

# House Daily Reader

**Wednesday, January 23, 2002**

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# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

555H0018

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1001** - 01/17/2002

Introduced by: Representatives Brown (Richard), Glenski, Peterson (Jim), and Smidt and  
Senators McCracken, Dennert, and Reedy at the request of the Interim  
Streamlined Sales Tax Project Task Force

1 FOR AN ACT ENTITLED, An Act to ratify the Uniform Sales and Use Tax Administration Act  
2 and to implement the uniform and simplified features proposed by the Streamlined Sales Tax  
3 Project.

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

5 Section 1. As used in this Act:

6 (a) "Agreement," means the Streamlined Sales and Use Tax Agreement;

7 (b) "Certified automated system," means software certified jointly by the states that are  
8 signatories to the agreement to calculate the tax imposed by each jurisdiction on a  
9 transaction, determine the amount of tax to remit to the appropriate state, and  
10 maintain a record of the transaction;

11 (c) "Certified service provider," means an agent certified jointly by the states that are  
12 signatories to the agreement to perform all of the seller's sales tax functions;

13 (d) "Person," means an individual, trust, estate, fiduciary, partnership, limited liability  
14 company, limited liability partnership, corporation, or any other legal entity;



1 (e) "Sales tax," means the tax levied under chapter 10-45;

2 (f) "Seller," means any person making sales, leases, or rentals of personal property or  
3 services;

4 (g) "State," means any state of the United States and the District of Columbia;

5 (h) "Use tax," means the tax levied under chapter 10-46.

6 Section 2. The Legislature finds that this state should enter into an agreement with one or  
7 more states to simplify and modernize sales and use tax administration in order to substantially  
8 reduce the burden of tax compliance for all sellers and for all types of commerce.

9 Section 3. The Department of Revenue is authorized and directed to enter into the  
10 Streamlined Sales and Use Tax Agreement with one or more states to simplify and modernize  
11 sales and use tax administration in order to substantially reduce the burden of tax compliance for  
12 all sellers and for all types of commerce. In furtherance of the agreement, the Department of  
13 Revenue is authorized to act jointly with other states that are members of the agreement to  
14 establish standards for certification of a certified service provider and certified automated system  
15 and establish performance standards for multistate sellers.

16 The Department of Revenue is further authorized to take other actions reasonably required  
17 to implement the provisions set forth in this Act. Other actions authorized by this Act include,  
18 but are not limited to, the adoption of rules and regulations and the joint procurement, with other  
19 member states, of goods and services in furtherance of the cooperative agreement.

20 The secretary of revenue or the secretary's designee is authorized to represent this state  
21 before the other states that are signatories to the agreement.

22 Section 4. No provision of the agreement authorized by this Act in whole or part invalidates  
23 or amends any provision of the law of this state. Adoption of the agreement by this state does  
24 not amend or modify any law of this state. Implementation of any condition of the agreement in

1 this state, whether adopted before, at, or after membership of this state in the agreement, must  
2 be by the action of this state.

3 Section 5. The Department of Revenue shall not enter into the Streamlined Sales and Use  
4 Tax Agreement unless the agreement requires each state to abide by the following requirements:

5 (a) The agreement must set restrictions to achieve over time more uniform state rates  
6 through the following:

7 (1) Limiting the number of state rates.

8 (2) Limiting the application of maximums on the amount of state tax that is due on  
9 a transaction.

10 (3) Limiting the application of thresholds on the application of state tax.

11 (b) The agreement must establish uniform standards for the following:

12 (1) The sourcing of transactions to taxing jurisdictions.

13 (2) The administration of exempt sales.

14 (3) The allowances a seller may take for bad debts.

15 (4) Sales and use tax returns and remittances.

16 (c) The agreement must require states to develop and adopt uniform definitions of sales  
17 and use tax terms. The definitions must enable a state to preserve its ability to make  
18 policy choices not inconsistent with the uniform definitions.

19 (d) The agreement must provide a central, electronic registration system that allows a  
20 seller to register to collect and remit sales and use taxes for all signatory states.

21 (e) The agreement must provide that registration with the central registration system and  
22 the collection of sales and use taxes in the signatory states will not be used as a factor  
23 in determining whether the seller has nexus with a state for any tax.

24 (f) The agreement must provide for reduction of the burdens of complying with local

1 sales and use taxes through the following:

2 (1) Restricting variances between the state and local tax bases.

3 (2) Requiring states to administer any sales and use taxes levied by local  
4 jurisdictions within the state so that sellers collecting and remitting these taxes  
5 will not have to register or file returns with, remit funds to, or be subject to  
6 independent audits from local taxing jurisdictions.

7 (3) Restricting the frequency of changes in the local sales and use tax rates and  
8 setting effective dates for the application of local jurisdictional boundary  
9 changes to local sales and use taxes.

10 (4) Providing notice of changes in local sales and use tax rates and of changes in  
11 the boundaries of local taxing jurisdictions.

12 (i) The agreement must outline any monetary allowances that are to be provided by the  
13 states to sellers or certified service providers.

14 (j) The agreement must require each state to certify compliance with the terms of the  
15 agreement prior to joining and to maintain compliance, under the laws of the member  
16 state, with all provision of the agreement while a member.

17 (k) The agreement must require each state to adopt a uniform policy for certified service  
18 providers that protects the privacy of consumers and maintains the confidentiality of  
19 tax information.

20 (l) The agreement must provide for the appointment of an advisory council of private  
21 sector representatives and an advisory council of nonmember state representatives to  
22 consult with in the administration of the agreement.

23 Section 6. The agreement authorized by this Act is an accord among individual cooperating  
24 sovereigns in furtherance of their governmental functions. The agreement provides a mechanism

1 among the member states to establish and maintain a cooperative, simplified system for the  
2 application and administration of sales and use taxes under the duly adopted law of each member  
3 state.

4 Section 7. A certified service provider is the agent of a seller, with whom the certified service  
5 provider has contracted, for the collection and remittance of sales and use taxes. As the seller's  
6 agent, the certified service provider is liable for sales and use tax due each member state on all  
7 sales transactions it processes for the seller except as set out in this section.

8 A seller that contracts with a certified service provider is not liable to the state for sales or  
9 use tax due on transactions processed by the certified service provider unless the seller  
10 misrepresented the type of items it sells or committed fraud. In the absence of probable cause to  
11 believe that the seller has committed fraud or made a material misrepresentation, the seller is not  
12 subject to audit on the transactions processed by the certified service provider. A seller is subject  
13 to audit for transactions not processed by the certified service provider. The member states  
14 acting jointly may perform a system check of the seller and review the seller's procedures to  
15 determine if the certified service provider's system is functioning properly and the extent to which  
16 the seller's transactions are being processed by the certified service provider.

17 A person that provides a certified automated system is responsible for the proper functioning  
18 of that system and is liable to the state for underpayments of tax attributable to errors in the  
19 functioning of the certified automated system. A seller that uses a certified automated system  
20 remains responsible and is liable to the state for reporting and remitting tax.

21 A seller that has a proprietary system for determining the amount of tax due on transactions  
22 and has signed an agreement establishing a performance standard for that system is liable for the  
23 failure of the system to meet the performance standard.

24 Section 8. Sections 1 to 7, inclusive, of this Act shall be known as and referred to as the

1 Uniform Sales and Use Tax Administration Act.

2 Section 9. That § 10-1-44.1 be repealed.

3 ~~—10-1-44.1. The Governor may, for the purpose of entering into a compact, negotiate and~~  
4 ~~enter into a compact with officials of other states for the development, implementation, and~~  
5 ~~administration of a simplified sales and use tax collection system. The compact shall conform~~  
6 ~~generally to the provisions of chapter 1-24 relating to the joint exercise of governmental powers~~  
7 ~~with other public agencies. The compact shall provide for the collection, reporting, auditing, and~~  
8 ~~distribution of taxes imposed under chapters 10-45 and 10-46. The compact shall provide for the~~  
9 ~~joint selection of persons to act as agents of the compact states for the collection and remittance~~  
10 ~~of taxes imposed under chapters 10-45 and 10-46.~~

11 Section 10. That § 10-1-44.2 be repealed.

12 ~~—10-1-44.2. If the Governor enters into a compact pursuant to § 10-1-44.1, the Governor may~~  
13 ~~direct the secretary of revenue to enter into a joint contract with any person to act as an agent~~  
14 ~~of South Dakota for the collection and remittance of taxes imposed under chapters 10-45 and~~  
15 ~~10-46.~~

16 Section 11. That § 10-1-44.3 be amended to read as follows:

17 10-1-44.3. ~~Notwithstanding the provisions of § 10-1-28.2, if the Governor enters into a~~  
18 ~~compact pursuant to § 10-1-44.1, the Governor may direct~~ As required by the agreement entered  
19 into pursuant to section 3 of this Act, the secretary of revenue ~~to~~ may release lists of persons  
20 licensed under chapters 10-45 and 10-46 who are exempt from taxes imposed under chapters  
21 10-45 and 10-46 to the extent necessary to verify each person's exempt status.

