

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

706B0548

HOUSE BILL NO. 1142

Introduced by: Representatives Gabriel, Duxbury, Jorgensen, and Pederson (Gordon) and
Senators Morford, Drake, and Johnson (William)

1 FOR AN ACT ENTITLED, An Act to allow joint ventures and other arrangements among
2 telecommunications companies to assist in the provisioning of the South Dakota Public
3 Communications Network Infrastructure.

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

5 Section 1. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 It is the intent of the Legislature to allow joint ventures and other arrangements between and
8 among telecommunications companies where such ventures or arrangements accelerate, improve,
9 or otherwise assist in the provisioning of the Public Communications Network Infrastructure
10 described in §§ 49-31-60 to 49-31-68, inclusive.

11 Any joint ventures or arrangements permitted under this Act may not be construed as
12 violating any state or local laws governing unfair trade practices, antitrust, or restraint of trade.
13 Further, it is the intent of the Legislature that the activities permitted under this Act shall be
14 exempt from federal laws governing unfair trade practices, antitrust, or restraint of trade. Local
15 exchange carriers participating in any such venture or arrangement may not be treated as

1 common carriers with respect to any in infrastructure, technology, information, facilities, or
2 functions made available under the venture or arrangement, to the extent such venture or
3 arrangement is consistent with achieving the purposes of §§ 49-31-60 to 49-31-68, inclusive, and
4 is consistent with the provisions of this Act and any commission rules adopted pursuant to this
5 Act.

6 Section 2. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The commission shall promulgate rules, pursuant to chapter 1-26, regarding the joint
9 ventures and arrangements permitted under this Act. Such rules:

- 10 (1) Shall permit telecommunications companies, including local exchange carriers and
11 centralized equal access providers, to enter into teaming agreements or arrangements,
12 joint ventures, or joint ownership or operation of network facilities, functions, or
13 services which will be consistent with the objectives described in §§ 49-31-60 to 49-
14 31-68, inclusive, which may be in addition to the infrastructure sharing arrangements
15 described in 47 U.S.C. § 259 as of January 1, 1998;
- 16 (2) May establish conditions that promote such cooperation between and among
17 telecommunications companies as will improve telecommunications services and
18 access to information services for residents of South Dakota;
- 19 (3) May not permit a telecommunications company to take any action that is contrary to
20 the public interest or require a telecommunications company to take any action that
21 is economically unreasonable;
- 22 (4) Shall permit, but not require, the joint ownership or operation of public network
23 facilities and services by or among telecommunications companies, and may not
24 require a local exchange carrier to engage in a joint ownership or operation
25 arrangement for any services which are to be provided or offered by a

1 telecommunications company seeking to compete with the local exchange carrier in
2 the local exchange carrier's service area; and
3 (5) May not affect the rights and responsibilities of incumbent local exchange carriers set
4 forth in 47 U.S.C. §§ 251 and 252 as of January 1, 1998.