

## 2026 South Dakota Legislature

**House Bill 1281****AMENDMENT 1281A  
FOR THE INTRODUCED BILL**

1 **An Act to reduce the sales and use tax rates on food, to increase the rates for certain**  
2 **taxes, use taxes, and excise taxes, and to provide a new fund for school**  
3 **district capital outlay projects.**

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

5 **Section 1. That § 10-45-1 be AMENDED:**

6 **10-45-1.** Terms used in this chapter mean:

- 7 (1) "Agricultural purposes," the producing, raising, growing, or harvesting of food or  
8 fiber upon agricultural land, including dairy products, livestock, and crops. The  
9 services of custom harvesters, chemical applicators, fertilizer spreaders, hay  
10 grinders, and cultivators are considered agricultural purposes. The harvesting of  
11 timber on land within the state is considered an agricultural purpose;
- 12 (2) "Business," any activity engaged in by any person or caused to be engaged in by  
13 such person with the object of gain, benefit, or advantage, either direct or indirect;
- 14 (3) **"Candy," any preparation of sugar, honey, or other natural or artificial sweeteners**  
15 **in combination with chocolate, fruits, nuts or other ingredients or flavorings in the**  
16 **form of bars, drops, or pieces. The term, candy, does not include any preparation**  
17 **containing flour and does not require refrigeration;**
- 18 (4) **"Delivery charges," charges by the retailer for preparation and delivery to a location**  
19 **designated by the purchaser of tangible personal property, any product transferred**  
20 **electronically, or services including transportation, shipping, postage, handling,**  
21 **crating, and packing. The term does not include postage for direct mail;**
- 22 (5) "Food" and "food ingredient," any substance, whether in liquid, concentrated, solid,  
23 frozen, dried, or dehydrated form, that is sold for ingestion or chewing by humans  
24 and is consumed for its taste or nutritional value. ~~The term, food, does~~ These terms  
25 do not include alcoholic beverages, tobacco, or prepared food;
- 26 (a) Alcoholic beverages, as defined in § 35-1-1;

- 1           (b) Candy;
- 2           (c) Cannabis or cannabis products, as defined in § 34-20G-1;
- 3           ~~(e)~~(d) Cigarettes, as defined in § 10-50B-4;
- 4           ~~(d)~~(e) Prepared food; ~~or~~
- 5           ~~(e)~~(f) Soft drinks; or
- 6           (g) Tobacco products, as defined in § 10-50-1;
- 7       (6) Repealed by SL 2007, ch 56, § 1.
- 8       (7)~~(4)~~ "Person," any individual, firm, copartnership, joint adventure, association, limited  
9           liability company, corporation, municipal corporation, estate, trust, business trust,  
10          receiver, the State of South Dakota and its political subdivisions, or any group or  
11          combination acting as a unit;
- 12       (8)~~(5)~~ "Prepared food," any ~~food~~;
- 13           (a) Food sold in a heated state or heated by the seller; ~~two~~
- 14           (b) Two or more food ingredients mixed or combined by the seller for sale as a  
15           single item; or ~~food~~
- 16           (c) Food sold with eating utensils provided by the seller, including plates,  
17           knives, forks, spoons, glasses, cups, napkins, or straws. ~~A, but a~~ plate does  
18           not include a container or packaging used to transport the food.
- 19          Prepared food does not include food that is only cut, repackaged, or pasteurized  
20          by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal  
21          foods requiring cooking by the consumer as recommended by the Food and Drug  
22          Administration in chapter 3, part 401.11 of its Food Code as of January 1, 2003,  
23          so as to prevent food borne illnesses;
- 24       (8A)~~(6)~~ "Product transferred electronically," any product obtained by the purchaser by  
25          means other than tangible storage media. A product transferred electronically does  
26          not include any intangible such as a patent, stock, bond, goodwill, trademark,  
27          franchise, or copyright; ~~;~~
- 28       (9)~~(7)~~ "Relief agency," the state, and county, municipality or district thereof, or any  
29          agency engaged in actual relief work;
- 30       (10)~~(8)~~ "Retail sale" or "sale at retail," any sale, lease, or rental for any purpose other  
31          than for resale, sublease, or subrent;
- 32       (11)~~(9)~~ "Retailer," any person engaged in the business of selling ~~tangible~~;
- 33           (a) Tangible goods, wares, or merchandise at retail, ~~or the furnishing of gas~~;
- 34           (b) Gas, electricity, water, and communication service, ~~and tickets~~;

(c) Tickets or admissions to places of amusement and athletic events as provided in this chapter, ~~and the sale at retail of products; and~~

(d) Products transferred electronically at retail.

