Chapter 55

(Senate Bill 96)

An Act to authorize the imposition of a county option gross receipts tax to reduce owner-occupied property taxes.

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

Section 1. That § 10-21-1.1 be AMENDED:

10-21-1.1. The treasurer shall mail or transmit electronically a written tax bill to each taxpayer against whom a property tax has been assessed. The property tax bill sent to each taxpayer may reflect the breakdown of the tax by tax levies. However, the property tax bill shall at least provide a tax total for each taxing district. A definition shall be provided for any abbreviation used to describe any entity imposing a tax or special assessment. The property tax bill shall also separately state the amount of any taxes due as a result of a local decision to exceed the tax increase limits set forth in § 10-13-36 or 10-12-43 and shall be marked by an asterisk. The notice shall include the statement: "INDICATES A LOCAL DECISION TO OPT OUT OF THE TAX LIMITATION." If the local vote to increase taxes had not passed, the taxes would not have included the items marked with an asterisk (*). If the treasurer does not mail the property tax receipts described in § 10-21-14, the treasurer shall indicate in the property tax bill or a notice enclosed with the bill that the treasurer does not intend to send a receipt unless requested by the taxpayer. If the tax levy breakdown is not shown on the tax bill, the treasurer on the taxpayer's request shall provide a tax levy sheet to the taxpayer. The tax levy sheet shall contain an example of the computation of the total tax for an individual. The secretary of revenue shall prescribe a uniform form which shall be used by the treasurer for notification of taxpayers as required by this section.

For taxes payable in 2028, and each year thereafter, the written tax bill must also state the amount of any property tax credit applied to the property, if any, due to the imposition of a gross receipts tax by the county pursuant to section 5 of this Act.

Section 2. That § 10-46A-12 be AMENDED:

10-46A-12. A contractor may list the contractor's excise tax and any use tax imposed under chapter 10-45, 10-46, or 10-52, or sections 5 to 16, inclusive, of this Act, as a separate line item on all contracts and bills, both for public and private entities. The line item for excise and use taxes is a part of the contractor's total bill and is collectible from all entities, both public and private.

Section 3. That § 10-46B-10 be AMENDED:

10-46B-10. A contractor may list the contractor's excise tax and any use tax imposed under chapter 10-45, 10-46, or 10-52, or sections 5 to 16, inclusive, of this Act, as a separate line item on all contracts and bills, both for public and private entities. The line item for excise and use taxes is a part of the contractor's total bill and is collectible from all entities, both public and private.

Section 4. That § 10-52-1.1 be AMENDED:

10-52-1.1. Notwithstanding any other provision of law, gross receipts as defined in this chapter do not include any tax imposed by this chapter and chapters 10-45, 10-45D, and 10-52A, and sections 5 to 16, inclusive, of this Act, that is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 10:

A county may impose a gross receipts tax not to exceed one-half percent on the gross receipts of all sales of tangible personal property, any product transferred electronically, and services, that are taxable pursuant to chapters 10-45 and 10-46 in the county. The tax must conform in all respects to the state sales and use tax, with the exception of the tax rate.

For purposes of this chapter, "gross receipts" have the same meaning as defined and used in chapter 10-45.

Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 10:

All proceeds from the tax imposed by a county pursuant to section 5 of this Act must be deposited into a property tax reduction fund of the county, to be used only as provided in section 7 of this Act.

Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 10:

The governing body of a county shall allocate all moneys in the county's property tax reduction fund as a credit against the county property tax levy on all property classified as owner-occupied, as defined in § 10-13-39, in an equal percentage.

All additional moneys in the fund after one hundred percent of the county property tax levy on owner-occupied property is supplanted must be used to provide a credit against the county property tax levy on all property classified as agricultural and nonagricultural in an equal percentage.

Notwithstanding the provisions of this section, the governing body may allocate moneys in the county's property tax reduction fund in an amount necessary to implement the requirements of this chapter, not to exceed two percent of all moneys deposited in the fund during the first year in which the county imposes a gross receipts tax and not to exceed twenty thousand dollars in each year thereafter.

Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 10:

To impose a gross receipts tax pursuant to section 5 of this Act, the governing body of a county shall adopt an ordinance pursuant to chapter 7-18A. The ordinance must specify the governing body will provide property tax relief on the county property tax levy to all property classified as owner-occupied, as defined in § 10-13-39, in the county and must direct the creation of the property tax reduction fund to be administered in accordance with this chapter.

Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 10:

An ordinance adopted by a governing body of a county pursuant to section 8 of this Act may be referred to a vote of the people for approval or disapproval in the same manner as provided in chapter 7-18A.

An ordinance adopted pursuant to this chapter does not constitute an action necessary for the immediate preservation of the public peace, health, or safety, or for the support of the county government and its existing public institutions.

Section 10. That a NEW SECTION be added to a NEW CHAPTER in title 10:

An initiated ordinance to impose a gross receipts tax pursuant to section 5 of this Act may be brought by the registered voters in the county in the same manner as provided in chapter 7-18A.

Section 11. That a NEW SECTION be added to a NEW CHAPTER in title 10:

Notwithstanding any other provision of law, gross receipts, as defined in this chapter, do not include any tax imposed by this chapter and chapters 10-45, 10-45D, 10-52, and 10-52A, which is separately stated on the invoice, bill of sale, or similar document given to a purchaser.

Section 12. That a NEW SECTION be added to a NEW CHAPTER in title 10:

The Department of Revenue shall administer any gross receipts tax imposed pursuant to this chapter. The department may prescribe forms and promulgate rules pursuant to chapter 1-26 for the making of returns and for the ascertainment, assessment, and collection of the tax. The department shall keep full and accurate records of all moneys received and distributed pursuant to this chapter.

Section 13. That a NEW SECTION be added to a NEW CHAPTER in title 10:

All moneys received and collected on behalf of a particular county by the Department of Revenue pursuant to this chapter must be credited to a special county gross receipts tax fund, which is hereby established in the state treasury.

After deducting the amount of refunds made, the amounts necessary to defray the cost of collecting the tax, and the administrative expenses incident thereto, the moneys must be paid, within thirty days after collection, to the county entitled thereto. Any moneys remitted to a county must be deposited in the county's property tax reduction fund, to be used in accordance with the provisions of this chapter.

Section 14. That a NEW SECTION be added to a NEW CHAPTER in title 10:

Notwithstanding any other provision of law, any new ordinance, or amendment to an ordinance, enacted pursuant to this chapter, and any tax rate affected thereby, may go into effect only on January first or July first of a calendar year. The ordinance or amendment must be effective on the earlier of January first or July first following at least ninety days' notification by the governing body of the county to the secretary of the Department of Revenue that the ordinance or amendment has been enacted, unless the ordinance or amendment is suspended by operation of a referendum.

If an ordinance or amendment enacted under this chapter is referred and the referred ordinance or amendment is approved, the effective date is the earlier of January first or July first following at least ninety days' notification by the county to the secretary of revenue that the ordinance or amendment has been approved.

Notification of the enactment or approval of the ordinance must be in writing and mailed, along with a copy of the ordinance or amendment, by registered or certified mail to the secretary.

Section 15. That a NEW SECTION be added to a NEW CHAPTER in title 10:

Any person subject to the gross receipts tax imposed by this chapter shall file a return and pay any tax due in accordance with the provisions of chapter 10-45.

Section 16. That a NEW SECTION be added to a NEW CHAPTER in title 10:

No gross receipts tax imposed or increased pursuant to this chapter may be levied on materials incorporated in construction work related to construction contracts bid or entered into on or before the effective date of the tax imposition or tax increase.

Section 17. That § 10-59-1 be AMENDED:

10-59-1. The provisions of this chapter may only apply to proceedings commenced under this chapter concerning the taxes, the fees, the surcharges, or the persons subject to the taxes, fees, or surcharges imposed by, or any civil or criminal investigation authorized by, chapters 10-33A, 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-45D, 10-46, 10-46A, 10-46B, 10-46E, 10-47B, 10-50C, 10-52, 10-52A, 10-62, 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, 34-45, and 34A-13, and §§ 10-50-61, 49-31-51, and 50-4-13 to 50-4-17, inclusive, and sections 5 to 16, inclusive, of this Act.

Signed March 12, 2026