22 Section 12. That § 10-1-44.4 be repealed.

23 ~~—10-1-44.4. Any compact entered into by the Governor pursuant to § 10-1-44.1 is effective~~  
24 ~~upon the Governor's signature and ratification by the Legislature.~~

1 Section 13. That § 10-45-1 be amended to read as follows:

2 10-45-1. Terms used in this chapter mean:

3 (1) "Agricultural purposes," the producing, raising, or growing and harvesting of food or  
4 fiber upon agricultural land, including dairy products, livestock, and crops. The  
5 services of custom harvesters, chemical applicators, fertilizer spreaders, hay grinders,  
6 and cultivators are considered agricultural purposes;

7 (2) "Business," any activity engaged in by any person or caused to be engaged in by ~~him~~  
8 such person with the object of gain, benefit, or advantage, either direct or indirect;

9 (3) "Delivery charges," charges by the retailer for preparation and delivery to a location  
10 designated by the purchaser of tangible personal property or services including  
11 transportation, shipping, postage, handling, crating, and packing;

12 (4) ~~"Gross receipts," the amount received in money, credits, property, or other money's~~  
13 ~~worth in consideration of sales at retail within this state. No deduction may be taken~~  
14 ~~for the cost of the property sold, the cost of materials used, the cost of labor or~~  
15 ~~services purchased, amounts paid for interest or discounts, or any other expenses~~  
16 ~~whatsoever, nor may any deduction be allowed for losses. Gross receipts do not~~  
17 ~~include any fees or other interest imposed by a retailer for late charges on overdue~~  
18 ~~accounts, no account, and nonsufficient funds checks. Discounts for any purpose~~  
19 ~~allowed and taken on sales may not be included as gross receipts, nor may the sale~~  
20 ~~price of property returned by customers when the full sale price thereof is refunded~~  
21 ~~either in cash or by credit. If any tangible personal property is taken in trade or in a~~  
22 ~~series of trades as a credit or part payment of a retail sale taxable under this chapter,~~  
23 ~~and the tangible personal property taken in trade will be subject to the sales tax~~  
24 ~~imposed by this chapter when sold, the credit or trade-in value allowed by the retailer~~



1 ~~may not be included as gross receipts. On all sales made under conditional sales~~  
2 ~~contract, or under other forms of sale wherein the payment of the principal sum is~~  
3 ~~extended over a period longer than sixty days from the date of sale, only the portion~~  
4 ~~of the sale amount that has actually been received in cash by the retailer during each~~  
5 ~~reporting period is subject to the tax imposed by this chapter total amount or~~  
6 ~~consideration, including cash, credit, property, and services, for which tangible~~  
7 ~~personal property or services are sold, leased, or rented, valued in money, whether~~  
8 ~~received in money or otherwise, without any deduction for the following:~~

- 9 (a) The retailer's cost of the property or service sold;  
10 (b) The cost of materials used, labor or service cost, interest, losses, all costs of  
11 transportation to the retailer, all taxes imposed on the retailer, and any other  
12 expense of the retailer;  
13 (c) Except as provided in chapter 10-46A or 10-46B, charges by the retailer for  
14 any services necessary to complete the sale whether or not separately stated,  
15 including delivery charges; and  
16 (d) The value of exempt tangible personal property whether or not separately  
17 stated on the invoice, billing, or similar document given to the purchaser where  
18 taxable and exempt tangible personal property have been bundled together and  
19 sold by the retailer as a single product or piece of merchandise;

20 Gross receipts do not include:

- 21 (a) Discounts, including cash, term, or coupons that are not reimbursed by a third  
22 party that are allowed by a retailer and taken by a purchaser on a sale;  
23 (b) Interest, financing, and carrying charges from credit extended on the sale of  
24 tangible personal property or services, if the amount is separately stated on the

1 invoice, bill of sale or similar document given to the purchaser; and

2 (c) Any taxes legally imposed directly on the consumer that are separately stated

3 on the invoice, bill of sale, or similar document given to the purchaser;

4 ~~(4)~~(5) "Person," any individual, firm, copartnership, joint adventure, association, limited  
5 liability company, corporation, municipal corporation, estate, trust, business trust,  
6 receiver, the State of South Dakota and its political subdivisions, or any group or  
7 combination acting as a unit;

8 ~~(5)~~(6) "Relief agency," the state, and county, municipality or district thereof, or any agency  
9 engaged in actual relief work;

10 ~~(6)~~(7) "Retail sale" or "sale at retail," ~~the sale of either tangible personal property or~~  
11 ~~services, or both, to the consumer or user thereof, or to any person for any purpose~~  
12 ~~other than for resale; the sale of natural or artificial gas, electric energy, water, and~~  
13 ~~communication service to consumers or users; and the sale of tickets or admissions~~  
14 ~~to places of amusement or athletic contests~~ any sale, lease, or rental for any purpose  
15 other than for resale, sublease, or subrent;

16 ~~(7)~~(8) "Retailer," ~~every~~ any person engaged in the business of selling tangible goods, wares,  
17 or merchandise at retail, or the furnishing of gas, electricity, water, and  
18 communication service, and tickets or admissions to places of amusement and athletic  
19 events as provided in this chapter. ~~"Retailer"~~ The term also includes ~~every~~ any person  
20 subject to the tax imposed by §§ 10-45-4 and 10-45-5. The isolated or occasional sale  
21 of tangible personal property at retail by a person who does not hold himself or herself  
22 out as engaging in the business of selling such tangible personal property at retail does  
23 not constitute such person a retailer;

24 ~~(8)~~(9) "Sale," any transfer, exchange, or barter, conditional or otherwise, in any manner or

1 by any means whatsoever, for a consideration.

2 Section 14. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 For purposes of the tax imposed by this chapter, gross receipts do not include any fees or  
5 other interest imposed by a retailer for late charges on overdue accounts, no account, or  
6 nonsufficient funds checks.

7 Section 15. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 For purposes of the tax imposed by this chapter, the sale price of property returned by  
10 customers are not gross receipts if the full sale price thereof is refunded either in cash or by  
11 credit.

12 Section 16. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 For purposes of the tax imposed by this chapter, if any tangible personal property is taken  
15 in trade or in a series of trades as a credit or part payment of a retail sale taxable under this  
16 chapter, and the tangible personal property taken in trade is subject to the sales tax imposed by  
17 this chapter when sold, the credit or trade-in value allowed by the retailer may not be included  
18 as gross receipts.

19 Section 17. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 For purposes of the tax imposed by this chapter, on any sale made under a conditional sales  
22 contract, or under other forms of sale wherein the payment of the principal sum is extended over  
23 a period longer than sixty days from the date of sale, only the portion of the sale amount that has  
24 actually been received in cash by the retailer during each reporting period is subject to the tax

1 imposed by this chapter.

2 Section 18. That § 10-45-3 be amended to read as follows:

3 10-45-3. There is hereby imposed a tax of ~~three~~ four percent on the gross receipts from the  
4 sale or resale of farm machinery and attachment units other than replacement parts; or irrigation  
5 equipment used exclusively for agricultural purposes by licensed South Dakota retailers;  
6 ~~provided, however, that whenever.~~ However, any trade-in or exchange of used farm machinery  
7 is involved in the transaction, the tax ~~shall~~ is only be due and shall be collected only on the cash  
8 difference.

9 Section 19. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 There are exempted from the provisions of this chapter and the tax imposed by it, gross  
12 receipts from the sale of parts or repairs on machinery or equipment which are clearly identifiable  
13 as used primarily for agricultural purposes, including irrigation equipment, if the part replaces  
14 a farm machinery or irrigation equipment part assigned a specific or generic part number by the  
15 manufacturer of the farm machinery or irrigation equipment.

16 Section 20. That § 10-45-5 be amended to read as follows:

17 10-45-5. There is imposed a tax at the rate of ~~three~~ four percent upon the gross receipts of  
18 any person from engaging in the business of leasing farm machinery or irrigation equipment used  
19 for agricultural purposes and four percent upon the gross receipts of any person from engaging  
20 or continuing in any of the following businesses or services in this state: abstracters; accountants;  
21 architects; barbers; beauty shops; bill collection services; blacksmith shops; car washing; dry  
22 cleaning; dyeing; exterminators; garage and service stations; garment alteration; cleaning and  
23 pressing; janitorial services and supplies; specialty cleaners; laundry; linen and towel supply;  
24 membership or entrance fees for the use of a facility or for the right to purchase tangible personal

1 property or services; photography; photo developing and enlarging; tire recapping; welding and  
2 all repair services; cable television; and rentals of tangible personal property except leases of  
3 tangible personal property between one telephone company and another telephone company,  
4 motor vehicles as defined by § 32-5-1 leased under a single contract for more than twenty-eight  
5 days and mobile homes ~~provided, however, that.~~ However, the specific enumeration of  
6 businesses and professions made in this section does not, in any way, limit the scope and effect  
7 of § 10-45-4.

8 Section 21. That § 10-45-5.3 be amended to read as follows:

9 10-45-5.3. There is imposed, at the rate of ~~three~~ four percent, an excise tax on the gross  
10 receipts of any person engaging in oil and gas field services (group no. 138) as enumerated in  
11 the Standard Industrial Classification Manual, 1987, as prepared by the Statistical Policy Division  
12 of the Office of Management and Budget, Office of the President.

13 Section 22. That § 10-45-8 be amended to read as follows:

14 10-45-8. There is imposed a tax of four percent upon the gross receipts from all sales of  
15 tickets or admissions to places of amusement and athletic contests or events, except as otherwise  
16 provided in this chapter.