The term ~~also includes~~ does not include any person ~~subject to the tax imposed by §§ 10-45-4 and 10-45-5. The~~ that engages in the isolated or occasional sale of tangible personal property or of any product transferred electronically at retail ~~by a, provided the person who~~ does not hold himself or herself itself out to the public as engaging in the business of selling ~~such~~ tangible personal property or products transferred electronically at retail ~~does not constitute such person a retailer;~~

(12)~~(10)~~ "Sale," any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration; ~~and~~

(13) "Soft drinks," any nonalcoholic beverages that contain natural or artificial sweeteners. The term, soft drinks, does not include any beverage that contains milk or milk products, soy, rice or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume; and

(14)~~(11)~~ "Tangible personal property," personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. The term includes electricity, water, gas, steam, and prewritten computer software.

**Section 2. That § 10-45-2 be AMENDED:**

**10-45-2.** There is hereby imposed a tax upon the privilege of engaging in business as a retailer, ~~a tax of four and two tenths at the rate of five percent~~ upon the gross receipts of all sales of tangible personal property consisting of goods, wares, or merchandise, except as otherwise provided in this chapter, sold at retail in the state to consumers or users.

**Section 3. That § 10-45-5 be AMENDED:**

**10-45-5.** There is imposed a tax, ~~at the rate of four and two tenths percent~~ set forth in § 10-45-2, upon the gross receipts of any person from engaging or continuing in any of the following businesses or services in this state: ~~abstracters~~

(1) Abstracters;

(2) ~~accountants~~ Accountants;

(3) ~~ancillary~~ Ancillary services;

(4) ~~architects~~ Architects;

- 1       (5) ~~barbers~~Barbers;
- 2       (6) ~~beauty~~Beauty shops;
- 3       (7) ~~bill~~Bill collection services;
- 4       (8) ~~blacksmith~~Blacksmith shops;
- 5       (9) ~~car~~Car washing;
- 6       (10) ~~dry~~Dry cleaning;
- 7       (11) ~~dyeing~~Dyeing;
- 8       (12) ~~exterminators~~Exterminators;
- 9       (13) ~~garage~~Garage and service stations;
- 10      (14) ~~garment~~Garment alteration;
- 11      (15) ~~cleaning~~Cleaning and pressing;
- 12      (16) ~~janitorial~~Janitorial services and supplies;
- 13      (17) ~~specialty~~Specialty cleaners;
- 14      (18) ~~laundry~~Laundry;
- 15      (19) ~~linen~~Linen and towel supply;
- 16      (20) ~~membership~~Membership or entrance fees for the use of a facility or for the right to
- 17              purchase tangible personal property, any product transferred electronically, or
- 18              services;
- 19      (21) ~~photography~~Photography;
- 20      (22) ~~photo~~Photo developing and enlarging;
- 21      (23) ~~tire~~Tire recapping;
- 22      (24) ~~welding~~Welding and all repair services, except repair services for farm machinery,
- 23              attachment units, and irrigation equipment used exclusively for agricultural
- 24              purposes;
- 25      (25) ~~cable~~Cable television; and
- 26      (26) ~~rentals~~Rentals of tangible personal property, except leases of tangible personal
- 27              property between one telephone company and another telephone company, motor
- 28              vehicles as defined pursuant to § 32-5-1 leased under a single contract for more
- 29              than twenty-eight days, and mobile homes. ~~However, the~~
- 30              The specific enumeration of businesses and professions made in this section does
- 31              not, in any way, limit the scope and effect of the provisions of § 10-45-4.

