

4/26/93 Referred to Communications & Information
4/29/93 Amend / Do Pass w/ S. 3689
5-1-93 Referred to State Gov.

FILED APR 22 1993

SENATE FILE 417

BY COMMITTEE ON WAYS AND MEANS
5-1-93 Passed out without Recommendation
5-1-93 Referred to Education
(SUCCESSOR TO SSB 169)
5/2/93 Do Pass

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the Iowa communications network by
2 establishing a board and a council, expanding the definitions
3 of private and public agencies, amending financing provisions,
4 providing for the lease of Part III facilities, providing for
5 certain restrictions on the disposition of the network,
6 providing for a procedure for determining which provider shall
7 provide connections to Part III, establishing an alternative
8 form of rate review for rate-regulated telephone utilities,
9 providing for the right of the state to locate and construct
10 the network on public and private property and providing an
11 immediate effective date.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 18.133, subsection 1, Code 1993, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 1. "Board" means the Iowa communications network board.

5 Sec. 2. Section 18.133, subsections 2 and 3, Code 1993,
6 are amended to read as follows:

7 2. "Private agency" means accredited nonpublic schools,
8 and nonprofit institutions of higher education eligible for
9 tuition grants, and hospitals licensed pursuant to chapter
10 135B.

11 3. "Public agency" means a state agency, a school
12 corporation, a city library, a regional library as provided in
13 chapter 303B, and a county library as provided in chapter 336,
14 and agencies of the federal government not including the
15 United States postal service or any United States post office.

16 Sec. 3. NEW SECTION. 18.133A IOWA COMMUNICATIONS NETWORK
17 BOARD.

18 1. An Iowa communications network board is established
19 within the department of commerce with the sole authority to
20 supervise the management and operation of the network. The
21 board shall ensure that the network operates in an efficient
22 and responsible manner consistent with the provisions of this
23 chapter for the purpose of providing the best economic service
24 attainable to the users consistent with the state's financial
25 capacity. The use of the Iowa communications network is
26 subject to the review and approval of the board. Such review
27 and approval by the board shall provide for the centralized,
28 coordinated use and control of the network. The board may
29 contract with appropriate vendors for the maintenance,
30 operation, management, and development of the technical
31 aspects and uses of Part I and Part II of the network in a
32 manner consistent with this chapter for the purpose of
33 providing the best services attainable to the users consistent
34 with the state's financial capacity.

35 2. The communications division of the department of

1 general services shall provide sufficient resources and staff
2 to the board and to the department of commerce to carry out
3 all board responsibilities.

4 3. The board consists of nine members appointed by the
5 governor, subject to senate confirmation. The members shall
6 be citizens of the state who have substantial knowledge of the
7 subjects related to the state communications network.
8 Additionally, at a minimum, one member shall have substantial
9 knowledge of public utility regulation, one member shall have
10 substantial knowledge of telecommunications, and one member
11 shall have substantial knowledge of education issues related
12 to the network. Members of the board shall not have any
13 interest, financially or otherwise, in any entity related to
14 or associated with any activity concerning the planning,
15 development, operation, or maintenance of Part I or Part II of
16 the network. Members of the board also shall not serve in any
17 manner or be employed by an interest or institution the
18 interests of which are represented by a member of the
19 educational telecommunications council established in
20 subsection 4. The appointments shall be based upon the
21 training, experience, and capacity of the appointees. Members
22 of the board shall serve four-year staggered terms as
23 designated by the governor and appointments to the board are
24 subject to sections 69.16, 69.16A, and 69.19. Members shall
25 receive actual and necessary expenses and a per diem as
26 provided in section 7E.6. However, a member who is also a
27 state employee shall only receive the member's actual and
28 necessary expenses.

29 4. An educational telecommunications council is
30 established to advise the Iowa communications network board
31 concerning the educational telecommunication applications of
32 the system and other matters as assigned by the board. The
33 council consists of six members to be appointed by the board.
34 The six members shall include one person representing the
35 state board of regents; one person representing the department

1 of education; one person representing the community colleges;
2 one person representing public libraries; one person
3 representing school districts; and one person representing
4 private colleges. The council shall make long range plans for
5 enhancements needed for educational applications.

6 Administrative support and staffing for the council shall be
7 provided by the department of education.

8 The council shall establish a users' committee which is
9 broadly representative of users of the network to advise the
10 council and the board concerning telecommunications
11 applications. The council shall also consult with any
12 regional committees established for educational
13 telecommunications.