17 Section 23. That § 10-45-24 be amended to read as follows:

18 10-45-24. Each retailer or person engaging in a business in this state whose receipts are  
19 subject to sales tax shall file with the Department of Revenue, an application for a permit. Each  
20 application shall be made on a form prescribed by the secretary of revenue and shall require the  
21 name under which the applicant transacts or intends to transact business, the location of each  
22 business, and other information as the secretary of revenue may require. The application shall be  
23 signed by the owner, if a natural person; by a member or partner, if an association or partnership;  
24 or by an executive officer or a person specifically authorized by the corporation to sign the

1 application, if a corporation, to which shall be attached the written evidence of the person's  
2 authority. The applicant shall have a permit for each place of business, unless the secretary of  
3 revenue grants a request for a statewide permit. A statewide permit may be granted if the  
4 applicant demonstrates the ability to comply with the filing, auditing, and record-keeping  
5 requirements specified in rules promulgated pursuant to § 10-45-47.1 for each location specified  
6 in the application.

7 Any seller registering under the agreement as defined in section 1 of this Act shall be  
8 registered in this state, provided this state has entered into the agreement as provided in section  
9 3 of this Act. Any seller who is registered under such agreement is not required to sign the  
10 registration application and may register through an agent. Any seller who is registered under  
11 such agreement may cancel its registration at any time, but is liable for remitting any sales tax  
12 previously collected.

13 Section 24. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 In computing the tax to be remitted under this chapter as the result of any transaction, the  
16 tax amount shall be carried to the third decimal place. Amounts of tax less than one-half of one  
17 cent shall be disregarded and amounts of tax of one-half cent or more shall be considered an  
18 additional cent.

19 Section 25. That § 10-45-30 be amended to read as follows:

20 ~~10-45-30. Taxes paid on gross receipts represented by accounts found to be worthless and~~  
21 ~~actually charged off for income tax purposes, may be credited upon a subsequent payment of the~~  
22 ~~tax herein provided; if such accounts are thereafter collected by the retailer, a tax shall be paid~~  
23 ~~upon the amount so collected. For purposes of this chapter, a bad debt is any portion of the~~  
24 ~~purchase price of a transaction that a seller has reported as taxable and for which the seller~~

1 legally claims as a bad debt deduction for federal income tax purposes. In computing the amount  
2 of tax due, a seller may deduct bad debts from the total amount upon which the tax is calculated  
3 for any return. Any deduction taken or refund paid which is attributed to bad debts may not  
4 include interest. Bad debts include worthless checks, worthless credit card payments, and  
5 uncollectible credit accounts. Bad debts do not include financing charges or interest, sales or use  
6 taxes charged on the purchase price, uncollectible amounts on property that remain in the  
7 possession of the seller until the full purchase price is paid, expenses incurred in attempting to  
8 collect any debt, debts sold, or assigned to third parties for collection, and repossessed property.  
9 No bad debt deduction may be claimed by any person that has purchased accounts receivable for  
10 collection unless the person is a successor that has acquired the entire business of the seller that  
11 incurred the bad debt.

12 Bad debts shall be deducted within twelve months following the month in which the bad debt  
13 has been charged off for federal income tax purposes. If a deduction is taken for a bad debt and  
14 the seller subsequently collects the debt in whole or in part, the tax on the amount so collected  
15 shall be paid and reported on the next return due after the collection.

16 Notwithstanding the provisions of § 10-59-22, a seller may obtain a refund of tax on any  
17 amount of bad debt that exceeds the amount of taxable sales within the twelve-month period  
18 defined by that bad debt. A refund under this section may not include interest.

19 If a seller's filing responsibilities have been assumed by a certified service provider as defined  
20 in section 1 of this Act, the service provider may claim, on behalf of the seller, any bad debt  
21 allowance provided by this section. The service provider shall credit or refund the full amount  
22 of any bad debt allowance or refund received to the seller.

23 Section 26. That § 10-45-61 be amended to read as follows:

24 10-45-61. Notwithstanding § 10-54-1, a seller, who possesses a ~~resale~~ an exemption

1 certificate from a purchaser of tangible personal property or services which indicates the items  
2 or services being purchased are ~~for resale in the regular course of business exempt~~, may rely on  
3 the ~~resale exemption~~ certificate and not charge sales tax to the provider of the ~~resale exemption~~  
4 certificate until the provider of the ~~resale exemption~~ certificate gives notice that the items or  
5 services being purchased are no longer ~~for resale exempt~~ by filing a new ~~resale exemption~~  
6 certificate with the seller.

7 The ~~resale exemption~~ certificate shall be signed by the purchaser, provide the purchaser's  
8 name, address, and valid state ~~sales tax license number, if applicable~~, and shall describe the types  
9 of tangible personal property and services being purchased ~~for resale exempt~~ by the purchaser  
10 ~~in the regular course of business. However, any person filing an electronic exemption certificate~~  
11 ~~is not required to sign the exemption certificate.~~

12 The purchaser claiming the protection of a ~~resale exemption~~ certificate is responsible for  
13 assuring that the goods and services delivered thereafter are of a type covered by the ~~resale~~  
14 ~~exemption~~ certificate. If there are items covered under the ~~resale exemption~~ certificate which are  
15 not being purchased ~~for resale exempt~~, it is the responsibility of the purchaser when ordering  
16 goods from a seller to indicate if any of the items purchased are not ~~for resale exempt~~, and the  
17 appropriate sales tax shall be charged on the portion of the sale that is not ~~for resale exempt~~. A  
18 seller of property or services which are generally described under the ~~resale exemption~~ certificate  
19 is not responsible for the collection of the tax unless otherwise directed by the purchaser ~~or~~  
20 ~~unless the state establishes that the seller did not accept the resale certificate in good faith.~~  
21 ~~Absent knowledge of circumstances by the seller which would put the holder of the resale~~  
22 ~~certificate upon inquiry as to its validity, good faith does not require the seller to investigate the~~  
23 ~~nature of the purchaser's business.~~

24 If the purchaser later determines there is any tax due and owing, the purchaser shall remit the



1 tax owed by the purchaser to the state. If the purchaser ~~purchases for resale but later elects not~~  
2 ~~to resell the goods and consumes or uses them~~ makes an exempt purchase and later determines  
3 that the goods or services purchased are not exempt, the purchaser shall report the transaction  
4 and pay the use tax on the next filing of ~~his~~ the purchaser's return.

5 Any purchaser who knowingly and intentionally lists on a ~~resale~~ an exemption certificate  
6 personal property or services which the purchaser knows, at the time the ~~resale~~ exemption  
7 certificate is filed with the seller, ~~will not be resold~~ are not exempt, or provides an invalid ~~resale~~  
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 may  
10 assess a penalty of up to fifty percent of the tax owed, in addition to the tax owed. No interest  
11 may be charged on the penalty.

12 The seller shall retain the exemption certificate for a period of three years from the date it is  
13 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 ~~resale~~  
15 exemption certificates.

16 Section 27. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 For purposes of the tax imposed by this chapter, a retailer shall source sales of tangible  
19 personal property and services to the location where the tangible personal property or service  
20 is received. The department shall promulgate rules, pursuant to chapter 1-26, defining the  
21 location of receipt.

22 Section 28. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 Registration under the agreement and collection of tax imposed under this chapter or chapter

1 10-46 does not in and of itself create nexus for other taxes or fees imposed by this state.

2 Section 29. That § 10-46-1 be amended to read as follows:

3 10-46-1. Terms, as used in this chapter mean:

4 (1) "Business," any activity engaged in by any person or caused to be engaged in by ~~him~~  
5 such person with the object of gain, benefit or advantage either direct or indirect;

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

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

14 ~~(3)~~(4) "Included in the measure of tax," the tangible personal property or the service was  
15 purchased from a retailer licensed under chapter 10-45 and that retailer has included  
16 the tax in the amount received from the sale;

17 ~~(4)~~(5) "In this state" or "in the state," within the exterior limits of the State of South Dakota  
18 and includes all territory within such limits owned by or ceded to the United States  
19 of America;

20 ~~(5)~~(6) "Purchase," any transfer, exchange, or barter, conditional or otherwise, in any manner  
21 or by any means whatsoever, for a consideration. A transaction, whereby the  
22 possession of property is transferred but the seller retains the title as security for the  
23 payment of the price, is a purchase;

24 ~~(6)~~(7) "Purchase price" or "sales price," ~~the total amount for which tangible personal~~

1 ~~property is sold, including any services that are part of the sale, valued in money,~~  
2 ~~whether paid in money or otherwise, and includes any amount for which credit is~~  
3 ~~given to the purchaser by the seller without any deduction therefrom on account of~~  
4 ~~the cost of the property sold, the cost of materials used, labor or service cost, interest~~  
5 ~~charged, losses or any other expense whatsoever. However, cash discounts allowed~~  
6 ~~and taken on sales may not be included~~ shall have the same meaning as gross receipts  
7 defined in subdivision 10-45-1(4);

