiscal year 2009 may be used for the administrative costs of this Act.

10 Section 2. The secretary of revenue and regulation shall approve vouchers and the state  
11 auditor shall draw warrants to pay expenditures authorized by this Act.

12 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by June  
13 30, 2009, shall revert in accordance with the procedures prescribed in chapter 4-8.

14 Section 4. That § 10-18A-5 be amended to read as follows:

15 10-18A-5. The amount of refund of real property taxes due or paid for a single-member



1 household made pursuant to this chapter shall be according to the following schedule:

2			The refund of real
3	If household income is		property taxes due
4	more than:	but less than	or paid shall be
5	\$ 0	<del>\$3,750</del> <u>4,000</u>	35%
6	<del>3,751</del> <u>4,001</u>	<del>4,010</del> <u>4,260</u>	34%
7	<del>4,011</del> <u>4,261</u>	<del>4,270</del> <u>4,520</u>	33%
8	<del>4,271</del> <u>4,521</u>	<del>4,530</del> <u>4,780</u>	32%
9	<del>4,531</del> <u>4,781</u>	<del>4,790</del> <u>5,040</u>	31%
10	<del>4,791</del> <u>5,041</u>	<del>5,050</del> <u>5,300</u>	30%
11	<del>5,051</del> <u>5,301</u>	<del>5,310</del> <u>5,560</u>	29%
12	<del>5,311</del> <u>5,561</u>	<del>5,570</del> <u>5,820</u>	28%
13	<del>5,571</del> <u>5,821</u>	<del>5,830</del> <u>6,080</u>	27%
14	<del>5,831</del> <u>6,081</u>	<del>6,090</del> <u>6,340</u>	26%
15	<del>6,091</del> <u>6,341</u>	<del>6,350</del> <u>6,600</u>	25%
16	<del>6,351</del> <u>6,601</u>	<del>6,610</del> <u>6,860</u>	24%
17	<del>6,611</del> <u>6,861</u>	<del>6,870</del> <u>7,120</u>	23%
18	<del>6,871</del> <u>7,121</u>	<del>7,130</del> <u>7,380</u>	22%
19	<del>7,131</del> <u>7,381</u>	<del>7,390</del> <u>7,640</u>	21%
20	<del>7,391</del> <u>7,641</u>	<del>7,650</del> <u>7,900</u>	20%
21	<del>7,651</del> <u>7,901</u>	<del>7,910</del> <u>8,160</u>	19%
22	<del>7,911</del> <u>8,161</u>	<del>8,170</del> <u>8,420</u>	18%
23	<del>8,171</del> <u>8,421</u>	<del>8,430</del> <u>8,680</u>	17%
24	<del>8,431</del> <u>8,681</u>	<del>8,690</del> <u>8,940</u>	16%
25	<del>8,691</del> <u>8,941</u>	<del>8,950</del> <u>9,200</u>	15%
26	<del>8,951</del> <u>9,201</u>	<del>9,210</del> <u>9,460</u>	14%
27	<del>9,211</del> <u>9,461</u>	<del>9,470</del> <u>9,720</u>	13%
28	<del>9,471</del> <u>9,721</u>	<del>9,730</del> <u>9,980</u>	12%
29	<del>9,731</del> <u>9,981</u>	<del>10,000</del> <u>10,250</u>	11%

1 over ~~10,000~~ 10,250 No refund

2 Section 5. That § 10-18A-6 be amended to read as follows:

3 10-18A-6. The amount of refund of real property taxes due or paid for a multiple-member  
4 household made pursuant to this chapter shall be according to the following schedule:

5			The refund of real
6	If household income is		property taxes due
7	more than:	but not more than	or paid shall be
8	\$ 0	<del>6,500</del> <u>6,750</u>	55%
9	<del>6,501</del> <u>6,751</u>	<del>6,861</del> <u>7,111</u>	53%
10	<del>6,862</del> <u>7,112</u>	<del>7,222</del> <u>7,472</u>	51%
11	<del>7,223</del> <u>7,473</u>	<del>7,583</del> <u>7,833</u>	49%
12	<del>7,584</del> <u>7,834</u>	<del>7,944</del> <u>8,194</u>	47%
13	<del>7,945</del> <u>8,195</u>	<del>8,305</del> <u>8,555</u>	45%
14	<del>8,306</del> <u>8,556</u>	<del>8,666</del> <u>8,916</u>	43%
15	<del>8,667</del> <u>8,917</u>	<del>9,027</del> <u>9,277</u>	41%
16	<del>9,028</del> <u>9,278</u>	<del>9,388</del> <u>9,638</u>	39%
17	<del>9,389</del> <u>9,639</u>	<del>9,749</del> <u>9,999</u>	37%
18	<del>9,750</del> <u>10,000</u>	<del>10,110</del> <u>10,360</u>	35%
19	<del>10,111</del> <u>10,361</u>	<del>10,471</del> <u>10,721</u>	33%
20	<del>10,472</del> <u>10,722</u>	<del>10,832</del> <u>11,082</u>	31%
21	<del>10,833</del> <u>11,083</u>	<del>11,193</del> <u>11,443</u>	29%
22	<del>11,194</del> <u>11,444</u>	<del>11,554</del> <u>11,804</u>	27%
23	<del>11,555</del> <u>11,805</u>	<del>11,915</del> <u>12,165</u>	25%
24	<del>11,916</del> <u>12,166</u>	<del>12,276</del> <u>12,526</u>	23%
25	<del>12,277</del> <u>12,527</u>	<del>12,637</del> <u>12,887</u>	21%
26	<del>12,638</del> <u>12,888</u>	<del>13,000</del> <u>13,250</u>	19%
27	over <del>13,000</del> <u>13,250</u>		No refund