14 Sec. 4. NEW SECTION. 18.133B ANNUAL REPORT TO
15 LEGISLATURE.

16 The Iowa utilities board, the consumer advocate, and the
17 Iowa communications network board shall cooperate to produce a
18 report to be delivered to the governor and the general
19 assembly no later than December 31 of each year. The report
20 shall include a review of the effect of the state
21 communications network on the citizens of this state in
22 relation to the rates paid for intrastate telecommunications
23 service and the financial impact of the state communications
24 network on the state's public telecommunications utilities.
25 Additionally, the report shall include information related to
26 the number of users on the network, the hours of use, a
27 listing of new users added to the network during the previous
28 year, a detailed accounting of how any amounts appropriated
29 for the Iowa communications network are expended, other
30 relevant financial information, and other information deemed
31 appropriate by the Iowa utilities board, the consumer
32 advocate, or the state communications network board.

33 Sec. 5. Section 18.134, Code 1993, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 3. The use of any switching equipment

1 used for routing traffic on the network shall be governed by
2 the policies adopted by the Iowa communications network board.

3 Sec. 6. NEW SECTION. 18.134A DISPOSITION OF NETWORK --
4 LEGISLATIVE APPROVAL.

5 Notwithstanding any provision to the contrary, the Iowa
6 communications network board or the department of general
7 services shall not sell, lease, or otherwise dispose of any
8 component part of Part I or II of the system without prior
9 authorization by a constitutional majority of each house of
10 the general assembly and approval by the governor.

11 Sec. 7. Section 18.135, Code 1993, is amended to read as
12 follows:

13 18.135 RULES.

14 The director board shall adopt rules relating to the state
15 communications network and its use in accordance with this
16 chapter, respecting the rights of a public or private
17 educational agency to determine the contents of its
18 educational program and its rights to control its classrooms
19 and teleconferencing facility. Rules adopted by the board
20 shall not abridge the academic freedom of institutions
21 offering programs through the network. However, a public or
22 private agency which is connected to the communications
23 network, as a condition to such connection, shall establish
24 procedures, terms, and conditions governing the use of its
25 teleconferencing classroom or center by others in a manner
26 which provides reasonable access to educational
27 telecommunications applications available through the network.
28 The board shall adopt rules relating to this provision, but
29 shall not interfere with the prior right of the public or
30 private agency to use, manage, or control such
31 teleconferencing classroom or center. The director board
32 shall also adopt and provide for standard communications
33 procedures and policies to be used by state agencies.

34 Sec. 8. Section 18.136, subsections 1, 2, 3, 4, 8, 12, and
35 14, Code 1993, are amended to read as follows:

1 1. Moneys in the state communications network fund are
2 appropriated to the Iowa public broadcasting board for
3 purposes of providing financing for the procurement,
4 operation, and maintenance of a state communications network
5 with sufficient capacity to serve the video, data, and voice
6 requirements of state agencies and the educational
7 telecommunications system. The treasurer of state, the
8 department of general services, the Iowa public broadcasting
9 board, and other parties to any financing agreement for the
10 network may enter into a state communications network fund
11 agreement as to the application of proceeds of the fund and
12 procedures for the payment of amounts due under the financing
13 agreement from the state communications network fund. The
14 state communications network consists of Part I, Part II, and
15 Part III of the system.

16 2. For purposes of this section, unless the context
17 otherwise requires:

18 a. "Part I of the system" means the communications
19 connections between and including the central switching and
20 the regional switching centers centers' equipment for the
21 remainder of the network as designated by the board.

22 b. "Part II of the system" means the communications
23 connections between and including the regional switching
24 centers centers' equipment and the secondary-switching-centers
25 points of presence as designated by the board including the
26 network equipment at these points of presence. There shall be
27 a minimum of one point of presence in each county.

28 c. "Part III of the system" means the communications
29 connection between the secondary-switching-centers point of
30 presence and the end points at the agencies defined in section
31 18.133, subsections 2 and 3 and-4.

32 3. The financing for the procurement costs for the
33 entirety of Part I of the system, and the video, data, and
34 voice capacity for state agencies for Part II and Part III of
35 the system, shall be provided by the state. The financing for

