

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

570D0379

HOUSE BILL NO. 1180

Introduced by: Representatives Apa, Brown (Jarvis), Engbrecht, Hennies, Koehn, Kooistra,
and Slaughter and Senators Ham, Hutmacher, and Vitter

1 FOR AN ACT ENTITLED, An Act to provide for a retroactive application of the definition of
2 telephone company operating property.

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

4 Section 1. The Legislature finds:

5 (1) That at all times since July 1, 1974, § 10-33-10, as heretofore existing in the statutes
6 of this state was intended by the Legislature to apply to the operating property of each
7 telephone company, including each wireless and cellular telephone company;

8 (2) That the Department of Revenue, in good faith, for the years 1992, 1993, 1994, 1995,
9 and 1996 included property belonging to any wireless and cellular telephone company
10 in the definition of operating property pursuant to § 10-33-10 assessed for taxation
11 by the Department of Revenue;

12 (3) That each county in which any wireless and cellular telephone company operates
13 taxed those wireless and cellular telephone companies based upon a value that was
14 assessed by the Department of Revenue pursuant to § 10-33-10 for the years 1992,
15 1993, 1994, 1995, and 1996;

16 (4) That any wireless and cellular telephone company operating within the State of South

1 Dakota in the years 1992, 1993, 1994, 1995, and 1996 did not object to operating
2 property being assessed for taxation by the Department of Revenue pursuant to § 10-
3 33-10;

4 (5) That each county, in good faith, has received all sums paid pursuant to § 10-33-18,
5 which taxes were assessed upon value of the wireless and cellular telephone
6 companies as determined by the Department of Revenue;

7 (6) That the refund of taxes paid by each wireless and cellular telephone company to the
8 counties for the years 1992, 1993, 1994, 1995, and 1996 would seriously impair the
9 fiscal integrity of those counties;

10 (7) That the citizens of those counties which collected taxes based upon the valuation as
11 determined by the Department of Revenue would be denied basic services of
12 government in the event of such a refund or will be required to pay additional taxes
13 to replace the revenues lost to the county treasuries, and therefore ultimately derive
14 little benefit from any such refund; and

15 (8) That the retroactive application of this Act will not result in the collection of any
16 additional taxes from the citizens of the state.

17 Section 2. The provisions of chapter 67 of the 1998 Session Laws of South Dakota are
18 effective as follows:

19 (1) Retroactively for the time period between January 1, 1992, to December 31, 1996,
20 inclusive; and

21 (2) Prospectively from July 1, 1998.

22 Section 3. The effect of the retroactivity provided for in section 2 of this Act is to cover the
23 taxes that were collected by the counties from wireless and cellular telephone companies for the
24 years 1992, 1993, 1994, 1995, and 1996.

25 Section 4. The collection of any taxes from each wireless and cellular telephone company by

1 the counties for the years 1992, 1993, 1994, 1995, and 1996 as a result of having operating
2 property assessed by the Department of Revenue, prior to the passage of this Act is hereby
3 validated and ratified.