32      **Section 4. That § 10-45-5.3 be AMENDED:**

- 33                      **10-45-5.3.** There is imposed, at the rate of ~~four and two-tenths percent~~ set forth
- 34                      in § 10-45-2, an excise tax on the gross receipts of any person engaging in oil and gas

1 field services (group no. 138), as enumerated in the Standard Industrial Classification  
2 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management  
3 and Budget, Office of the President.

4 **Section 5. That § 10-45-6 be AMENDED:**

5 **10-45-6.** There is hereby imposed a tax ~~of four and two tenths percent,~~ at the  
6 rate set forth in § 10-45-2, upon the gross receipts from sales, furnishing, or service of  
7 gas, electricity, and water, including the gross receipts from ~~such~~ the sales by any  
8 municipal corporation furnishing gas, and electricity, to the public in its proprietary  
9 capacity, except as otherwise provided in this chapter, when sold at retail in ~~the State of~~  
10 South Dakota this state to consumers or users.

11 **Section 6. That § 10-45-6.1 be AMENDED:**

12 **10-45-6.1.** Except as provided in § 10-45-6.2, there is hereby imposed a tax ~~of~~  
13 ~~four and two tenths percent,~~ at the rate set forth in § 10-45-2, upon the gross receipts  
14 from providing any intrastate, interstate, or international telecommunications service that  
15 originates or terminates in this state and that is billed or charged to a service address in  
16 this state, or that both originates and terminates in this state. However, the tax imposed  
17 by this section does not apply to:

- 18 (1) Any eight hundred or eight hundred-type service, unless the service both originates  
19 and terminates in this state;
- 20 (2) Any sale of a telecommunication service to a provider of telecommunication  
21 services, including access service, for use in providing any telecommunication  
22 service; or
- 23 (3) Any sale of interstate telecommunication service provided to a call center that has  
24 been certified by the secretary of revenue to meet the criterion established in § 10-  
25 45-6.3 and the call center has provided to the telecommunications service provider  
26 an exemption certificate issued by the secretary indicating that it meets the  
27 criterion.

28 If a call center uses an exemption certificate to purchase services not meeting the  
29 criterion established in § 10-45-6.3, the call center is liable for the applicable tax, penalty,  
30 and interest.

31 **Section 7. That § 10-45-6.2 be AMENDED:**

1           **10-45-6.2.** There is ~~hereby~~ imposed a tax of ~~four and two tenths percent, at the~~  
2           rate set forth in § 10-45-2, upon the gross receipts of mobile telecommunications services,  
3           as defined in 4 U.S.C. § 124(7) ~~as of~~ (January 1, 2002), that originate and terminate in  
4           the same state and are billed to a customer with a place of primary use in this state or  
5           are deemed to have originated or been received in this state and to be billed or charged  
6           to a service address in this state if the customer's place of primary use is located in this  
7           state regardless of where the service actually originates or terminates. Notwithstanding  
8           any other provision of this chapter and for purposes of the tax imposed by this section,  
9           the tax imposed upon mobile telecommunication services must be administered in  
10          accordance with 4 U.S.C. §§ 116 ~~to 126, as in effect on,~~ inclusive (July 28, 2000).

11          **Section 8. That § 10-45-8 be AMENDED:**

12           **10-45-8.** Except as otherwise provided in this chapter, there is imposed a tax of  
13          ~~four and two tenths percent, at the rate set forth in § 10-45-2,~~ upon the gross receipts  
14          from all sales of tickets or admissions to:

- 15          (1) Places of amusement;  
16          (2) Athletic contests; or  
17          (3) Events.

18          **Section 9. That § 10-45-71 be AMENDED:**

19           **10-45-71.** There is imposed a tax of ~~four and two tenths percent on,~~ at the rate  
20          set forth in § 10-45-2, upon the gross receipts from the transportation of passengers. The  
21          tax imposed by this section applies to any transportation of passengers if the passenger  
22          boards and exits the mode of transportation within this state.

23          **Section 10. That a NEW SECTION be added to chapter 10-45:**

24           The rate imposed by this chapter upon the gross receipts of all sales of food and  
25          food ingredients, as defined by § 10-45-1, is zero percent.