1 the procurement costs for Part II of the system shall also be
2 ~~provided eighty-percent-from~~ by the state ~~and-twenty-percent~~
3 ~~from-the-community-colleges-for-the-areas-in-which-Part-II-of~~
4 ~~the-system-is-located.--The-basis-for-the-state-match-is~~
5 ~~eighty-percent-of-a-single-interactive-video-and-interactive~~
6 ~~audio-for-Parts-I-and-II-of-the-system,-and-such-data-and~~
7 ~~voice-capacity-as-is-necessary.~~ The financing for the
8 ~~procurement-and-maintenance~~ lease costs for Part III of the
9 system shall be provided eighty percent from the state and
10 twenty percent from the local school boards of the areas which
11 receive transmissions from the system. A local school board
12 that elects to provide one hundred percent of the financing
13 for the lease costs for Part III may become part of the system
14 as soon as the network can reasonably connect it. The local
15 school boards may meet all or part of the match requirements
16 of Part III of the system through a cooperative arrangement
17 with community colleges. The basis for the state match is
18 eighty percent of a single interactive audio and one-way two-
19 way video for Part III of the system, and such data and voice
20 capacity as is necessary. The local school boards ~~and~~
21 ~~community-colleges~~ may meet the match requirements for ~~Part-II~~
22 ~~and~~ Part III of the system from funds they have already spent
23 for their systems, from funds available in the school budget,
24 or from funds received from other nonstate sources. In the
25 case of existing systems, in order to upgrade facilities to
26 the specifications of the state communications network, the
27 local school boards ~~and-community-colleges~~, in lieu of a cash
28 match, may meet the match requirements from funds they have
29 already spent for their systems provided that the state match
30 does not exceed the lesser of eighty percent of the total cost
31 of the upgraded system or eighty percent of the replacement
32 cost of the system. ~~The-communications-equipment-funds-used~~
33 ~~as-a-match-by-a-community-college-shall-be-calculated-based-on~~
34 ~~verified-expenditures-for-capital,-equipment,-hardware,-and~~
35 ~~software-for-long-distance-learning-technologies,-including~~

~~1 both-audio-and-visual-transmission-~~ The communications
2 equipment used as a match shall not subsequently be used as a
3 match by another educational entity or for another part of the
4 system. A local school board may request the school budget
5 review committee to adjust the allowable growth for the school
6 district so that the resulting increase in budget could be
7 used for the match. A local school board shall determine the
8 type of facility or equipment to be used in providing the
9 connection to the school. A local school board may also elect
10 not to become part of the system. ~~Such-election-shall-be-made~~
11 ~~on-an-annual-basis-~~ State matching funds shall not be
12 provided for Part III of the system until Part I and Part II
13 of the system have been completed. However, leasing of Part
14 III of the system may proceed before Part I and Part II of the
15 system have been completed as determined by the board.

16 4. ~~The department-of-general-services~~ Iowa communications
17 network board shall develop the requests for proposals that
18 are needed for a state communications network with sufficient
19 capacity to serve the video, data, and voice requirements of
20 state agencies and the educational telecommunications
21 applications required by the Iowa ~~public-broadcasting~~
22 communications network board. ~~The-department-shall-develop-a~~
23 ~~request-for-proposals-for-each-of-the-systems-that-will-make~~
24 ~~up-the-network~~ The utilities board shall provide technical
25 assistance to the Iowa communications network board in the
26 development of the request for proposals. ~~The department-may~~
27 Iowa communications network board shall develop a request for
28 proposals for each definitive component of Part I, Part II,
29 and Part III of the system as provided in this section, or the
30 department board may provide in the request for proposals ~~for~~
31 ~~each-such-system~~ that separate contracts ~~may~~ shall be entered
32 into for each definitive component covered by the request for
33 proposals. The requests for proposals for components of Parts
34 I and II of the system may be for the purchase, lease-
35 purchase, or lease of the component parts of the system, may

1 require maintenance costs to be identified, and the resulting
2 contract may provide for maintenance for parts of the system.
3 The master contract may provide for electronic classrooms,
4 satellite equipment, receiving equipment, studio and
5 production equipment, and other associated equipment as
6 required.

7 The state shall lease all component parts for Part III of
8 the system from qualified providers. A component of Part III
9 shall not be owned by the state. The board shall develop a
10 statewide plan for leasing of the components of Part III. The
11 board must approve a Part III statewide leasing plan before
12 Part III of the system may proceed. However, a local school
13 board is not required to be included in the statewide Part III
14 leasing plan if the local school board elects to provide one
15 hundred percent of the financing for the lease costs related
16 to Part III.

17 A certified local exchange telephone company with fewer
18 than fifteen thousand access lines shall have the right to
19 provide through a lease with a local school board or a public
20 library any required individual facility from a point of
21 presence to an end point to be used for providing any
22 component of Part III. The lease rate for a school district
23 or a public library for each component of Part III of the
24 system is limited to a fixed periodic fee to cover a ten-year
25 amortization of the capital cost of new facilities, including
26 the placement and construction of such facilities, to serve
27 the school district or public library and the actual ongoing
28 costs of providing service, including but not limited to costs
29 for repairs, taxes, and other costs directly related to
30 leasing a component of Part III of the system to the school
31 district or public library. Such amortization shall be based
32 upon the actual cost of the financing for such facilities.
33 The certified local exchange telephone company shall not
34 assess a school district or public library any toll charge for
35 communications transmitted entirely on the state

1 communications network.