8 ~~(7)~~(8) "Retailer," any person performing services in this state or engaged in the business of  
9 selling tangible personal property for use, storage or other consumption within the  
10 meaning of this chapter. However, if in the opinion of the secretary of revenue, it is  
11 necessary for the efficient administration of this chapter to regard any salesmen,  
12 representatives, truckers, peddlers, or canvassers as agents of the dealers, distributors,  
13 supervisors, employers, or persons under whom they operate or from whom they  
14 obtain the tangible personal property sold by them irrespective of whether they are  
15 making sales on their own behalf or on behalf of such dealers, distributors,  
16 supervisors, employers, or persons, the secretary of revenue may so regard them and  
17 may regard the dealers, distributors, supervisors, employers, or persons as retailers  
18 for purposes of this chapter;

19 ~~(8)~~(9) "Retailer maintaining a place of business in the state," any retailer having or  
20 maintaining within this state, directly or by a subsidiary, an office, distribution house,  
21 sales house, warehouse, or other place of business, or any agents operating within the  
22 state under the authority of the retailer or its subsidiary, irrespective of whether such  
23 place of business or agent is located here permanently or temporarily or whether such  
24 retailer or subsidiary is admitted to do business within this state pursuant to the laws

1 of the State of South Dakota granting the rights of foreign corporations to do  
2 business in this state;

3 ~~(9)~~(10) "Secretary," the secretary of the Department of Revenue or any duly  
4 authorized and appointed assistant, deputies, or agents of the secretary charged  
5 with the administration or enforcement of this chapter;

6 ~~(10)~~(11) "Storage," any keeping or retention in this state for use or other consumption  
7 in the State of South Dakota for any purpose except sale in the regular course  
8 of business;

9 ~~(11)~~(12) "Tangible personal property," tangible goods, wares, merchandise, gas, and  
10 electricity if furnished or delivered to consumers or users within this state;

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

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

21 There are exempted from the provisions of this chapter and the tax imposed by it, the use of  
22 parts or repairs on machinery or equipment which are clearly identifiable as used primarily for  
23 agricultural purposes, including irrigation equipment, if the part replaces a farm machinery or  
24 irrigation equipment part assigned a specific or generic part number by the manufacturer of the

1 farm machinery or irrigation equipment.

2 Section 31. That § 10-59-27 be amended to read as follows:

3 10-59-27. Any taxpayer who has received written advice from the Department of Revenue  
4 concerning the taxability of transactions shall be allowed to rely on such advice when filing tax  
5 returns. However, the taxpayer shall maintain a copy of the advice in ~~their~~ the taxpayer's business  
6 records. The department may not maintain a position against a taxpayer which is inconsistent  
7 with a prior written opinion issued to the same taxpayer unless rescinded by the department, by  
8 a change in statutory law or reported case law, by a change in federal interpretation in cases if  
9 the department's written advice was predicated upon a federal interpretation or by a change in  
10 material facts or circumstances relating to the taxpayer. For the purposes of this section, written  
11 advice includes municipal boundary information, and zip codes and addresses located within  
12 municipalities provided by the department.

13 Section 32. That § 10-52-2 be amended to read as follows:

14 10-52-2. Any incorporated municipality within this state may impose any non-ad valorem tax  
15 in accordance with the provisions of this chapter, except upon fuel used for motor vehicles, by  
16 ordinance enacted by its local governing board. However, no tax may be levied on the sale, use,  
17 storage and consumption of items taxed under chapters 10-45 and 10-46, unless such tax  
18 conforms in all respects to the state tax on such items with the exception of the rate, and the rate  
19 levied does not exceed two percent.

20 ~~—If a municipality increases its tax rate above one percent, the revenue generated from the tax~~  
21 ~~increase may only be used for capital improvement, to include lease-purchase agreements of~~  
22 ~~realty, land acquisition, the funding of public ambulances and medical emergency response~~  
23 ~~vehicles, public hospitals, or nonprofit hospitals with fifty or fewer licensed beds, and other~~  
24 ~~public health care facilities or nonprofit health care facilities with fifty or fewer licensed beds, the~~

1 transfer to the special 911 fund authorized by ~~§ 34-45-12~~, the purchasing of fire fighting vehicles  
2 and equipment, debt retirement and the minor rehabilitation, major rehabilitation, or  
3 reconstruction of streets as defined in the June, 1994, South Dakota Department of  
4 Transportation Pavement Condition Survey Guide for City Streets.

5 Section 33. That § 10-52-2.1 be repealed.

6 ~~10-52-2.1. All local taxes duly enacted under § 10-52-2 before July 3, 1977, are hereby~~  
7 ~~ratified and may continue in force; provided, that no rate, which as of July 1, 1977, is in excess~~  
8 ~~of the rate specified in § 10-52-2, shall be increased.~~

9 Section 34. That § 10-52-2.5 be repealed.

10 ~~10-52-2.5. The gross receipts from selling food, as defined by the Food Stamp Act of 1977~~  
11 ~~(P.L. 95-113), codified at 7 U.S.C. § 2012(g), as amended through January 1, 1983, in rules~~  
12 ~~promulgated pursuant thereto, are exempt from the provisions of this chapter and from the tax~~  
13 ~~imposed by it if the tax rate imposed by a municipality through the provisions of § 10-52-2 is in~~  
14 ~~excess of one percent. The provisions of this section do not apply to municipalities qualifying~~  
15 ~~under § 10-52-2.1 unless such municipalities increase their existing non-ad valorem tax and the~~  
16 ~~new rate is in excess of one percent. A municipality may, by local option, exempt food, as~~  
17 ~~defined by the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as~~  
18 ~~amended through January 1, 1983, from the tax imposed by § 10-52-2 if the tax rate is one~~  
19 ~~percent or less. A municipality with a tax rate in excess of one percent on January 1, 1983,~~  
20 ~~pursuant to § 10-52-2.1, may, by local option, exempt food, as defined by the Food Stamp Act~~  
21 ~~of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as amended through January 1, 1983,~~  
22 ~~from the tax.~~

23 Section 35. That § 10-52-2.6 be repealed.

24 ~~10-52-2.6. Parts or repairs on machinery or equipment which are clearly identifiable as used~~

1 primarily for agricultural purposes, if the part replaces a farm machinery part assigned a specific  
2 or generic part number by the manufacturer of the farm machinery, farm machinery and  
3 equipment, and agricultural animal health products and medicines are exempt from the tax  
4 imposed by this chapter.

5 Section 36. That § 10-52-2.9 be repealed.

6 ~~10-52-2.9. Any municipality which increases its tax rate above the rate it had on January 1,~~  
7 ~~1983, may exempt therefrom those items which were exempt before the increase.~~

8 Section 37. That § 10-52-3 be amended to read as follows:

9 10-52-3. Any tax imposed by the governing board of any municipality pursuant to the  
10 provisions of this chapter, may be referred to a vote of the people for its approval or disapproval  
11 in the same manner as provided in §§ 9-20-7, 9-20-8, and 9-20-10. A tax imposed by municipal  
12 ordinance which was in effect on July 1, 2002, is continued under the provisions of this chapter  
13 if:

- 14 (1) The governing board of the municipality has reviewed the existing tax ordinance to  
15 determine compliance with the provisions of this chapter; and  
16 (2) The governing board of the municipality documents the review, any amendment, and  
17 the intent to continue the tax in the official minutes of the governing board.

18 Any amendment made by the municipality to comply with the provisions of this Act or the  
19 determination to continue the tax under the provisions of this chapter is deemed to be an  
20 administrative decision pursuant to § 9-20-19 and is not subject to referendum.

21 Section 38. That § 10-52-2.10 be amended to read as follows:

22 10-52-2.10. Any incorporated municipality imposing a non-ad valorem tax in accordance  
23 with § 10-52-2, ~~or imposing an additional non-ad valorem tax in accordance with § 10-52-8,~~ may  
24 issue municipal non-ad valorem tax revenue bonds pursuant to this section and chapter 6-8B in

1 anticipation of the collection of the taxes. The bonds shall be payable solely from the collections  
2 of the taxes imposed by the municipality under § 10-52-2 or ~~10-52-8, or both~~, as determined by  
3 the governing body. The governing body shall, in the resolution or ordinance authorizing the  
4 bonds, agree that it will continue to impose and collect the taxes so long as the bonds are  
5 outstanding. The governing body shall also pledge so much of the collections of the taxes as may  
6 be necessary to pay the principal premium and interest on the bonds and to maintain any debt  
7 service reserve established for the bonds. The proceeds of the bonds may be used for land  
8 acquisition, the funding of public ambulances and medical emergency response vehicles, public  
9 hospitals or nonprofit hospitals with fifty or fewer licensed beds and other public health care  
10 facilities or nonprofit health care facilities with fifty or fewer licensed beds, capital asset  
11 acquisition and capital improvements, to establish a debt service reserve fund for the bonds and  
12 to pay not more than one year's capitalized interest on the bonds. ~~If the proceeds of the tax~~  
13 ~~imposed by § 10-52-8 are pledged to payment of the bonds, the land acquisition and capital~~  
14 ~~improvements financed with the proceeds of the bonds shall relate to the purposes enumerated~~  
15 ~~in § 10-52-8.~~

16 No election is required to authorize the issuance of municipal non-ad valorem tax revenue  
17 bonds. The bonds shall be issued and sold as provided in chapter 6-8B.