26          **Section 11. That § 10-46-1 be AMENDED:**

27           **10-46-1.** Terms, as used in this chapter mean:  
28          (1) "Business," any activity engaged in by any person or caused to be engaged in by  
29          such person with the object of gain, benefit, or advantage, either direct or indirect;

- 1 (2) "Candy," any preparation of sugar, honey, or other natural or artificial sweeteners  
 2 in combination with chocolate, fruits, nuts or other ingredients or flavorings in the  
 3 form of bars, drops, or pieces. The term, candy, does not include any preparation  
 4 containing flour and does not require refrigeration;
- 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. The term does not include postage for direct mail;
- 9 (4) "Fair market value," the price at which a willing seller and willing buyer will trade.  
 10 Fair market value ~~shall~~ must be determined at the time of purchase. If a public  
 11 corporation is supplying tangible personal property or any product transferred  
 12 electronically that ~~will~~ is to be used in the performance of a contract, fair market  
 13 value ~~shall~~ must be determined pursuant to § 5-18B-7. This definition also applies  
 14 to chapter 10-45;
- 15 (5)(3) "Food" and "food ingredient," any substance, whether in liquid, concentrated, solid,  
 16 frozen, dried, or dehydrated form, that is sold for ingestion or chewing by humans  
 17 and is consumed for its taste or nutritional value. ~~The term, food, does~~ These terms  
 18 do not include alcoholic beverages, tobacco, or prepared food;
- 19 (a) Alcoholic beverages, as defined in § 35-1-1;  
 20 (b) Candy;  
 21 (c) Cannabis or cannabis products, as defined in § 43-20G-1;  
 22 (e)(d) Cigarettes, as defined in § 10-50B-4;  
 23 (d)(e) Prepared food; ~~or~~  
 24 (e)(f) Soft drinks; or  
 25 (g) Tobacco products, as defined in § 34-20G-1;
- 26 (6)(4) "Included in the measure of tax," the tangible personal property, any product  
 27 transferred electronically, or the service was purchased from a retailer licensed  
 28 under chapter 10-45 and that retailer has included the tax in the amount received  
 29 from the sale;
- 30 (7)(5) "In this state" or "in the state," within the exterior limits of the State of South  
 31 Dakota and includes all territory within ~~such~~ the limits owned by or ceded to the  
 32 United States of America;
- 33 (8)(6) "Prepared food," any ~~food~~ ;  
 34 (a) Food sold in a heated state or heated by the seller; ~~two~~

1 (b) Two or more food ingredients mixed or combined by the seller for sale as a  
2 single item; or ~~food~~

3 (c) Food sold with eating utensils provided by the seller, including plates,  
4 knives, forks, spoons, glasses, cups, napkins, or straws. ~~A plate, but~~ does  
5 not include a container or packaging used to transport the food.

6 Prepared food does not include food that is only cut, repackaged, or pasteurized  
7 by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal  
8 foods requiring cooking by the consumer as recommended by the Food and Drug  
9 Administration in chapter 3, part 401.11 of its Food Code as of January 1, 2003,  
10 so as to prevent food borne illnesses;

11 (8A)(7) "Product transferred electronically," any product obtained by the purchaser by  
12 means other than tangible storage media. A product transferred electronically does  
13 not include any intangible such as a patent, stock, bond, goodwill, trademark,  
14 franchise, or copyright;

15 (9)(8) "Purchase," any transfer, exchange, or barter, conditional or otherwise, in any  
16 manner or by any means whatsoever, for a consideration. A transaction, whereby  
17 the possession of property is transferred but the seller retains the title as security  
18 for the payment of the price, is a purchase;

19 (10)(9) "Purchase price," ~~shall have~~ the same meaning as gross receipts defined in  
20 chapter 10-45;