2 A certified local exchange telephone company with fewer
3 than fifteen thousand access lines shall have the right to
4 provide through a lease with a public or private agency which
5 is an authorized user, other than a local school board or
6 public library, any required individual facility from a point
7 of presence to an end point to be used for providing any
8 component of Part III. The lease rate for such authorized
9 user for each component of Part III of the system is limited
10 to a fixed periodic fee to cover a ten-year amortization of
11 the capital cost of placing new facilities to serve such
12 authorized user; and the actual ongoing costs of providing
13 service, including but not limited to costs for repairs,
14 taxes, and other costs directly related to leasing a component
15 of Part III of the system to the school district; and may
16 include a reasonable return on the unamortized balance of the
17 capital costs.

18 If a certified local exchange telephone company with fewer
19 than fifteen thousand access lines elects not to provide
20 required facilities pursuant to a lease with an authorized
21 user as provided by this subsection, the Iowa communications
22 network board shall develop a request for proposals for lease
23 of the required facilities. Proposals may be submitted by any
24 qualified person including other certified local exchange
25 telephone companies. However, a proposal shall not be
26 submitted by the certified local exchange telephone company
27 electing not to provide such facilities pursuant to this
28 subsection.

29 For all private agencies and public agencies located in an
30 area served by a certified local exchange telephone company
31 with an approved service area which includes fifteen thousand
32 or more access lines, proposals for providing the components
33 of Part III of the system may be submitted by any qualified
34 person. Notwithstanding the terms of any lease agreement
35 entered into between a qualified person and a school district

1 located in an area served by a certified local exchange
2 telephone company with fifteen thousand or more access lines,
3 the school district shall not be assessed any toll charge for
4 communications transmitted entirely on the state
5 communications network.

6 The periodic lease rate for each component shall be
7 reviewed by the utilities board for compliance with reasonable
8 norms established by rule. Rates consistent with the norms
9 shall be approved by the utilities board. For proposed rates
10 inconsistent with the norms, after notice and opportunity for
11 hearing, the utilities board shall set a reasonable rate
12 consistent with the norms.

13 8. ~~The Iowa-public-broadcasting-board-retains-sole~~
14 ~~authority-over-the-educational-telecommunications-applications~~
15 ~~of-Part-I-of-the-system,-and-its-authority-shall-include~~
16 ~~management-and-operational-control,-programming,-budget,-~~
17 ~~personnel,-scheduling,-and-program-switching-of-educational~~
18 ~~material-carried-by-Part-I-of-the-system~~ educational
19 telecommunications council shall coordinate the educational
20 telecommunication applications of the system pursuant to the
21 rules adopted by the Iowa communications network board,
22 including scheduling and program switching of educational
23 material carried by the system. ~~The Iowa-public-broadcasting~~
24 ~~board,-through-its-narrowcast-system-advisory-committee,-~~
25 ~~retains-coordination-authority-over-the-educational~~
26 ~~telecommunications-applications-of-Part-II-and-Part-III-of-the~~
27 ~~system.--Community-colleges-are-responsible-for-scheduling-and~~
28 ~~switching-of-educational-materials-carried-by-Part-II-and-Part~~
29 ~~III-of-the-system-within-their-respective-areas.--Such~~
30 ~~responsibility-may-be-accomplished-by-a-chapter-28E-agreement~~
31 ~~with-the-department-of-general-services. Scheduling of~~
32 educational applications on the system shall be administered
33 by Iowa public television pursuant to rules adopted by the
34 board.

35 The narrowcast-system-advisory-committee council shall

1 review all requests for grants for facilities made by public
2 agencies for educational telecommunications applications, if
3 they are a part of the state the proposed activities involve
4 the use of or a connection to the state communications
5 network, to ensure that the educational telecommunications
6 application is objectives of the grants are consistent with
7 the telecommunications plan. If the narrowcast system
8 advisory committee council recommends to the Iowa
9 communications network board, and the Iowa communications
10 network board finds that a grant request is inconsistent with
11 the telecommunications plan, the grant request shall not be
12 allowed.

13 12. The Iowa public-broadcasting communications network
14 board, in consultation with its narrowcast system advisory
15 committee, shall determine the fee fees to be charged per
16 course or credit hour by the state for Parts I, II, and III of
17 the system to the originating institution, and the public and
18 private agencies authorized to use the system. The fees shall
19 be substantially the same for comparable courses uses and
20 authorized users. An authorized user of the system may
21 request a hearing pursuant to section 476.3 on a fee approved
22 by the Iowa communications network board.

23 14. Notwithstanding chapter 476, the provisions of chapter
24 476 shall not apply to a public utility in furnishing a
25 telecommunications service or facility to the department of
26 general services for any part of the state communications
27 network.

