State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

591R0301

HOUSE BILL NO. **1097**

Introduced by: Representatives Peters, Cutler, and Steele and Senators Dempster, Haverly, Miles, and Turbak Berry

1   FOR AN ACT ENTITLED, An Act to prohibit local exchange carriers from assessing certain

2   access stimulation charges and to establish certain penalties.

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

4   Section 1. No local exchange carrier may assess an access stimulation charge. For the

5   purposes of this section, the term, access stimulation charge, means any switched access charge

6   assessed by a local exchange carrier upon a connecting carrier for delivery of

7   telecommunications during which a free or below cost service or product is provided by an

8   entity with which the local exchange carrier has a business, financial, or contractual arrangement

9   relating directly or indirectly to any switched access revenue from the offering of such service

10   or product.

11   Section 2. Any person who violates section 1 of this Act is subject to a civil penalty to be

12   imposed by the Public Utilities Commission, after notice and opportunity for hearing. The

13   commission may impose a civil fine of not more than twenty thousand dollars for each offense.

14   In determining the amount of the penalty upon finding a violation, or the amount of the

15   compromise settlement, the commission shall consider the appropriateness of the penalty to the

1   size of the business of the person charged, prior offenses and compliance history, the good faith

2   of the person charged in attempting to achieve compliance, and such other matters as justice

3   may require. All penalties collected pursuant to this section shall be deposited in the state

4   treasury. In addition to assessing a civil penalty for a violation of section 1 of this Act, the

5   commission may revoke or suspend a telecommunications company's certificate of authority for

6   repeated offenses.