

AN ACT

ENTITLED, An Act to revise certain provisions concerning the taxation of telecommunications companies.

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

Section 1. That § 10-33-1 be amended to read as follows:

10-33-1. On April fifteenth of each year, each telephone company subject to the tax imposed by § 10-33-21 shall file with the secretary of revenue and regulation on forms prescribed by the secretary a report of its gross receipts derived from the furnishing of the telephone and exchange service, rental and toll service, during the preceding calendar year. The report shall set forth the total gross receipts of the company in the State of South Dakota, together with the gross receipts within each school district in which the company operates. Each company shall furnish such other further information as the secretary shall from time to time require. The report shall be sworn to and verified by an officer of the company.

Section 2. That § 10-33-3 be repealed.

Section 3. That § 10-33-4 be amended to read as follows:

10-33-4. The president, secretary, general manager, or superintendent of each telephone company not subject to the tax imposed by § 10-33-21 shall furnish to the Department of Revenue and Regulation on or before April fifteenth, each year, a report under oath, on the forms furnished and according to the instructions issued by the department, with reference to the property owned, leased, or controlled on December thirty-first of the preceding calendar year.

Section 4. That § 10-33-10 be amended to read as follows:

10-33-10. All property, real and personal, which is actually and necessarily used in providing telephone and exchange service comprising rental and toll service by means of wired circuits and otherwise in this state, and which belongs to any telephone company in this state which is not subject

to the tax imposed by § 10-33-21 shall be assessed for the purpose of taxation by the Department of Revenue and Regulation, and not otherwise.

Section 5. That § 10-33-11 be amended to read as follows:

10-33-11. The Department of Revenue and Regulation shall assess the property of all telephone companies not subject to the tax imposed by § 10-33-21 on the fifth day of July of each year. In making the assessment, the department shall consider all the reports, facts, information filed, with any other information obtainable, concerning the value of the property of all telephone companies and may add any property omitted from the return of the companies. In making the assessment, which shall be with reference to value and ownership on January first of the year for which the assessment is made, the department shall take into consideration, among other things, the amount of gross earnings and net incomes, and the value to each telephone company of its franchises, rights, and privileges, granted under the laws of this state to do business in this state.

Section 6. That § 10-33-14 be amended to read as follows:

10-33-14. For the purpose of aiding the Department of Revenue and Regulation in implementing the taxes imposed by this chapter, the Public Utilities Commission shall provide any information requested by the secretary and deemed necessary by the secretary to ensure uniform and fair taxation.

Section 7. That § 10-33-14.1 be amended to read as follows:

10-33-14.1. For the purpose of determining the fair market value of the property of any telephone company not subject to the tax imposed by § 10-33-21, the Department of Revenue and Regulation shall take into consideration the cost approach, the market approach, and the income approach to appraisal. In the market approach, the department shall consider the actual or market value of the shares of stock outstanding, the actual or market value of all bonds outstanding, and all other indebtedness as may be applicable for operating the company. In the income approach, the department may consider the company's growth rate and the rate of inflation in determining the

capitalization rate. The department may take into consideration any other information or data of any kind or nature which the department may deem material in arriving at the fair market value of the property.

Section 8. That § 10-33-15 be amended to read as follows:

10-33-15. After the assessment is made on each company not subject to the tax imposed by § 10-33-21, the Department of Revenue and Regulation shall give notice by mail to the officers of each telephone company making return to the department, setting out the assessment and fixing a date at least ten days in advance when the representatives of any telephone company, so desiring, may appear before the secretary of revenue and regulation and be heard in all matters relating to the correctness of the assessment of the property of the company. The secretary of revenue and regulation may promulgate rules pursuant to chapter 1-26 concerning the conduct of the hearings.

Section 9. That § 10-33-16 be amended to read as follows:

10-33-16. After the date of hearing, and on or before the fourth Monday of August, the Department of Revenue and Regulation shall finally equalize the assessment of each company not subject to the tax imposed by § 10-33-21 and notify each company by mail.

The department shall certify the value finally determined to the county auditor of each county in which the company assessed owns property.

Section 10. That § 10-33-19 be amended to read as follows:

10-33-19. All laws relating to the enforcement of the payment of delinquent taxes are applicable to each company not subject to the tax imposed by § 10-33-21.

Section 11. That § 10-33-21 be amended to read as follows:

10-33-21. Each telephone company engaged in furnishing and providing telephone and exchange service comprising rental and toll service by means of wired circuits and otherwise shall be taxed on the basis of gross receipts at the rate of four percent. This tax does not apply to any company that

does not provide local exchange telephone service to patrons.

However, no telephone company operating in this state may be taxed less than an amount equal to fifty cents per year per telephone serviced.

Section 12. That § 10-33-23 be repealed.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1029

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1029

File No. _____

Chapter No. _____

Received at this Executive Office
this ____ day of _____ ,

20__ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

STATE OF SOUTH DAKOTA,
SS.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State