21 (11)(10) "Retailer," any person performing services in this state or engaged in the  
22 business of selling tangible personal property or products transferred electronically  
23 for use, storage or other consumption within the meaning of this chapter. However,  
24 if in the opinion of the secretary of revenue, it is necessary for the efficient  
25 administration of this chapter to regard any salesmen, representatives, truckers,  
26 peddlers, or canvassers as agents of the dealers, distributors, supervisors,  
27 employers, or persons under whom they operate or from whom they obtain the  
28 tangible personal property or any product transferred electronically sold by them  
29 irrespective of whether they are making sales on their own behalf or on behalf of  
30 such dealers, distributors, supervisors, employers, or persons, the secretary of  
31 revenue may so regard them and may regard the dealers, distributors, supervisors,  
32 employers, or persons as retailers for purposes of this chapter;

33 (12)(11) "Retailer maintaining a place of business in the state," any retailer having or  
34 maintaining within this state, directly or by a subsidiary, an office, distribution  
35 house, sales house, warehouse, or other place of business, or any agents operating

1 within the state under the authority of the retailer or its subsidiary, irrespective of  
2 whether such place of business or agent is located here permanently or temporarily  
3 or whether such retailer or subsidiary is admitted to do business within this state  
4 pursuant to the laws of the State of South Dakota granting the rights of foreign  
5 corporations to do business in this state;

6 (13)(12) "Secretary," the secretary of the Department of Revenue or any duly authorized  
7 and appointed assistant, deputies, or agents of the secretary charged with the  
8 administration or enforcement of this chapter;

9 (14) "Soft drinks," any nonalcoholic beverages that contain natural or artificial  
10 sweeteners. The term, soft drinks, does not include any beverage that contains  
11 milk or milk products, soy, rice or similar milk substitutes, or greater than fifty  
12 percent of vegetable or fruit juice by volume;

13 (15)(13) "Storage," any keeping or retention in this state for use or other consumption  
14 in the State of South Dakota for any purpose except sale in the regular course of  
15 business;

16 (16)(14) "Tangible personal property," personal property that can be seen, weighed,  
17 measured, felt, or touched, or that is in any other manner perceptible to the senses  
18 if furnished or delivered to consumers or users within this state. The term includes  
19 electricity, water, gas, steam, and prewritten computer software; and

20 (17)(15) "Use," the exercise of right or power over tangible personal property or any  
21 product transferred electronically incidental to the ownership of that property,  
22 except that it does not include the sale of that property in the regular course of  
23 business. Use also includes the use of the types of services, the gross receipts from  
24 the sale of which are to be included in the measure of the tax imposed by chapter  
25 10-45, and the delivery or causing delivery into this state of tangible personal  
26 property or any product transferred electronically intended to advertise any  
27 product or service or promote or facilitate any sale to South Dakota residents.

28 **Section 12. That § 10-46-2.1 be AMENDED:**

29 **10-46-2.1.** For the privilege of using services in ~~South Dakota~~ this state, except  
30 those types of services exempted by § 10-46-17.3, there is imposed on the person using  
31 the service an excise tax ~~equal to four and two tenths~~ at the rate of five percent of the  
32 value of the services at the time they are rendered. ~~However, this~~ This tax may not be  
33 imposed on any ~~service~~;

1 ~~(1) Service rendered by a related corporation, as defined in subdivision 10-43-1(11),~~  
 2 ~~for use by a financial institution, as defined in subdivision 10-43-1(4); or on any~~  
 3 ~~service § 10-43-1; or~~

4 ~~(2) Service rendered by a financial institution, as defined in subdivision 10-43-1(4)~~  
 5 ~~§ 10-43-1, for use by a related corporation as defined in subdivision 10-43-1(11).~~

6 For the purposes of this section, ~~the term, "related corporation," includes a means~~  
 7 ~~a corporation associated with another as its parent or subsidiary, or in a brother-sister~~  
 8 ~~relationship. The term includes a corporation, which together with the financial institution,~~  
 9 ~~is part of a controlled group of corporations, as defined in 26 U.S.C. § 1563 as in effect~~  
 10 ~~on (January 1, 1989), except that the eighty percent ownership requirements set forth in~~  
 11 ~~26 U.S.C. § 563(a)(2)(A) § 1563(a) for a brother-sister controlled group are reduced to~~  
 12 ~~fifty-one percent.~~

13 For the purpose of this chapter, services rendered by an employee for the use of  
 14 the employer are not taxable.

15 **Section 13. That § 10-46-2.2 be AMENDED:**

16 **10-46-2.2.** An excise tax is imposed upon the privilege of the use of rented  
 17 tangible personal property and any product transferred electronically in this state at the  
 18 ~~rate of four and two tenths percent of set forth in § 10-46-2.1, on~~ the rental payments  
 19 upon the property.

