

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

645N0457

## HOUSE BILL NO. 1181

Introduced by: Representatives Glenski, Ahlers, Cutler, Gassman, Halverson, Miles, Sigdestad, Van Etten, and Willadsen and Senators Nesselhuf, Albers, McNenny, and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to impose a sales and use tax on certain advertising services  
2 for the purpose of funding an energy assistance program for certain nursing homes,  
3 community service organizations, juvenile corrections placement agencies, and adjustment  
4 training centers.

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

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

8 There is hereby imposed a tax of four percent upon the gross receipts from advertising  
9 services for political campaigns. The gross receipts from any political campaign include the cost  
10 of promoting any candidate, initiative, referendum, or cause in a public election of the state or  
11 any of its political subdivisions.

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

14 There is hereby imposed a tax of four percent upon the gross receipts from advertising  
15 services for political campaigns. The gross receipts from any political campaign include the cost



1 of promoting any individual, initiative, referendum, or cause in a public election of the state or  
2 any of its political subdivisions.

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

5 There is hereby created in the state treasury the sales tax advertising fund. The revenue  
6 received each year from the tax imposed by sections 1 and 2 of this Act shall be deposited in the  
7 sales tax advertising fund. The moneys deposited in the fund shall be invested by the state  
8 investment council pursuant to chapter 4-5 and all interest and profits derived from such  
9 investment shall be retained in the fund. The secretary of the Department of Social Services  
10 shall administer a program to provide energy assistance for facilities operated by one of the  
11 following entities: nursing homes, community service organizations, juvenile corrections  
12 placement agencies, and adjustment training centers. If the entity receives the provider inflation  
13 index increase from the state, the entity is eligible for funding pursuant to this section. Each  
14 eligible entity shall annually file an application by August first with the Department of Social  
15 Services on a form prescribed by the secretary of social services. The entity shall identify the  
16 number of square feet in its facility and the annual energy costs to operate the facility based on  
17 the state's fiscal year. The secretary shall distribute to each entity an amount equal to the money  
18 deposited in the fund during the previous fiscal year times the ratio of square feet in the entity's  
19 facility to the total square feet of all of the facilities eligible for assistance. The secretary of  
20 social services shall approve vouchers and the state auditor shall draw warrants to pay each  
21 entity its share of the distribution by September first.

22 Section 4. That § 10-45-12.1 be amended to read as follows:

23 10-45-12.1. The following services enumerated in the Standard Industrial Classification  
24 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and

1 Budget, Office of the President are exempt from the provisions of this chapter: health services  
2 (major group 80); educational services (major group 82) except schools and educational services  
3 not elsewhere classified (industry no. 8299); social services (major group 83); agricultural  
4 services (major group 07) except veterinarian services (group no. 074) and animal specialty  
5 services, except veterinary (industry no. 0752); forestry services (group no. 085); radio and  
6 television broadcasting (group no. 483); railroad transportation (major group 40); local and  
7 suburban passenger transportation (group no. 411) except limousine services; school buses  
8 (group no. 415); trucking and courier services, except air (group no. 421) except collection and  
9 disposal of solid waste; farm product warehousing and storage (industry no. 4221);  
10 establishments primarily engaged in transportation on rivers and canals (group no. 444);  
11 establishments primarily engaged in air transportation, certified carriers (group no. 451);  
12 establishments primarily engaged in air transportation, noncertified carriers (group no. 452)  
13 except chartered flights (industry no. 4522) and airplane, helicopter, balloon, dirigible, and  
14 blimp rides for amusement or sightseeing; pipe lines, except natural gas (major group 46);  
15 arrangement of passenger transportation (group no. 472); arrangement of transportation of  
16 freight and cargo (group no. 473); rental of railroad cars (group no. 474); water supply (industry  
17 no. 4941); sewerage systems (industry no. 4952); security brokers, dealers and flotation  
18 companies (group no. 621); commodity contracts brokers and dealers (group no. 622); credit  
19 counseling services provided by individual and family social services (industry no. 8322);  
20 construction services (division C) except industry no. 1752 and locksmiths and locksmith shops;  
21 consumer credit reporting agencies, mercantile reporting agencies, and adjustment and  
22 collection agencies (group no. 732), if the debt was incurred out-of-state and the client does not  
23 reside within the state. The following are also specifically exempt from the provisions of this  
24 chapter: financial services of institutions subject to tax under chapter 10-43 including loan

1 origination fees, late payment charges, nonsufficient fund check charges, stop payment charges,  
2 safe deposit box rent, exchange charges, commission on travelers checks, charges for  
3 administration of trusts, interest charges, and points charged on loans; commissions earned or  
4 service fees paid by an insurance company to an agent or representative for the sale of a policy;  
5 services of brokers and agents licensed under Title 47; the sale of trading stamps; rentals of  
6 motor vehicles as defined by § 32-5-1 leased under a single contract for more than twenty-eight  
7 days; advertising services except advertising services provided for political campaigns; services  
8 provided by any corporation to another corporation which is centrally assessed having identical  
9 ownership and services provided by any corporation to a wholly owned subsidiary which is  
10 centrally assessed; continuing education programs; tutoring; vocational counseling, except  
11 rehabilitation counseling; and motion picture rentals to a commercially operated theater  
12 primarily engaged in the exhibition of motion pictures.

13 Section 5. That § 10-45-108 be amended to read as follows:

14 10-45-108. For purposes of the tax imposed by this chapter, a retailer shall source sales of  
15 tangible personal property and services to the location where the tangible personal property or  
16 service is received. The department shall promulgate rules, pursuant to chapter 1-26, defining  
17 the location of receipt. The rules promulgated pursuant to this section may provide an alternative  
18 method of sourcing telecommunication services and advertising services provided for political  
19 campaigns.