18 Section 39. That § 10-52-8 be repealed.

19 ~~10-52-8. Notwithstanding the tax rate limitations of § 10-52-2 or 10-52-2.1, any municipality~~  
20 ~~may impose an additional municipal non-ad valorem tax at the rate of one percent upon the gross~~  
21 ~~receipts of all leases or rentals of hotel, motel, campsites, or other lodging accommodations~~  
22 ~~within the municipality for periods of less than twenty-eight consecutive days, or sales of~~  
23 ~~alcoholic beverages as defined in § 35-1-1, or establishments where the public is invited to eat,~~  
24 ~~dine, or purchase and carry out prepared food for immediate consumption, or ticket sales or~~



1 ~~admissions to places of amusement, athletic, and cultural events, or any combination thereof. The~~  
2 ~~tax shall be levied for the purpose of land acquisition, architectural fees, construction costs,~~  
3 ~~payments for civic center, auditorium, or athletic facility buildings, including the maintenance,~~  
4 ~~staffing, and operations of such facilities and the promotion and advertising of the city, its~~  
5 ~~facilities, attractions, and activities. Such taxes shall conform in all respects to the state sales and~~  
6 ~~use tax on such items with the exception of the rate.~~

7 Section 40. That § 10-52-9 be amended to read as follows:

8 10-52-9. Notwithstanding § 9-19-13, any new ordinance or amendment to an ordinance  
9 enacted under the authority of this chapter, and any tax rate affected thereby, can be effective  
10 only on January first or July first of a calendar year. The ordinance or amendment shall be  
11 effective on the earlier of January first or July first following at least ~~sixty~~ ninety days notification  
12 by the municipality to the secretary of revenue that the ordinance or amendment has been  
13 enacted unless the ordinance or amendment is suspended by operation of a referendum. If an  
14 ordinance or amendment enacted under this chapter is referred and the referred ordinance or  
15 amendment is approved the effective date is the earlier of January first or July first following at  
16 least ~~sixty~~ ninety days notification by the municipality to the secretary of revenue that the  
17 ordinance or amendment has been approved notwithstanding § 9-20-15. Notification of the  
18 enactment or approval of the ordinance shall be in writing and mailed, along with a copy of the  
19 ordinance or amendment, by registered or certified mail to the secretary of revenue.

20 Section 41. That § 10-52-11 be repealed.

21 ~~—10-52-11. Veterinarian services (group no. 074) and animal specialty services except~~  
22 ~~veterinary (industry no. 0752) as enumerated in the Standard Industrial Classification Manual,~~  
23 ~~1987, as prepared by the Statistical Policy Division of the Office of Management and Budget,~~  
24 ~~Office of the President are exempt from the provisions of this chapter. In addition, there are~~

1 specifically exempted from the provisions of this chapter and the computation of the tax imposed  
2 by it, gross receipts from transportation services and the collection and disposal of solid waste.

3 Section 42. That § 10-52-12 be repealed.

4 ~~10-52-12. The following services enumerated in the Standard Industrial Classification~~  
5 ~~Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and~~  
6 ~~Budget, Office of the President are exempt from the provisions of this chapter: establishments~~  
7 ~~primarily engaged in air transportation, noncertified carriers (group no. 452).~~

8 Section 43. That § 10-52-13 be amended to read as follows:

9 10-52-13. For purposes of this chapter, any new resolution or amendment enacted by a  
10 municipality which changes the boundaries of the municipality is effective on the first day of the  
11 first month following at least ~~sixty~~ ninety days notification by the municipality to the secretary  
12 of revenue that the resolution or amendment has been enacted unless the ordinance or  
13 amendment is suspended by operation of a referendum. If a resolution or amendment enacted  
14 pursuant to chapter 9-4 is referred and the referred resolution or amendment is approved, the  
15 effective date is the first day of the first month following at least ~~sixty~~ ninety days notification  
16 by a municipality to the secretary of revenue that the resolution or amendment has been  
17 approved. The municipality shall provide written notification of the enactment or approval of the  
18 resolution or amendment, along with a copy of the resolution or amendment by registered or  
19 certified mail or by any electronic means to the secretary of revenue. The municipality shall also  
20 provide any changes or additions to streets and addresses.

21 Section 44. That chapter 10-52 be amended by adding thereto a NEW SECTION to read  
22 as follows:

23 For the purposes of the tax imposed by this chapter, the transportation of tangible personal  
24 property and passengers shall be taxed only if the origins and destination of the property or

1 passenger are within the same municipality.

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

654H0032

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1002** - 01/17/2002

Introduced by: Representatives Brown (Richard), Glenski, Peterson (Jim), and Smidt and  
Senators McCracken, Dennert, and Reedy at the request of the Interim  
Streamlined Sales Tax Project Task Force

1 FOR AN ACT ENTITLED, An Act to impose a gross receipts tax on certain visitor-related  
2 businesses.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Lodging establishment," any building, structure, property, or premise kept, used,  
6 maintained, advertised, or held out to the public to be a place where sleeping  
7 accommodations are furnished to transient guests. The following constitute lodging  
8 establishments: bed and breakfast inns, boarding houses, bungalows cabins,  
9 condominiums, cottages, dude ranches, guest houses, guest ranches, hostels, hotels,  
10 inns, lodges, motels, resorts, tourist homes, timeshare rentals, vacation home rentals,  
11 and villas;

12 (2) "Campground," any property or premise kept, used, maintained, advertised, or held  
13 out to the public to be a place where sites are available for placing of tents, campers,  
14 trailers, mobile homes, or other mobile accommodations to transient guests.



1 Campgrounds include city, county, and state-owned campgrounds, as well as  
2 concessionaires or contractors who manage or operate publicly owned campgrounds.

3 The following constitute campgrounds: campgrounds, camping cabins, camping  
4 resorts, commercial picnic grounds, organizational camps, park units, recreational  
5 vehicle parks, trailer parks, and youth camps;

6 (3) "Visitor attraction," any business establishment that offers recreation, entertainment,  
7 or interpretation of natural or cultural history. The following constitute visitor  
8 attractions: aerial tramways, amusement parks, animal exhibits, animal shows, antique  
9 car exhibits, antique exhibits, arboreta, aquariums, batting cages, botanical gardens,  
10 bumper boats, bumper cars, bungee jumps, carnival rides, chuck wagon suppers,  
11 commercial playgrounds, go-cart raceways, gold mines, golf driving ranges, historic  
12 sites, human mazes, hunting preserves, miniature golf courses, museums, music  
13 shows, observation towers, outdoor dramas, pitch 'n putt golf courses, playhouses,  
14 racetracks, recreational gold mining, reptile exhibits, restorations, scenic railroads,  
15 shooting preserves, show caves, ski areas, spectator events, water slides, wave pools,  
16 wax figure exhibits, and zoological gardens. A visitor attraction includes any business  
17 which is being conducted on the site of another visitor attraction;

18 (4) "Recreational service," any business establishment that provides leisure or recreational  
19 experiences. The following constitute recreational services: aerial sightseeing tours,  
20 amusement rides, bath houses, carriage rides, climbing guides, day camps, fishing  
21 guides, fishing ponds, golf driving ranges, hunting guides, outfitters, pack trains,  
22 private beaches, river rafting, saddle horse rides, sightseeing guides, sightseeing tours,  
23 shooting galleries, shooting ranges, skeet ranges, ski instruction, ski lift tickets, ski  
24 trails, spas, trail rides, trap ranges, tour bus excursions, and youth camps;

- 1 (5) "Recreational equipment rental," include all items rented for twenty-eight days or less  
2 whose primary purpose is recreational use. Rental, under such circumstances, of the  
3 following constitute recreational equipment rentals: all-terrain vehicles, beach chairs,  
4 bicycles, bumper boats, bumper cars, campers, camping trailers, firearms, fishing  
5 equipment, flotation devices, go carts, golf clubs, hunting dogs, hunting equipment,  
6 mopeds, motor coaches, motorcycles, pack animals, recreational courts and  
7 equipment, recreational gold mining equipment, recreational vehicles, recreational  
8 water equipment, rock climbing gear, roller blades, saddle horses, skis, snowboards,  
9 snowmobiles, snowmobile trailers, snowshoes, watercraft, and watercraft trailers;
- 10 (6) "Spectator event," any organized activity meant for entertainment or education and  
11 open to the public. The following constitute spectator events: air shows, auto races,  
12 auto shows, balloon shows, boat races, car rallies, carnivals, circuses, concerts, dance  
13 festivals, draft horse contests, ethnic festivals, exhibitions, expositions, fairs,  
14 greyhound races, horse races, horse shows, monster truck shows, motorcycle  
15 expositions, motorcycle races, music festivals, rodeos, sporting events, stage  
16 performances, threshing bees, tractor pull contests, and water-skiing shows. A  
17 spectator event includes any business which is conducted on the site of another  
18 spectator event;
- 19 (7) "Visitor intensive business," any antique shop, book store, candy store, flea market,  
20 gift shop, indigenous arts and crafts shop, jewelry, lapidary shop, leather goods shop,  
21 marina, novelty shop, pottery shop, rock shop, souvenir shop, and tee shirt shop if  
22 fifty percent or more of annual total receipts are derived from the sale of tangible  
23 personal property, during the months of June, July, August, and September. No  
24 postsecondary, college, and university book store is, however, included.

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

9 Section 3. The revenue from the tax imposed by section 2 of this Act shall be deposited in  
10 the tourism promotion fund created in § 1-42-31.