20 **Section 14. That § 10-46-48 be AMENDED:**

21 ~~10-46-48.~~ All ~~revenue arising under the operation of~~ Except as otherwise  
 22 provided, revenue collected pursuant to this chapter shall immediately must be turned  
 23 over to the state treasurer and ~~by him credited to~~ deposited in the general fund.

24 The treasurer shall deposit in the school building construction fund, established in  
 25 section 25 of this Act, two percent of the taxes collected by the secretary of the  
 26 Department of Revenue pursuant to this chapter.

27 **Section 15. That § 10-46-58 be AMENDED:**

28 **10-46-58.** There is imposed a tax ~~of four and two tenths percent on, at the rate~~  
 29 set forth in § 10-46-2.1, upon the privilege of the use of any transportation of passengers.  
 30 The tax imposed by this section applies to any transportation of passengers if the  
 31 passenger boards and exits the mode of transportation within this state.

1 **Section 16. That § 10-46-69 be AMENDED:**

2 **10-46-69.** There is hereby imposed a tax of ~~four and two tenths percent, at the~~  
3 rate set forth in § 10-46-2.1, upon the privilege of the use of mobile telecommunications  
4 services, as defined in 4 U.S.C. § 124(7) ~~as of (January 1, 2002)~~, that originate and  
5 terminate in the same state and are billed to a customer with a place of primary use in  
6 this state. Notwithstanding any other provision of this chapter and for purposes of the tax  
7 imposed by this section, the tax imposed upon mobile telecommunication services must  
8 be administered in accordance with 4 U.S.C. §§ 116- to 126, ~~as in effect on, inclusive~~  
9 (July 28, 2000).

10 **Section 17. That § 10-46-69.1 be AMENDED:**

11 **10-46-69.1.** Except as provided in § 10-46-69, there is hereby imposed a tax of  
12 ~~four and two tenths percent, at the rate set forth in § 10-46-2.1~~, upon the privilege of the  
13 use of any intrastate, interstate, or international telecommunications service that  
14 originates or terminates in this state and that is billed or charged to a service address in  
15 this state, or that both originates and terminates in this state. ~~However, the~~ The tax  
16 imposed by this section does not apply to:

- 17 (1) Any eight hundred or eight hundred type service unless the service both originates  
18 and terminates in this state;
- 19 (2) Any sale of a telecommunication service to a provider of telecommunication  
20 services, including access service, for use in providing any telecommunication  
21 service; or
- 22 (3) Any sale of interstate telecommunication service provided to a call center that has  
23 been certified by the secretary of revenue to meet the criterion established in § 10-  
24 45-6.3 and the call center has provided to the telecommunications service provider  
25 an exemption certificate issued by the secretary indicating that it meets the  
26 criterion.

27 If a call center uses an exemption certificate to purchase services not meeting the  
28 criterion established in § 10-45-6.3, the call center is liable for the applicable tax, penalty,  
29 and interest.

30 **Section 18. That § 10-46-69.2 be AMENDED:**

31 **10-46-69.2.** There is hereby imposed a tax of ~~four and two tenths percent, at the~~  
32 rate set forth in § 10-46-2.1, upon the privilege of the use of any ancillary services.

1 **Section 19. That a NEW SECTION be added to chapter 10-46:**

2 The rate of tax imposed by this chapter upon the use, storage, or consumption in  
3 this state of food and food ingredients is zero percent.