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

1        10-45A-5. The amount of any claim made pursuant to this chapter by a claimant from a  
2 household consisting solely of one individual shall be determined as follows:

- 3        (1) If the claimant's income is ~~three thousand seven hundred fifty~~ four thousand dollars  
4 or less, a sum of two hundred fifty-eight dollars;
- 5        (2) If the claimant's income is ~~three thousand seven hundred fifty-one~~ four thousand one  
6 dollars and not more than ten thousand two hundred fifty dollars, a sum of forty-six  
7 dollars plus three and four-tenths percent of the difference between ten thousand two  
8 hundred fifty dollars and the income of the claimant;
- 9        (3) If the claimant's income is more than ten thousand two hundred fifty dollars, no  
10 refund.

11 Section 7. That § 10-45A-6 be amended to read as follows:

12        10-45A-6. The amount of any claim made pursuant to this chapter by a claimant from a  
13 household consisting of more than one individual shall be determined as follows:

- 14        (1) If household income is ~~six thousand five hundred~~ six thousand seven hundred fifty  
15 dollars or less, the sum of five hundred eighty-one dollars;
- 16        (2) If household income is ~~six thousand five hundred one~~ six thousand seven hundred  
17 fifty-one dollars and not more than thirteen thousand two hundred fifty dollars, a sum  
18 of seventy-four dollars plus seven and eight-tenths percent of the difference between  
19 thirteen thousand two hundred fifty dollars and total household income;
- 20        (3) If household income is more than thirteen thousand two hundred fifty dollars, no  
21 refund.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

392P0178

## HOUSE ENGROSSED NO. **HJR 1003** - 2/6/2008

Introduced by: Representatives Lucas, Boomgarden, Bradford, Brunner, Buckingham, Cutler, DeVries, Elliott, Faehn, Feinstein, Gassman, Glenski, Heineman, Hills, Koistinen, Miles, Nelson, Noem, Olson (Russell), Rausch, Rave, Rhoden, Rounds, Street, Turbiville, Van Etten, Van Norman, and Weems and Senators Nesselhuf, Albers, Bartling, Garnos, Hunhoff, Katus, Kloucek, Koetzle, McCracken, Olson (Ed), Peterson (Jim), and Two Bulls

1 A JOINT RESOLUTION, To propose a constitutional amendment to repeal certain  
2 reimbursement restrictions for travel by legislators to and from a legislative session.

3 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH  
4 DAKOTA, THE SENATE CONCURRING THEREIN:

5 Section 1. That at the next general election held in the state, the following amendment to  
6 Article III, section 6 of the Constitution of the State of South Dakota, as set forth in section 2  
7 of this Joint Resolution, which is hereby agreed to, shall be submitted to the electors of the state  
8 for approval.

9 Section 2. That Article III, section 6 of the Constitution of the State of South Dakota, be  
10 amended to read as follows:

11 § 6. The terms of office of the members of the Legislature shall be two years; they shall  
12 receive for their services the salary fixed by law under the provisions of § 2 of article XXI of  
13 this Constitution, ~~and five cents for every mile of necessary travel in going to and returning from~~



1 ~~the place of meeting of the Legislature on the most usual route.~~

2 No person may serve more than four consecutive terms or a total of eight consecutive years  
3 in the senate and more than four consecutive terms or a total of eight consecutive years in the  
4 house of representatives. However, this restriction does not apply to partial terms to which a  
5 legislator may be appointed ~~or to legislative service before January 1, 1993.~~

6 A regular session of the Legislature shall be held in each odd-numbered year and shall not  
7 exceed forty legislative days, excluding Sundays, holidays and legislative recess, except in cases  
8 of impeachment, and members of the Legislature shall receive no other pay or perquisites except  
9 salary and mileage.

10 A regular session of the Legislature shall be held in each even-numbered year ~~beginning~~  
11 ~~with the year 1964~~ and shall not exceed thirty-five legislative days, excluding Sundays, holidays  
12 and legislative recess, except in cases of impeachment, and members of the Legislature shall  
13 receive no other pay or perquisites except salary and mileage.