

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

591R0301

HOUSE STATE AFFAIRS
ENGROSSED NO. **HB 1097** - 2/3/2010

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 nominally priced service or product is provided by
8 an unaffiliated entity with which the local exchange carrier has a business, financial, or
9 contractual arrangement relating directly or indirectly to any switched access revenue from the
10 offering of such service 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 day there
14 is a violation of section 1 of this Act. In determining the amount of the penalty upon finding a



1 violation, or the amount of the compromise settlement, the commission shall consider the
2 appropriateness of the penalty to the size of the business of the person charged, prior offenses
3 and compliance history, the good faith of the person charged in attempting to achieve
4 compliance, and such other matters as justice may require. All penalties collected pursuant to
5 this section shall be deposited in the state treasury. In addition to assessing a civil penalty for
6 a violation of section 1 of this Act, the commission may revoke or suspend a
7 telecommunications company's certificate of authority for repeated offenses.