4 **Section 20. That § 10-46E-1 be AMENDED:**

5 **10-46E-1.** There is hereby imposed an excise tax of ~~four and two-tenths percent,~~  
6 at the rate of five percent, on the gross receipts from the sale, resale, or lease of farm  
7 machinery, attachment units, and irrigation equipment used exclusively for agricultural  
8 purposes. ~~However, if~~ If any trade-in or exchange of used farm machinery, attachment  
9 units, and irrigation equipment is involved in the transaction, the excise tax is only due  
10 and may only be collected on the cash difference.

11 **Section 21. That § 10-46E-9 be AMENDED:**

12 **10-46E-9.** ~~The~~ Except as otherwise provided, revenue from the tax imposed by  
13 this chapter shall be deposited in the general fund.

14 The treasurer shall deposit in the school building construction fund, established in  
15 section 25 of this Act, two percent of the taxes collected by the secretary of the  
16 Department of Revenue pursuant to this chapter.

17 **Section 22. That § 10-50-3 be AMENDED:**

18 **10-50-3.** A tax is imposed, whether or not a sale occurs, at the following rates on  
19 all cigarettes held in this state for sale by any person:

20 Class A, on cigarettes weighing not more than three pounds per thousand, ~~seventy-~~  
21 ~~six and one-half mills~~ twelve and one-half cents one hundred twenty-six and one-half mills  
22 on each cigarette.

23 Class B, on cigarettes weighing more than three pounds per thousand, ~~seventy-six~~  
24 ~~and one-half mills~~ twelve and one-half cents one hundred twenty-six and one-half mills  
25 on each cigarette.

26 **Section 23. That § 10-58-1 be AMENDED:**

27 **10-58-1.** There is imposed upon owners and operators a special amusement  
28 excise tax of ~~four and two-tenths~~ five percent of the gross receipts from the sale or the

1 operation of any mechanical or electronic amusement device. The tax imposed by this  
2 section is in lieu of the tax imposed pursuant to chapter 10-45.

3 **Section 24. That § 10-58-5 be AMENDED:**

4 **10-58-5.** The~~Except as otherwise provided,~~ the tax generated by this chapter  
5 must be deposited in the general fund.

6 The treasurer shall deposit in the school building construction fund, established in  
7 section 25 of this Act, two percent of the taxes collected by the secretary of the  
8 Department of Revenue pursuant to this chapter.

9 **Section 25. That a NEW SECTION be added to chapter 13-24:**

10 There is created the school building construction fund, to be administered by the  
11 Department of School and Public Lands commissioner of school and public lands, for the  
12 purpose of making loans to school districts to construct or expand a school building, as  
13 provided in section 26 of this Act.~~The Subject to the provisions of this section, the~~  
14 treasurer shall deposit in the fund ~~two percent the first sixty million dollars~~ of the taxes  
15 collected pursuant to:

- 16 (1) Chapter 10-45;  
17 (2) Chapter 10-46;  
18 (3) Chapter 10-46E; and  
19 (4) Chapter 10-58.

20 If two percent of the taxes collected pursuant to subdivisions (1) to (4), inclusive,  
21 exceed sixty million dollars in a year, the treasurer shall deposit in the fund two percent  
22 of the taxes collected pursuant to subdivisions (1) to (4), inclusive, in excess of sixty  
23 million dollars, but not in excess of ninety million dollars.

24 Any interest earned on moneys in the fund must remain in the fund. Any repayment  
25 of the principal amount of a loan must be deposited into the fund and used for making  
26 new loans. Money in the fund designated for loans is appropriated through the general  
27 appropriation bill for the purposes provided in section 26 of this Act.

28 The commissioner~~of the department~~ shall approve vouchers, and the state auditor  
29 shall draw warrants to pay expenditures authorized from this fund.

30 **Section 26. That a NEW SECTION be added to chapter 13-24:**

1            ~~The Department of School and Public Lands commissioner of school and public~~  
2 ~~lands~~ may make loans from the school building construction fund, created in section 25 of  
3 this Act, to a school district for the purpose of constructing or expanding a school building.  
4 The amount of the loan may not exceed forty percent of the total cost of the construction  
5 or expansion project. The ~~department commissioner~~ may use up to one percent of the  
6 principal amount of a loan to offset the ~~department's~~ expenses in administering the loan.