11 Section 4. The tax imposed by section 2 of this Act on any lodging establishment applies only  
12 to the gross receipts from the rental of rooms by a lodging establishment.

13 Section 5. The tax imposed by section 2 of this Act on any campground applies to the gross  
14 receipts from the rental of campground space.

15 Section 6. The tax imposed by section 2 of this Act applies to the gross receipts from  
16 admission to a visitor attraction and from the sale of tangible personal property, services,  
17 parking, or transportation at a visitor attraction.

18 Section 7. The tax imposed by section 2 of this Act applies to the gross receipts from  
19 admission to a spectator event and from the sale of tangible personal property, services, parking,  
20 or transportation at a spectator event.

21 Section 8. Gross receipts from the rental of rooms or sites at a lodging establishment or  
22 campground owned by nonprofit religious, educational, or youth organization are exempt from  
23 the tax imposed by section 2 of this Act if rented to a member of such organization.

24 Section 9. The tax imposed by section 2 of this Act shall be collected and administered by

1 the Department of Revenue.

2 Section 10. Any person who is subject to the tax imposed by this Act shall make a return and  
3 remittance to the Department of Revenue on forms prescribed and furnished by the department  
4 in the following manner:

5 (1) Any person, whose tax liability is one thousand dollars or more annually, shall file the  
6 return and remit the tax on or before the twentieth day of the month following each  
7 monthly period;

8 (2) Any person, whose tax liability is less than one thousand dollars annually, shall file the  
9 return and remit the tax on or before the last day of the month following each two-  
10 month period; and

11 (3) Any person, whose tax liability is one thousand dollars or more annually and who  
12 remits the tax by electronic transfer to the state, shall file the return by electronic  
13 means on or before the twenty-third day of the month following each monthly period  
14 and remit the tax on or before the second to the last day of the month following each  
15 monthly period.

16 The secretary of revenue may grant an extension of not more than five days for filing a return  
17 and remittance. Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid  
18 if a return or remittance is not made on time.

19 Section 11. The secretary of revenue may require or allow some returns and remittances to  
20 be filed on a monthly, bimonthly, semiannual, or annual basis and the return and remittance is due  
21 the last day of the month following the reporting period. For persons issued a temporary or  
22 seasonal sales tax permit pursuant to chapter 10-45, the returns and remittances may be required  
23 at a time determined by the secretary. Section 10-59-6 applies to returns and payments under this  
24 section.



1 Section 12. The definitions, administrative, collection, and enforcement provisions of  
2 chapters 10-45 and 10-46 apply to the tax imposed by this Act, where applicable.

3 Section 13. The secretary of revenue may promulgate rules pursuant to chapter 1-26  
4 concerning:

- 5 (1) Licensing, including bonding and filing license applications;
- 6 (2) The filing of returns and payment of the tax;
- 7 (3) Determining the application of the tax and exemptions;
- 8 (4) Taxpayer record-keeping requirements; and
- 9 (5) Determining auditing methods.

10 Section 14. Any person who:

- 11 (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed  
12 by this Act is guilty of a Class 6 felony;
- 13 (2) Fails to pay tax due under this Act within thirty days from the date the tax becomes  
14 due is guilty of a Class 1 misdemeanor;
- 15 (3) Fails to keep the records and books required by section 13 of this Act or refuses to  
16 exhibit these records to the secretary of revenue or the secretary's agents for the  
17 purpose of examination is guilty of a Class 1 misdemeanor;
- 18 (4) Fails to file a return required by this Act within thirty days from the date the return is  
19 due is guilty of a Class 1 misdemeanor;
- 20 (5) Willfully violates any rule of the secretary of revenue for the administration and  
21 enforcement of the provisions of this Act is guilty of a Class 1 misdemeanor; or
- 22 (6) Violates either subdivision (2) or subdivision (4) two or more times in any twelve-  
23 month period is guilty of a Class 6 felony.

24 Section 15. That § 10-59-1 be amended to read as follows:

1       10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes  
2 or fees imposed by chapters 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-46, 10-46A, 10-46B,  
3 10-47B, 10-52, 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, and 34A-13 and §§ 22-25-48,  
4 49-31-51, 50-4-13 to 50-4-17, inclusive, this Act, and the provisions of chapter 10-45B.

5       Section 16. That § 10-45-69.1 be repealed.

6       ~~10-45-69.1. There is hereby imposed a tax of one percent on the gross receipts from hotels  
7 and lodging places; campgrounds; motor vehicle rentals; visitor attractions; recreational  
8 equipment rentals; recreational services; spectator events; and visitor-intensive businesses. The  
9 tax imposed by this section to the gross receipts of visitor-intensive businesses shall apply to the  
10 gross receipts received by such businesses during the months of June, July, August, and  
11 September. The tax imposed by this section is in addition to any other tax imposed by chapters  
12 10-45 and 10-46. Tangible personal property, services, and admissions are subject to the tax  
13 imposed by this section only if subject to tax by chapters 10-45 and 10-46.~~

14       Section 17. That § 10-45-69.2 be repealed.

15       ~~10-45-69.2. The revenue from the tax imposed by § 10-45-69.1 shall be deposited in the  
16 tourism promotion fund created in § 1-42-31.~~

17       Section 18. That § 10-45-69.3 be repealed.

18       ~~10-45-69.3. The tax imposed by § 10-45-69.1 on hotels and lodging establishments shall only  
19 apply to the gross receipts from the rental of rooms by hotels and lodging establishments. A  
20 lodging establishment is any building, structure, property, or premise kept, used, maintained,  
21 advertised, or held out to the public to be a place where sleeping accommodations are furnished  
22 in two or more rental units to transient guest. The following constitute hotels and lodging  
23 establishments: bed and breakfast inns, boarding houses, bungalows cabins, condominiums,  
24 cottages, dude ranches, guest houses, guest ranches, hostels, hotels, inns, lodges, motels, resorts,~~

1 ~~tourist homes, timeshare rentals, vacation home rentals, and villas.~~

2 Section 19. That § 10-45-69.4 be repealed.

3 ~~—10-45-69.4. The tax imposed by § 10-45-69.1 on campgrounds shall apply to the gross~~  
4 ~~receipts from the rental of campground space. A campground is any property or premise kept,~~  
5 ~~used, maintained, advertised, or held out to the public to be a place where sites are available for~~  
6 ~~placing of tents, campers, trailers, mobile homes, or other mobile accommodations in two or~~  
7 ~~more rental units to transient guests. Campgrounds include city, county, and state-owned~~  
8 ~~campgrounds, as well as concessionaires or contractors who manage or operate publicly-owned~~  
9 ~~campgrounds. The following constitute campgrounds: campgrounds, camping cabins, camping~~  
10 ~~resorts, commercial picnic grounds, organizational camps, park units, recreational vehicle parks,~~  
11 ~~trailer parks, and youth camps.~~

12 Section 20. That § 10-45-69.5 be repealed.

13 ~~—10-45-69.5. For the purposes of § 10-45-69.1, a visitor attraction is any business~~  
14 ~~establishment that offers recreation, entertainment, or interpretation of natural or cultural history.~~  
15 ~~The following constitute visitor attractions: aerial tramways, amusement parks, animal exhibits,~~  
16 ~~animal shows, antique car exhibits, antique exhibits, arboreta, aquariums, batting cages, botanical~~  
17 ~~gardens, bumper boats, bumper cars, bungee jumps, carnival rides, chuck wagon suppers,~~  
18 ~~commercial playgrounds, go-cart raceways, gold mines, golf driving ranges, historic sites, human~~  
19 ~~mazes, hunting preserves, miniature golf courses, museums, music shows, observation towers,~~  
20 ~~outdoor dramas, pitch 'n putt golf courses, playhouses, racetracks, recreational gold mining,~~  
21 ~~reptile exhibits, restorations, scenic railroads, shooting preserves, show caves, ski areas,~~  
22 ~~spectator events, water slides, wave pools, wax figure exhibits, and zoological gardens.~~

23 ~~—The tax imposed by § 10-45-69.1 applies to the gross receipts from admission to a visitor~~  
24 ~~attraction and from the sale of tangible personal property, services, parking, or transportation.~~

1 ~~A visitor attraction includes any business which is being conducted on the site of another visitor~~  
2 ~~attraction.~~

3 Section 21. That § 10-45-69.6 be repealed.

4 ~~— 10-45-69.6. For the purposes of § 10-45-69.1, a recreational service is any business~~  
5 ~~establishment that provides leisure or recreational experiences. The following constitute~~  
6 ~~recreational services: aerial sightseeing tours, amusement rides, bath houses, carriage rides,~~  
7 ~~climbing guides, day camps, fishing guides, fishing ponds, golf driving ranges, hunting guides,~~  
8 ~~outfitters, pack trains, private beaches, river rafting, saddle horse rides, sightseeing guides,~~  
9 ~~sightseeing tours, shooting galleries, shooting ranges, skeet ranges, ski instruction, ski lift tickets,~~  
10 ~~ski trails, spas, trail rides, trap ranges, tour bus excursions, and youth camps.~~

