

# State of South Dakota

EIGHTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2014

177V0625

## SENATE BILL NO. 140

Introduced by: Senator Lederman and Representative Latterell

1 FOR AN ACT ENTITLED, An Act to exempt certain computer programming services and  
2 software.

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

4 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 There are exempted from the provisions of this chapter and from the computation of the tax  
7 imposed by it, the gross receipts from custom computer programming, website design, network  
8 design, custom software, custom modifications to canned software, search engine optimization,  
9 and cloud services.

10 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 There are exempted from the provisions of this chapter and from the computation of the tax  
13 imposed by it, the gross receipts from custom computer programming, website design, network  
14 design, custom software, custom modifications to canned software, search engine optimization,  
15 and cloud services.



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

3 "Canned software," any software that is created for sale to more than one person;

4 "Custom software," any software created for a single person;

5 "Customization of canned software," any alteration, modification, or development of  
6 applications using or incorporating canned computer software for a specific person. The term,  
7 customization of canned software, includes individualized configuration of software to work  
8 with other software and computer hardware but does not include routine installation.  
9 Customization of canned software does not change the underlying character or taxability of the  
10 original canned software;

11 "Software," any information, program, or routine, or any set of one or more programs,  
12 routines, or collections of information used, or intended for use, to convey information that  
13 causes one or more computers or pieces of computer-related peripheral equipment, or any  
14 combination thereof, to perform a task or set of tasks. The term, software, includes only those  
15 copies of such information, programs, or routines intended for use by an end user and  
16 specifically excludes retained rights in software and master copies of software. Software  
17 includes the associated documentation that describes the code and its use, operation, and  
18 maintenance and typically is delivered with the code to the consumer. All software is classified  
19 as either canned or custom;

20 Section 4. That § 10-46-1 be amended by adding thereto NEW SUBDIVISIONS to read as  
21 follows:

22 "Canned software," any software that is created for sale to more than one person;

23 "Custom software," any software created for a single person;

24 "Customization of canned software," any alteration, modification, or development of

1 applications using or incorporating canned computer software for a specific person. The term,  
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3 with other software and computer hardware but does not include routine installation.  
4 Customization of canned software does not change the underlying character or taxability of the  
5 original canned software;

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