28 Sec. 9. Section 18.136, Code 1993, is amended by adding
29 the following new subsections:

30 NEW SUBSECTION. 13A. Access to the network shall be
31 offered to agencies of the federal government, not including
32 the United States postal service or any United States post
33 office, provided that such agency contributes an amount
34 consistent with its share of use for the part of the system in
35 which the entity participates, as determined by the Iowa

1 utilities board. A federal grant or other federal funds
2 intended to supplement the cost of usage of Parts I and II of
3 the system by a federal agency offered access shall be paid to
4 the network fund prior to the agency's connection to the
5 network. Grant dollars or other funds received pursuant to
6 this subsection shall be used for the payment of amounts due
7 from the state communications network pursuant to the
8 financing agreement.

9 Access shall also be offered to hospitals licensed pursuant
10 to chapter 135B, provided that such hospital contributes an
11 amount consistent with its share of use for the part of the
12 system in which the hospital participates as determined by the
13 Iowa utilities board, for service to which all of the
14 following apply:

15 a. The service is for the purpose of transmitting
16 diagnostic or clinical services directly related to providing
17 health care services to patients, or for transmitting
18 educational services coordinated through the Iowa hospital
19 association. Access shall be limited to two-way interactive
20 audio and video communications which require the transmission
21 of images.

22 b. The service does not include voice traffic which is not
23 associated with the service provided under paragraph "a".

24 c. The service does not include voice traffic which is
25 related to administration or administrative functions of the
26 hospital.

27 NEW SUBSECTION. 13B. Access shall not be provided to any
28 other entity pursuant to a chapter 28E or other agreement
29 except as expressly provided for by this section.

30 NEW SUBSECTION. 13C. For purposes of division V of this
31 chapter, lease of facilities for Part III of the system, with
32 respect to an educational user or other user as authorized by
33 the Iowa communications network board, includes a lease,
34 lease-purchase, or purchase of any wireless communications
35 system utilizing a portion of the electromagnetic spectrum

1 allocated by the federal communications commission.

2 NEW SUBSECTION. 13D. Notwithstanding subsection 13B,
3 access to and use of Part III of the network shall not be
4 limited so long as the transmission facilities are owned and
5 operated by a nongovernmental entity.

6 Sec. 10. NEW SECTION. 18.137A DISPOSITION OF INVESTMENT
7 INTEREST EARNED.

8 Interest income earned on investment of funds contained in
9 the state communications network fund shall be credited by the
10 treasurer of state to the state communications network fund to
11 be used only for making additional payments above and beyond
12 those scheduled to be made for the repayment of debt related
13 to Parts I and II of the system when permissible under any
14 financing agreement.

15 Sec. 11. Section 256.7, subsection 9, unnumbered paragraph
16 1, Code 1993, is amended to read as follows:

17 Adopt rules under chapter 17A for the use of
18 telecommunications as an instructional tool for students
19 enrolled in kindergarten through grade twelve and served by
20 local school districts, accredited or approved nonpublic
21 schools, area education agencies, community colleges,
22 institutions of higher education under the state board of
23 regents, and independent colleges and universities in
24 elementary and secondary school classes and courses. The
25 rules shall include but need not be limited to rules relating
26 to programs, educational policy, instructional practices,
27 staff development, use of pilot projects, curriculum
28 monitoring, and the accessibility of licensed teachers. The
29 rules shall encourage innovative use of educational
30 telecommunications to meet student needs.

31 Sec. 12. Section 256.9, Code 1993, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 52. Provide technical assistance to users
34 of the educational telecommunications system, coordinate staff
35 development activities for educational users, and provide

1 assistance in policy development to local and area education
2 agencies for the use of educational telecommunications.

3 Sec. 13. Section 303.77, subsection 3, Code 1993, is
4 amended to read as follows:

5 3. The board shall appoint at least ~~two~~ one advisory
6 ~~committees~~ committee, each of which has no more than a simple
7 majority of members shall be of the same gender, as follows:

8 ~~a--Advisory-committee-on-the-operation-of-the-narrowcast~~
9 ~~system.--The-advisory-committee-shall-be-composed-of-members~~
10 ~~from-among-the-users-of-the-narrowcast-system-including~~
11 ~~representatives-of-institutions-under-the-state-board-of~~
12 ~~regents,-community-colleges,-area-education-agencies,-~~
13 ~~classroom-teachers,-school-district-administrators,-school~~
14 ~~district-boards-of-directors,-the-department-of-economic~~
15 ~~development,-the-department-of-education,-and-private-colleges~~
16 ~~and-universities:-~~

17 ~~b--Advisory~~ the advisory committee on journalistic and
18 editorial integrity. The division shall be governed by the
19 national principles of editorial integrity developed by the
20 editorial integrity project.

21 Duties of the advisory ~~committees~~ committee, and of
22 additional advisory committees the board may from time to time
23 appoint, shall be specified in rules of internal management
24 adopted by the board.