11 Section 22. That § 10-45-69.7 be repealed.

12 ~~— 10-45-69.7. For the purposes of § 10-45-69.1, recreational equipment rentals include all~~  
13 ~~items rented for twenty-eight days or less whose primary purpose is recreational use. Rental,~~  
14 ~~under such circumstances, of the following constitute recreational equipment rentals: all-terrain~~  
15 ~~vehicles, beach chairs, bicycles, bumper boats, bumper cars, campers, camping trailers, firearms,~~  
16 ~~fishing equipment, flotation devices, go carts, golf clubs, hunting dogs, hunting equipment,~~  
17 ~~mopeds, motor coaches, motorcycles, pack animals, recreational courts and equipment,~~  
18 ~~recreational gold mining equipment, recreational vehicles, recreational water equipment, rock~~  
19 ~~climbing gear, roller blades, saddle horses, skis, snowboards, snowmobiles, snowmobile trailers,~~  
20 ~~snowshoes, watercraft, and watercraft trailers.~~

21 Section 23. That § 10-45-69.8 be repealed.

22 ~~— 10-45-69.8. For the purposes of § 10-45-69.1, a spectator event is any organized activity~~  
23 ~~meant for entertainment or education and open to the public. The following constitute spectator~~  
24 ~~events: air shows, auto races, auto shows, balloon shows, boat races, car rallies, carnivals,~~

1 ~~circuses, concerts, dance festivals, draft horse contests, ethnic festivals, exhibitions, expositions,~~  
2 ~~fairs, greyhound races, horse races, horse shows, monster truck shows, motorcycle expositions,~~  
3 ~~motorcycle races, music festivals, rodeos, sporting events, stage performances, threshing bees,~~  
4 ~~tractor pull contests, and water-skiing shows.~~

5 ~~— The tax imposed by § 10-45-69.1 applies to the gross receipts from admission to a spectator~~  
6 ~~event and from the sale of tangible personal property, services, parking, or transportation at a~~  
7 ~~spectator event. A spectator event includes any business which is conducted on the site of~~  
8 ~~another spectator event.~~

9 Section 24. That § 10-45-69.9 be repealed.

10 ~~— 10-45-69.9. For the purposes of § 10-45-69.1, a visitor-intensive business is any: antique~~  
11 ~~shop, book store, candy store, flea market, gift shop, indigenous arts and craft shop, jewelry,~~  
12 ~~lapidary shop, leather goods shop, marina, novelty shop, pottery shop, rock shop, souvenir shop,~~  
13 ~~and tee shirt shop if fifty percent or more of annual total receipts are derived from the sale of~~  
14 ~~tangible personal property, during the months of June, July, August, and September. No~~  
15 ~~postsecondary, college, and university book store is, however, included.~~

16 Section 25. That § 10-45-69.10 be repealed.

17 ~~— 10-45-69.10. There is exempted from the tax imposed by § 10-45-69.1, gross receipts from~~  
18 ~~the rental of rooms or sites at a lodging establishment or campground owned by nonprofit~~  
19 ~~religious, educational, or youth organization if rented to members of such organizations.~~

20 Section 26. That § 10-45-91 be amended to read as follows:

21 10-45-91. Notwithstanding the provisions of § 10-45-13, admissions to rodeos and rodeo  
22 related activities and events are subject to the tax imposed by §§ 10-45-8 and ~~10-45-69.1~~ section  
23 2 of this Act.

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

438H0043

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1003** - 01/17/2002

Introduced by: Representatives Brown (Richard), Glenski, Peterson (Jim), and Smidt and  
Senators McCracken, Dennert, and Reedy at the request of the Interim  
Streamlined Sales Tax Project Task Force

1 FOR AN ACT ENTITLED, An Act to authorize a municipal gross receipts tax on certain  
2 lodging, alcoholic beverages, prepared food, and admissions.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Department," the Department of Revenue;

6 (2) "Gross receipts," the total amount or consideration, including cash, credit, property,  
7 and services, for which tangible personal property or services are sold, leased, or  
8 rented, valued in money, whether received in money or otherwise, without any  
9 deduction for the following:

10 (a) The retailer's cost of the property or service sold;

11 (b) The cost of materials used, labor or service cost, interest, losses, all costs of  
12 transportation to the retailer, all taxes imposed on the retailer, and any other  
13 expense of the retailer;

14 (c) Except as provided in chapter 10-46A or 10-46B, charges by the retailer for



1 any services necessary to complete the sale whether or not separately stated,  
2 including delivery charges; and

3 (d) The value of exempt tangible personal property whether or not separately  
4 stated on the invoice, billing, or similar document given to the purchaser where  
5 taxable and exempt tangible personal property have been bundled together and  
6 sold by the retailer as a single product or piece of merchandise;

7 Gross receipts do not include:

8 (a) Discounts, including cash, term, or coupons that are not reimbursed by a third  
9 party that are allowed by a retailer and taken by a purchaser on a sale;

10 (b) Interest, financing, and carrying charges from credit extended on the sale of  
11 tangible personal property or services, if the amount is separately stated on the  
12 invoice, bill of sale or similar document given to the purchaser; and

13 (c) Any taxes legally imposed directly on the consumer that are separately stated  
14 on the invoice, bill of sale, or similar document given to the purchaser.

15 Section 2. Any municipality may impose an additional municipal non-ad valorem tax at the  
16 rate of one percent upon the gross receipts of all leases or rentals of hotel, motel, campsites, or  
17 other lodging accommodations within the municipality for periods of less than twenty-eight  
18 consecutive days, or sales of alcoholic beverages as defined in § 35-1-1, or establishments where  
19 the public is invited to eat, dine, or purchase and carry out prepared food for immediate  
20 consumption, or ticket sales or admissions to places of amusement, athletic, and cultural events,  
21 or any combination thereof. The tax shall be levied for the purpose of land acquisition,  
22 architectural fees, construction costs, payments for civic center, auditorium, or athletic facility  
23 buildings, including the maintenance, staffing, and operations of such facilities and the promotion  
24 and advertising of the city, its facilities, attractions, and activities.

1 Section 3. That § 10-52-8 be repealed.

2 ~~10-52-8. Notwithstanding the tax rate limitations of § 10-52-2 or 10-52-2.1, any municipality~~  
3 ~~may impose an additional municipal non-ad valorem tax at the rate of one percent upon the gross~~  
4 ~~receipts of all leases or rentals of hotel, motel, campsites, or other lodging accommodations~~  
5 ~~within the municipality for periods of less than twenty-eight consecutive days, or sales of~~  
6 ~~alcoholic beverages as defined in § 35-1-1, or establishments where the public is invited to eat,~~  
7 ~~dine, or purchase and carry out prepared food for immediate consumption, or ticket sales or~~  
8 ~~admissions to places of amusement, athletic, and cultural events, or any combination thereof. The~~  
9 ~~tax shall be levied for the purpose of land acquisition, architectural fees, construction costs,~~  
10 ~~payments for civic center, auditorium, or athletic facility buildings, including the maintenance,~~  
11 ~~staffing, and operations of such facilities and the promotion and advertising of the city, its~~  
12 ~~facilities, attractions, and activities. Such taxes shall conform in all respects to the state sales and~~  
13 ~~use tax on such items with the exception of the rate.~~

14 Section 4. The tax imposed by section 2 of this Act shall be collected and administered by  
15 the department.

16 Section 5. Any person who is subject to the tax imposed by this Act shall make a return and  
17 remittance to the department on forms prescribed and furnished by the department in the  
18 following manner:

19 (1) Any person whose tax liability is one thousand dollars or more annually, shall file the  
20 return and remit the tax on or before the twentieth day of the month following each  
21 monthly period;

22 (2) Any person whose tax liability is less than one thousand dollars annually, shall file the  
23 return and remit the tax on or before the last day of the month following each two-  
24 month period; and



1       (3) Any person whose tax liability is one thousand dollars or more annually and who  
2           remits the tax by electronic transfer to the state, shall file the return by electronic  
3           means on or before the twenty-third day of the month following each monthly period  
4           and remit the tax on or before the second to the last day of the month following each  
5           monthly period.

6       The secretary of revenue may grant an extension of not more than five days for filing a return  
7   and remittance. Unless an extension is granted, penalty or interest pursuant to § 10-59-6 shall  
8   be paid if a return or remittance is not made on time.

9       Section 6. The secretary of revenue may require or allow some returns and remittances to  
10   be filed on a monthly, bimonthly, semiannual, or annual basis and the return and remittance is due  
11   the last day of the month following the reporting period. For any person issued a temporary or  
12   seasonal tax permit pursuant to chapter 10-45, the returns and remittances may be required at  
13   a time determined by the secretary. Section 10-59-6 applies to any return and payment made  
14   pursuant to this section.

15      Section 7. The definitions, administrative, collection, and enforcement provisions of chapters  
16   10-45 and 10-46 apply to the tax imposed by this Act, where applicable.

17      Section 8. The secretary of revenue may promulgate rules pursuant to chapter 1-26  
18   concerning:

- 19      (1) Licensing, including bonding and filing license applications;
- 20      (2) The filing of returns and payment of the tax;
- 21      (3) Determining the application of the tax and exemptions;
- 22      (4) Taxpayer record-keeping requirements; and
- 23      (5) Determining auditing methods.

