

2022 South Dakota Legislature

House Bill 1240**AMENDMENT 1240B FOR THE HOUSE APPROPRIATIONS
ENGROSSED BILL**

1 **An Act to ~~make an appropriation to enhance the economic health of South Dakota~~**
2 **~~and to declare an emergency~~ reduce certain gross receipts tax rates and a use**
3 **tax rate over two years, and to repeal a conditional reduction of certain gross**
4 **receipts tax rates.**

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

6 **Section 1. That § 10-45-2 be AMENDED:**

7 **10-45-2.** ~~There~~Until June 30, 2022, there is hereby imposed a tax upon the
8 privilege of engaging in business as a retailer, a tax of four and one-half percent upon the
9 gross receipts of all sales of tangible personal property consisting of goods, wares, or
10 merchandise, except as otherwise provided in this chapter, sold at retail in the State of
11 South Dakota to consumers or users.

12 On July 1, 2022, and until June 30, 2023, the tax rate imposed by this section is
13 four and one-quarter percent.

14 On July 1, 2023, the tax rate imposed by this section is four percent.

15 **Section 2. That § 10-45-5 be AMENDED:**

16 **10-45-5.** ~~There~~Until June 30, 2022, there is imposed a tax at the rate of four and
17 one-half percent upon the gross receipts of any person from engaging or continuing in
18 any of the following businesses or services in this state: abstracters; accountants;
19 ancillary services; architects; barbers; beauty shops; bill collection services; blacksmith
20 shops; car washing; dry cleaning; dyeing; exterminators; garage and service stations;
21 garment alteration; cleaning and pressing; janitorial services and supplies; specialty
22 cleaners; laundry; linen and towel supply; membership or entrance fees for the use of a
23 facility or for the right to purchase tangible personal property, any product transferred
24 electronically, or services; photography; photo developing and enlarging; tire recapping;

1 welding and all repair services, except repair services for farm machinery, attachment
2 units, and irrigation equipment used exclusively for agricultural purposes; cable television;
3 and rentals of tangible personal property except leases of tangible personal property
4 between one telephone company and another telephone company, motor vehicles as
5 defined pursuant to § 32-5-1 leased under a single contract for more than twenty-eight
6 days and mobile homes. However, the specific enumeration of businesses and professions
7 made in this section does not, in any way, limit the scope and effect of the provisions of
8 § 10-45-4.

9 On July 1, 2022, and until June 30, 2023, the tax rate imposed by this section is
10 four and one-quarter percent.

11 On July 1, 2023, the tax rate imposed by this section is four percent.

12 **Section 3. That § 10-45-5.3 be AMENDED:**

13 **10-45-5.3.** ~~There~~Until June 30, 2022, there is imposed, at the rate of four and
14 one-half percent, an excise tax on the gross receipts of any person engaging in oil and
15 gas field services (group no. 138) as enumerated in the Standard Industrial Classification
16 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management
17 and Budget, Office of the President.

18 On July 1, 2022, and until June 30, 2023, the tax rate imposed by this section is
19 four and one-quarter percent.

20 On July 1, 2023, the tax rate imposed by this section is four percent.

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

22 **10-45-6.** ~~There~~Until June 30, 2022, there is hereby imposed a tax of four and one-
23 half percent upon the gross receipts from sales, furnishing, or service of gas, electricity,
24 and water, including the gross receipts from such sales by any municipal corporation
25 furnishing gas, and electricity, to the public in its proprietary capacity, except as otherwise
26 provided in this chapter, when sold at retail in the State of South Dakota to consumers or
27 users.

28 On July 1, 2022, and until June 30, 2023, the tax rate imposed by this section is
29 four and one-quarter percent.

30 On July 1, 2023, the tax rate imposed by this section is four percent.

31 **Section 5. That § 10-45-6.1 be AMENDED:**

1 **10-45-6.1.** Except as provided in § 10-45-6.2, until June 30, 2022, there is hereby
2 imposed a tax of four and one-half percent upon the gross receipts from providing any
3 intrastate, interstate, or international telecommunications service that originates or
4 terminates in this state and that is billed or charged to a service address in this state, or
5 that both originates and terminates in this state. However, the tax imposed by this section
6 does not apply to:

- 7 (1) Any eight hundred or eight hundred type service unless the service both originates
8 and terminates in this state;
- 9 (2) Any sale of a telecommunication service to a provider of telecommunication
10 services, including access service, for use in providing any telecommunication
11 service; or
- 12 (3) Any sale of interstate telecommunication service provided to a call center that has
13 been certified by the secretary of revenue to meet the criterion established in § 10-
14 45-6.3 and the call center has provided to the telecommunications service provider
15 an exemption certificate issued by the secretary indicating that it meets the
16 criterion.