25 Members of advisory committees shall receive actual
26 expenses incurred in performing their official duties.

27 Sec. 14. Section 476.1, unnumbered paragraph 4, Code 1993,
28 is amended to read as follows:

29 Mutual telephone companies in which at least fifty percent
30 of the users are owners, co-operative telephone corporations
31 or associations, telephone companies having less than fifteen
32 thousand customers and less than fifteen thousand access
33 lines, municipally owned utilities, and unincorporated
34 villages which own their own distribution systems are not
35 subject to the rate regulation provided for in this chapter.

1 Rate-regulated telephone companies shall be regulated as set
2 forth in section 476.1E.

3 Sec. 15. NEW SECTION. 476.1E REGULATION OF RATE-
4 REGULATED TELEPHONE COMPANIES.

5 1. For purposes of this section, the following terms are
6 defined:

7 a. "Basic local exchange rate" means the flat monthly
8 charge for an access line, whether the service is provided on
9 a flat or measured basis, imposed by a rate-regulated
10 telephone company for basic local exchange service. Basic
11 local exchange rate does not include any charges resulting
12 from action by a federal agency or taxes imposed by a
13 governmental body which are billed by a telephone company to
14 its customers.

15 b. "Basic local exchange service" means the access and
16 transmission of two-way switched voice communications within a
17 local exchange area.

18 c. "Business service" means telecommunications service
19 which is used for occupational, professional, or institutional
20 purposes.

21 d. "Extended service area" means a grouping of two or more
22 exchanges which allows customers of one exchange in the group
23 to place and receive two-way switched communications to and
24 from customers in one or more other exchanges in the group
25 without an interexchange toll charge.

26 e. "Interexchange service" means the access and
27 transmission of communications between two or more local
28 exchange areas, except for two-way switched communications
29 between local exchanges that are included in the same extended
30 service area.

31 f. "Local exchange area" means a territorial unit
32 established by a telephone company for the administration of
33 communications services within a specific area generally
34 encompassing a city and its environs as described in maps
35 filed with and approved by the board.

1 g. "Residence service" means telecommunications service
2 which is furnished to a dwelling and which is used for
3 personal or domestic purposes and not for business,
4 professional, or institutional purposes.

5 2. Rate-regulated telephone companies are subject to rate
6 regulation under this section but are not subject to rate
7 regulation otherwise provided in this chapter. Rate-regulated
8 telephone companies shall file rate lists for their
9 telecommunications services which shall be effective after ten
10 days' notice to the board, with the exception of monthly rates
11 for basic local exchange services.

12 3. Monthly rates or charges for basic local exchange
13 services may be changed by a rate-regulated telephone company
14 effective after sixty days' notice to all affected customers.
15 The notice shall include all of the following:

16 a. The reasons for the rate or charge increase.

17 b. A description of the affected service.

18 c. An explanation of the right of the customer to file a
19 complaint with the board in the same manner as provided in
20 section 476.3, and request a public hearing on the rate or
21 charge increase.

22 d. A list of local exchanges which are affected by the
23 proposed rate or charge increase.

24 e. The dates, times, and places for the public
25 informational meetings required by this section.

26 A rate-regulated telephone company which proposes to
27 increase its basic local exchange rate or charge shall hold at
28 least one public informational meeting for every one hundred
29 thousand customers for which it provides basic local exchange
30 service. For a rate-regulated telephone company which charges
31 different rates or charges for residential or business basic
32 local exchange service among various local exchanges,
33 increases or decreases in basic local exchange rates or
34 charges need not be uniform for all exchanges until all
35 residential basic local exchange rates or charges are fully

1 equalized and all business basic local exchange rates or
2 charges are fully equalized.

3 4. The board shall review basic local exchange rates set
4 by a rate-regulated telephone company only upon formal
5 complaint signed by any of the following:

6 a. Five percent of all affected customers, if the
7 telephone company has up to fifty thousand access lines in
8 service.

9 b. Three percent of all affected customers, if the tele-
10 phone company has fifty thousand, but not more than two
11 hundred fifty thousand, access lines in service.

12 c. Two percent of all affected customers, if the telephone
13 company has more than two hundred fifty thousand access lines
14 in service.

15 The complaint shall specifically set forth the particular
16 rate or charge for which review is requested, the reasons for
17 the requested review, and the relief which the complainants
18 desire. If a proper complaint is presented to the board
19 within sixty days from the date notice of the rate change was
20 sent to the telephone company's customers, the board shall
21 accept and file the complaint, and upon proper notice, may
22 suspend the rates and charges at issue during the pendency of
23 the proceedings and reinstate the rates and charges previously
24 in effect. The board shall hold and complete a hearing within
25 ninety days after the filing of the complaint to determine if
26 the rates as proposed are fair, just, and reasonable. The
27 board may, within sixty days after the close of the hearing,
28 enter an order adjusting the rates and charges at issue,
29 except that the board shall not set any rate or charge below
30 the actual cost of providing the service as established by the
31 evidence received at the hearing. In the order, the board may
32 order a refund of amounts collected in excess of the rates and
33 charges, as approved at the hearing, which may be made as a
34 credit against billings for future services. A telephone
35 company shall not increase its rates without the approval of

1 the board for six months from the date the board enters such
2 order. If the board fails to enter an order within sixty days
3 after the close of the hearing, the complaint is deemed to be
4 denied and the rates and charges are deemed to be approved for
5 all purposes including the purposes of appeal. For purposes
6 of this section, "actual cost" includes a ratable portion of
7 administrative expenses and overhead incurred by the rate-
8 regulated telephone company in its operations, and the
9 appropriate amortization of previously deferred accounting
10 costs.

