

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

906W0541

## SENATE ENGROSSED NO. **SB 136** - 02/17/2015

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senators Brown, Ewing, Frerichs, Greenfield (Brock), Monroe, Novstrup (David), Parsley, and Peterson (Jim) and Representatives Novstrup (Al), Cronin, Duvall, Greenfield (Lana), Haggar (Don), Heinemann (Leslie), Rozum, Solum, Wiik, Willadsen, and Wollmann

1 FOR AN ACT ENTITLED, An Act to exclude certain municipal taxes from the gross receipts  
2 used to determine the tax liability for customers served by electric cooperatives.

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

4 Section 1. That § 49-34A-45 be amended to read as follows:

5 49-34A-45. A rural electric cooperative serving less than a majority of customers in a  
6 municipality which does not have a municipally owned system, may, at the option of the  
7 municipality, pay in addition to other taxes provided by law, an amount to be agreed upon, not  
8 to exceed two percent of the total gross revenue collected by the rural electric cooperative for  
9 that year, by the electric supplier and the governing body of the municipality. If the parties have  
10 not agreed on the amount on or before May first following the calendar year from which the  
11 amount is to be paid, the amount to be paid shall be two percent of the total gross revenue  
12 collected by the rural electric cooperative from the sale of power distributed to structures and  
13 electric service outlets situated within the municipality. The tax imposed by a municipality



1 pursuant to this section may, but is not required to be, passed on to the purchaser. Any revenue  
2 received by the rural electric cooperative from the tax imposed by a municipality pursuant to  
3 this section that is separately stated on the invoice, bill of sale, or similar document is not  
4 considered gross receipts as defined in chapter 10-45, 10-46, or 10-52.

5 Section 2. That § 49-34A-46 be amended to read as follows:

6 49-34A-46. Any electric utility with facilities within the boundaries of a municipality, as  
7 they exist from time to time, which has a municipally owned electric system serving over fifty  
8 percent of the customers in the municipality, may, at the option of the municipality, pay to the  
9 municipality an amount to be agreed upon by the electric supplier and the governing body of the  
10 municipality. If the parties have not agreed on the amount on or before May first following the  
11 calendar year from which the amount is to be paid, the amount to be paid shall be four percent  
12 of the total gross revenue collected by the electric supplier from the sale of power delivered to  
13 structures and electric service outlets situated within the municipality during the year for which  
14 the amount is paid. The tax imposed by a municipality pursuant to this section may, but is not  
15 required to be, passed on to the purchaser. Any revenue received by the rural electric utility from  
16 the tax imposed by a municipality pursuant to this section that is separately stated on the  
17 invoice, bill of sale, or similar document is not considered gross receipts as defined in chapter  
18 10-45, 10-46, or 10-52.

19 Section 3. That § 10-45-1.19 be amended to read as follows:

20 10-45-1.19. Notwithstanding any other provision of law, gross receipts as defined in this  
21 chapter do not include any tax imposed by this chapter and chapters 10-45D, 10-52, and 10-  
22 52A, and §§ 49-34A-45 and 49-34A-46 that is separately stated on the invoice, bill of sale, or  
23 similar document given to the purchaser.