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

20 On July 1, 2022, and until June 30, 2023, the tax rate imposed by this section is
21 four and one-quarter percent.

22 On July 1, 2023, the tax rate imposed by this section is four percent.

23 **Section 6. That § 10-45-6.2 be AMENDED:**

24 **10-45-6.2.** ~~There~~Until June 30, 2022, there is hereby imposed a tax of four and
25 one-half percent upon the gross receipts of mobile telecommunications services, as
26 defined in 4 U.S.C. § 124(7) as of January 1, 2002, that originate and terminate in the
27 same state and are billed to a customer with a place of primary use in this state or are
28 deemed to have originated or been received in this state and to be billed or charged to a
29 service address in this state if the customer's place of primary use is located in this state
30 regardless of where the service actually originates or terminates. Notwithstanding any
31 other provision of this chapter and for purposes of the tax imposed by this section, the
32 tax imposed upon mobile telecommunication services shall be administered in accordance
33 with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

1 On July 1, 2022, and until June 30, 2023, the tax rate imposed by this section is
2 four and one-quarter percent.

3 On July 1, 2023, the tax rate imposed by this section is four percent.

4 **Section 7. That § 10-45-8 be AMENDED:**

5 **10-45-8.** ~~There~~Until June 30, 2022, there is imposed a tax of four and one-half
6 percent upon the gross receipts from all sales of tickets or admissions to places of
7 amusement and athletic contests or events, except as otherwise provided in this chapter.

8 On July 1, 2022, and until June 30, 2023, the tax rate imposed by this section is
9 four and one-quarter percent.

10 On July 1, 2023, the tax rate imposed by this section is four percent.

11 **Section 8. That § 10-45-71 be AMENDED:**

12 **10-45-71.** ~~There~~Until June 30, 2022, there is imposed a tax of four and one-half
13 percent on the gross receipts from the transportation of passengers. The tax imposed by
14 this section shall apply to any transportation of passengers if the passenger boards and
15 exits the mode of transportation within this state.

16 On July 1, 2022, and until June 30, 2023, the tax rate imposed by this section is
17 four and one-quarter percent.

18 On July 1, 2023, the tax rate imposed by this section is four percent.

19 **Section 9. That § 10-64-9 be REPEALED:**

20 ~~If the state is able to enforce the obligation to collect and remit sales tax on remote~~
21 ~~sellers who deliver tangible personal property, products transferred electronically, or~~
22 ~~services directly to the citizens of South Dakota, the additional net revenue from such~~
23 ~~obligation shall be used to reduce the rate of certain taxes. The rate of tax imposed by~~
24 ~~§§ 10-45-2, 10-45-5, 10-45-5.3, 10-45-6, 10-45-6.1, 10-45-6.2, 10-45-8, 10-45-71, 10-~~
25 ~~46-2.1, 10-46-2.2, 10-46-58, 10-46-69, 10-46-69.1, 10-46-69.2, 10-46E-1, and 10-58-~~
26 ~~1 shall be reduced by one-tenth percent on July first following the calendar year for which~~
27 ~~each additional twenty million dollar increment of net revenue is collected and remitted~~
28 ~~by such remote sellers. However, the rate of tax imposed by §§ 10-45-2, 10-45-5, 10-~~
29 ~~45-5.3, 10-45-6, 10-45-6.1, 10-45-6.2, 10-45-8, 10-45-71, 10-46-2.1, 10-46-2.2, 10-~~
30 ~~46-58, 10-46-69, 10-46-69.1, 10-46-69.2, 10-46E-1, and 10-58-1 may not be reduced~~
31 ~~below four percent pursuant to the provisions of this section.~~