11 5. In setting rates for interexchange services, telephone
12 companies that provide such services shall continue to average
13 their rates for all such services on a statewide basis until
14 December 31, 1995, unless the board, upon application and
15 hearing, orders otherwise. This subsection does not prohibit
16 volume discounts or other discounts based on reasonable
17 business purposes. Nothing in this section shall preempt or
18 affect any right, liability, cause of action, duty, or
19 obligation arising from any law with regard to unfair business
20 practices or anticompetitive activity with regard to
21 interexchange services.

22 6. The board shall retain quality of service regulation
23 over the services provided by all telephone companies and
24 shall investigate and resolve customer complaints concerning
25 quality of service, customer deposits, and disconnection of
26 service. If the complaint cannot be resolved informally, upon
27 petition by the customer, the board shall set the matter for
28 hearing in accordance with the board's rules for notice and
29 hearing, and the board may, by order, render its decision
30 granting or denying in whole or in part the customer's
31 petition.

32 7. The board may, on its own motion, review basic local
33 exchange rates of any rate-regulated telephone company if the
34 company has increased such rates by more than ten percent
35 within any consecutive twelve-month period. The board shall

1 hold and complete a hearing on such rates within ninety days,
2 after first giving notice of the hearing to the rate-regulated
3 telephone company, to determine if the rates as proposed are
4 fair, just, and reasonable. The board may, within sixty days
5 after close of the hearing, enter an order adjusting the rates
6 and charges at issue, except that the board shall not set any
7 rate or charge below the actual cost of providing the service.
8 If the board fails to enter any order within sixty days after
9 the close of the hearing, the rates and charges are deemed to
10 be approved for all purposes including the purposes of appeal.
11 For purposes of this subsection, "actual cost" includes a
12 ratable portion of administrative expenses and overhead
13 incurred by the rate-regulated telephone company in its
14 operations and the appropriate amortization of previously
15 deferred accounting costs.

16 8. Rates being charged by rate-regulated telephone
17 companies on July 1, 1993, are deemed to be the effective
18 rates until changed or altered pursuant to this section.

19 9. Notwithstanding the provisions of this section, for a
20 rate-regulated telephone company, the intrastate rates set by
21 a providing telephone company for an access service offered in
22 the intrastate jurisdiction shall not exceed the prices
23 allowed by the federal government for the same interstate
24 service. A long distance carrier shall provide similar
25 savings to long distance customers in this state.

26 10. The utilities board and the consumer advocate shall
27 cooperate to produce a report to be delivered to the governor
28 and the general assembly no later than December 31 of each
29 year concerning the impact of deregulation on
30 telecommunications services provided to citizens of this
31 state.

32 Sec. 16. Section 476.6, subsections 2 and 4, Code 1993,
33 are amended to read as follows:

34 2. TELEPHONE DIRECTORY ASSISTANCE CHARGES -- RECORD
35 PROVIDED. The board Telephone companies shall not approve-a

1 ~~schedule of charge residential customers for~~ directory
2 ~~assistance charges unless the schedule provides that~~
3 ~~residential customers be provided~~ a record of the date and
4 time of each directory assistance call made from their
5 residence is provided.

6 4. FIRST SEVEN CALLS EXEMPTED. A telephone directory
7 ~~assistance tariff that is approved by the board on or after~~
8 ~~July 17, 1981, company~~ shall be subject to the limitation that
9 ~~a subscriber shall not be charged~~ not charge for the first
10 seven directory assistance calls made from the subscriber's
11 customer's station during each of the first twelve months in
12 ~~which the tariff is in effect, and a charge made in violation~~
13 ~~of this limitation is an unlawful charge within the meaning of~~
14 ~~this chapter~~ the utility has increased the rate or charge
15 related to such calls.

16 Sec. 17. Section 476.6, subsections 3 and 12, Code 1993,
17 are amended by striking the subsections.

18 Sec. 18. Section 477.1, Code 1993, is amended to read as
19 follows:

20 477.1 RIGHT-OF-WAY.