24      Section 9. Any person who:

- 1       (1)    Makes any false or fraudulent return in attempting to defeat or evade the tax imposed  
2            by this Act is guilty of a Class 6 felony;
- 3       (2)    Fails to pay tax due under this Act within thirty days from the date the tax becomes  
4            due is guilty of a Class 1 misdemeanor;
- 5       (3)    Fails to keep the records and books required by section 10 of this Act or refuses to  
6            exhibit these records to the secretary of revenue or the secretary's agents for the  
7            purpose of examination is guilty of a Class 1 misdemeanor;
- 8       (4)    Fails to file a return required by this Act within thirty days from the date the return is  
9            due is guilty of a Class 1 misdemeanor;
- 10      (5)    Willfully violates any rule of the secretary of revenue for the administration and  
11            enforcement of the provisions of this Act is guilty of a Class 1 misdemeanor; or
- 12      (6)    Violates either subdivision (2) or subdivision (4) two or more times in any twelve-  
13            month period is guilty of a Class 6 felony.

14       Section 10. Each person subject to tax under this Act shall keep records and books of all  
15    receipts and sales, together with invoices, bills of lading, copies of bills of sale, and other  
16    pertinent papers and documents. The books and records and other papers and documents are,  
17    at all times during business hours of the day, subject to inspection by the secretary of revenue  
18    or the secretary's agents and employees to determine the amount of tax due. The books and  
19    records shall be preserved for a period of three years unless the secretary of revenue, in writing,  
20    authorized their destruction or disposal at an earlier date.

21       Section 11. Any tax imposed by the governing board of any municipality pursuant to the  
22    provisions of this Act, may be referred to a vote of the people for its approval or disapproval in  
23    the same manner as provided in §§ 9-20-7, 9-20-8, and 9-20-10. A tax imposed by municipal  
24    ordinance which was in effect on July 1, 2002, is continued under the provisions of this Act if:

1 (1) The governing board of the municipality has reviewed the existing tax ordinance to  
2 determine compliance with the provisions of this Act; and

3 (2) The governing board of the municipality documents the review, any amendment, and  
4 the intent to continue the tax in the official minutes of the governing board.

5 Any amendment made by the municipality to comply with the provisions of this Act or the  
6 determination to continue the tax under the provisions of this Act is deemed to be an  
7 administrative decision pursuant to § 9-20-19 and not subject to referendum.

8 Section 12. The administration of the taxes adopted under this Act shall be by the  
9 department. The department may prescribe forms and promulgate rules pursuant to chapter 1-26  
10 for the making of returns and for the ascertainment, assessment, and collection of the tax  
11 imposed pursuant to this Act. The department shall keep full and accurate records of all moneys  
12 received and distributed under this Act.

13 Section 13. All moneys received and collected on behalf of a municipality by the department,  
14 pursuant to this Act, shall be credited to a special municipal tax fund and after deducting the  
15 amount of refunds made, the amounts necessary to defray the cost of collecting the tax, and the  
16 administrative expenses incident thereto, shall be paid within thirty days after collection to the  
17 municipality entitled thereto.

18 Section 14. Notwithstanding § 9-19-13, any new ordinance or amendment to an ordinance  
19 enacted under the authority of this Act, and any tax rate affected thereby, can be effective only  
20 on January first or July first of a calendar year. The ordinance or amendment shall be effective  
21 on the earlier of January first or July first following at least ninety days notification by the  
22 municipality to the secretary of revenue that the ordinance or amendment has been enacted  
23 unless the ordinance or amendment is suspended by operation of a referendum. If an ordinance  
24 or amendment enacted under this chapter is referred and the referred ordinance or amendment

1 is approved the effective date shall be the earlier of January first or July first following at least  
2 ninety days notification by the municipality to the secretary of revenue that the ordinance or  
3 amendment has been approved notwithstanding § 9-20-15. Notification of the enactment or  
4 approval of the ordinance shall be in writing and mailed, along with a copy of the ordinance or  
5 amendment, by registered or certified mail to the secretary of revenue.

6 Section 15. That § 10-59-1 be amended to read as follows:

7 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes  
8 or fees imposed by chapters 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-46, 10-46A, 10-46B,  
9 10-47B, 10-52, 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, and 34A-13 and §§ 22-25-48,  
10 49-31-51, 50-4-13 to 50-4-17, inclusive, this Act, and the provisions of chapter 10-45B.

11 Section 16. Any municipality imposing a tax pursuant to this Act may issue municipal non-ad  
12 valorem tax revenue bonds pursuant to this section and chapter 6-8B in anticipation of the  
13 collection of the taxes. The bonds shall be payable solely from the collections of the taxes  
14 imposed by the municipality under this Act, as determined by the governing body. The governing  
15 body shall, in the resolution or ordinance authorizing the bonds, agree that it will continue to  
16 impose and collect the taxes so long as the bonds are outstanding. The governing body shall also  
17 pledge so much of the collections of the taxes as may be necessary to pay the principal premium  
18 and interest on the bonds and to maintain any debt service reserve established for the bonds. The  
19 proceeds of the bonds may be used for land acquisition, the funding of public ambulances and  
20 medical emergency response vehicles, public hospitals or nonprofit hospitals with fifty or fewer  
21 licensed beds and other public health care facilities or nonprofit health care facilities with fifty  
22 or fewer licensed beds, capital asset acquisition and capital improvements, to establish a debt  
23 service reserve fund for the bonds and to pay not more than one year's capitalized interest on the  
24 bonds. If the proceeds of the tax imposed by this Act are pledged to payment of the bonds, the

1 land acquisition and capital improvements financed with the proceeds of the bonds shall relate  
2 to the purposes enumerated in section 2 of this Act.

3 No election is required to authorize the issuance of municipal non-ad valorem tax revenue  
4 bonds. The bonds shall be issued and sold as provided in chapter 6-8B.

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

500H0305

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1069** - 01/18/2002

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to increase the compensation and to reimburse the expenses  
2 of the recount referee.

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

4 Section 1. That § 12-21-4 be amended to read as follows:

5 12-21-4. The recount referee shall receive compensation in the amount of ~~thirty-five~~ one  
6 hundred dollars per day ~~and the~~ for the referee's services and reimbursement for necessary  
7 expenses and costs incidental to the recount in an amount to be fixed by the presiding judge of  
8 the circuit. ~~The~~ other two members so appointed to the recount board shall each receive  
9 compensation in the amount of twenty-five dollars per day.



# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

814H0180      **HOUSE COMMERCE COMMITTEE ENGROSSED NO.**  
**HB 1073 - 01/17/2002**

Introduced by: Representatives Flowers, Abdallah, Brown (Jarvis), Burg, Hansen (Tom), Hargens, Holbeck, Hundstad, Jensen, Lange, Olson (Mel), and Sebert and Senators Volesky, Duxbury, Koetzle, McCracken, Moore, and Putnam

1    FOR AN ACT ENTITLED, An Act to require direct reimbursement to ambulance services  
2        under certain circumstances.

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

4        Section 1. Notwithstanding any provision of any policy of insurance subject to the general  
5    provisions of Title 58, if a policy or contract provides for reimbursement for ambulance service,  
6    the reimbursement shall be made payable directly to the ambulance service or jointly to both the  
7    insured and the ambulance service. The provisions of this section only apply to nonprofit  
8    ambulance services.



# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

337H0143

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1081 - 01/18/2002**

Introduced by: Representatives Madsen, Abdallah, Bartling, Brown (Jarvis), Davis, Duenwald, Fryslie, Garnos, Gillespie, Hargens, Hennies (Thomas), Holbeck, Hunhoff, Juhnke, Klaudt, Lintz, McCaulley, McCoy, Michels, Monroe, Murschel, Nachtigal, Napoli, Peterson (Bill), Peterson (Jim), Pitts, Rhoden, Sebert, Sutton (Duane), Teupel, and Van Gerpen and Senators Greenfield, Apa, Bogue, Hutmacher, McCracken, Moore, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the revocation or  
2 suspension of driving privileges upon conviction for unlawful sales, purchases, possession,  
3 or consumption of alcoholic beverages involving persons under twenty-one years of age.

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

5 Section 1. That § 35-9-7 be amended to read as follows:

6 35-9-7. If the conviction or adjudication for a violation of § 35-9-1.1 or 35-9-2 is for a first  
7 offense, the court shall, in addition to any other penalty allowed by law, order the suspension of  
8 the ~~defendant's~~ person's driving privileges for a period not less than thirty days and not to exceed  
9 one year. However, the court may issue an order permitting the person to operate a motor  
10 vehicle for purposes of the person's employment or attendance at school or to court-ordered  
11 counseling programs during the hours of the day and the days of the week set forth in the order.  
12 The court may also restrict the privilege in ~~such~~ some other manner as ~~it sees~~ the court may see





1 fit for a period not to exceed one year.

2 If the conviction or adjudication for a violation of § 35-9-1.1 or 35-9-2 is for a second or  
3 subsequent offense, the court shall, in addition to any other penalty allowed by law, order the  
4 suspension of the ~~defendant's~~ person's driving privileges for a period not less than sixty days and  
5 not to exceed one year. However, the court may issue an order permitting the person to operate  
6 a motor vehicle for purposes of the person's employment or attendance at school or to court-  
7 ordered counseling programs during the hours of the day and the days of the week set forth in  
8 the order. The court may also restrict the privilege in some other manner as the court may see  
9 fit for a period not to exceed one year.