7            Any loan made by the ~~department commissioner~~ must be provided to the district  
8 at an interest rate of zero percent. The terms of the loan may not require collateral from  
9 the district.

10           The terms of the loan must require that the payments be based on a straight and  
11 level amortization of twenty years and be made annually over a term of twenty years,  
12 with the first payment due one year from the date of the funding of the loan.

13           ~~The department shall make available moneys from the school building construction~~  
14 ~~fund, created in section 25 of this Act, as follows:~~

15 ~~(1) Thirty percent for the construction or expansion of a school building in a school~~  
16 ~~district that has four thousand or more students; and~~

17 ~~(2) Seventy percent for the construction or expansion of a school building in all other~~  
18 ~~school districts.~~

19           ~~The amount of loans made in a year under this section must exceed sixty million~~  
20 ~~dollars and may not exceed ninety million dollars.~~

21           For purposes of this section, a "school building" is a structure that houses the  
22 academic instruction, extracurricular activities, and other functions of a kindergarten  
23 through twelfth grade educational program.

24 **Section 27. That a NEW SECTION be added to chapter 13-24:**

25           A school district is not eligible for a loan under section 26 of this Act if:

26           (1) The school district is eligible for a loan under § 11-15-8; or

27           (2) ~~The municipality in which the district is headquartered is less than ten miles from~~  
28 ~~a municipality in which another school district is headquartered; or~~

29           (3) ~~The school district has a fall enrollment of fewer than two hundred one hundred~~  
30 ~~fifty~~ students and is not designated as a sparse school district, as defined in § 13-  
31 13-78.

32 **Section 28. That a NEW SECTION be added to chapter 13-24:**

1           The School Finance Accountability Board within the Department of Education shall  
 2 promulgate rules, pursuant to chapter 1-26, specifying:

3 (1) The process by which:

4           (a) A school district applies for a loan;

5           (b) The ~~Department of Education~~ department reviews, assesses, and approves  
 6 a school district's application; and

7           (c) The ~~Department of School and Public Lands~~ commissioner of school and  
 8 public lands disburses a loan to a school district; and

9 (2) The information a school district must provide when applying for a loan pursuant  
 10 to section 26 of this Act, including:

11           (a) The amount of money currently in the district's capital outlay fund;

12           (b) The amount of money the district has transferred and the number of  
 13 transfers the district has made from the capital outlay fund, pursuant to  
 14 § 13-16-6 during the previous ten years;

15           (c) The district's current levy for the capital outlay fund;

16           (d) The district's fall enrollment for the current fiscal year; and

17           (e) The enrollment trends of the district during the previous ten years; and

18 (3) The criteria by which the ~~Department of Education~~ department assesses a school  
 19 district's application for a loan in accordance with section 26 of this Act, including:

20           (a) The minimum amount of money, in proportion to the district's fall  
 21 enrollment, that must currently be in a district's capital outlay fund;

22           (b) The maximum amount of money a district may have transferred from the  
 23 capital outlay fund, pursuant to § 13-16-6 during the previous ten years;

24           (c) The maximum levy a district may currently have set for the district's capital  
 25 outlay fund; and

26           (d) The minimum increase necessary in the district's capital outlay levy to be  
 27 sufficient for the district to repay the loan.

28 **Section 29. That a NEW SECTION be added to chapter 13-24:**

29           On or before August first of each year, the ~~Department of School and Public Lands~~  
 30 commissioner of school and public lands shall submit a report to the special committee,  
 31 created in § 4-8A-2, detailing the number, amounts, and recipients of loans provided by  
 32 the school building construction fund created in section 25 of this Act, and other relevant  
 33 information pertaining to the fund or program, as requested by the committee.

1 **Section 30. That 2023 Session Laws, chapter 32, § 19 be REPEALED:**

2 ~~**Section 31.** The amendments to the Code sections in sections 1 to 17, inclusive,~~  
3 ~~of this Act are repealed on June 30, 2027, and those Code sections will revert in word and~~  
4 ~~substance to that which existed immediately prior to the effective date of this Act.~~

AMENDED