21 Any person, firm, and corporation, within or without the
22 state, may construct a telegraph or telephone line or cable
23 system along the public roads of the state, or across or under
24 the rivers or over, under, or through any lands belonging to
25 the state or any private individual, and may erect or install
26 necessary fixtures. The state may construct Parts I and II
27 and a certified local exchange telephone company may construct
28 Part III of the state communications network established in
29 division V of chapter 18 along the public roads of the state,
30 and private ways, or across or under the rivers or over,
31 under, or through any lands belonging to a private person or
32 individual, and may erect or install necessary equipment and
33 fixtures on such property including installing and maintaining
34 equipment in structures at an endpoint, and at other points
35 along the network. However, construction of a telegraph or

1 telephone line or cable system along a primary road is subject
2 to rules adopted by the state department of transportation.

3 Sec. 19. INITIAL BOARD CHAIRPERSON. Notwithstanding the
4 provision of section 18.133A, subsection 3, the initial
5 chairperson of the board shall be appointed by the governor
6 from the membership of the board for a two-year term.

7 Sec. 20. Section 476.1E, subsection 9, as enacted in this
8 Act, shall be fully implemented by all local exchange
9 telephone companies with approved service areas including
10 fifteen thousand or more access lines no later than July 1,
11 1998.

12 Sec. 21. This Act, being deemed of immediate importance,
13 is effective upon enactment.

14 EXPLANATION

15 This bill amends sections relating to the Iowa
16 telecommunications network. The bill amends section 18.133 by
17 striking the definition of "director" and inserting a
18 definition of "board", expanding the definition of "private
19 agency" to include hospitals, and expanding the definition of
20 "public agency" to include the federal government, not
21 including the United States post offices.

22 The bill establishes an Iowa communications network board
23 in the department of commerce to oversee the operation of the
24 network. The board consists of nine members to be appointed
25 by the governor, subject to senate confirmation. Members are
26 to have substantial knowledge of the subjects related to the
27 state communications network. Additionally, at a minimum, one
28 member shall have substantial knowledge of public utility
29 regulation, one member shall have substantial knowledge of
30 telecommunications, and one member shall have substantial
31 knowledge of education issues related to the network. Members
32 of the board shall not have any interest, financially or
33 otherwise, in any entity related to or associated with any
34 activity concerning the planning, development, operation, or
35 maintenance of Part I or Part II of the network.

1 An educational telecommunications council is established to
2 advise the new board regarding and to coordinate the
3 educational telecommunications applications of the system.

4 The Iowa utilities board, consumer advocate, and Iowa
5 communications network board shall cooperate to provide a
6 report to the governor and the general assembly which shall
7 include a review of the effect of the state communications
8 network on Iowa citizens and public telecommunications
9 utilities.

10 Section 18.134 is amended to provide that the use of
11 switching equipment for routing network traffic is to be
12 governed by policies adopted by the Iowa communications
13 network board. New section 18.134A is created which provides
14 that the Iowa communications network board and the department
15 of general services shall not sell, lease, or dispose of any
16 component part of Part I or Part II of the system without
17 approval by the legislature and the governor.

18 Section 18.135 is amended to provide that rules adopted by
19 the board concerning the use of the state network are to
20 recognize the rights of a public or private educational agency
21 to determine the contents of its educational program and its
22 rights to control its classroom and teleconferencing facility.

23 Section 18.136 is amended to provide that the procurement
24 costs for Part II of the system are to be provided by the
25 state. Previously, the state was to provide 80 percent of the
26 procurement costs with the community colleges providing 20
27 percent. Section 18.136 is also amended to provide that a
28 local school board may elect to provide 100 percent of the
29 financing for the procurement and maintenance costs for Part
30 III to become a part of the system. Section 18.136 is also
31 amended to provide that access to the network is to be offered
32 to hospitals and the federal government, provided that such
33 entity contributes an amount consistent with its share of use
34 for the part of the system in which it participates.

35 Section 18.136 is amended to provide that the state shall

1 lease all component parts for Part III of the system for
2 qualified providers. A separate lease rate for school
3 districts and public libraries is established for areas served
4 by a certified local exchange telephone company with fewer
5 than 15,000 access lines. The rate is limited to a fixed
6 periodic fee to cover a 10-year amortization of the capital
7 cost of new facilities related to Part III constructed for
8 providing service to a school district or public library. The
9 rate for other authorized users served by such utility is
10 equal to that charged to a school district or public library
11 and may also include a reasonable rate of return on the
12 unamortized balance of the capital costs. Such utility has a
13 right of first refusal in providing a component part of Part
14 III of the system in the utility's service area. If the
15 utility refuses to provide such service, and for all other
16 areas served by a local exchange telephone company with 15,000
17 or more access lines, the Iowa communications network board is
18 to develop a request for proposals for lease of the required
19 facilities. Proposals may be submitted by any qualified
20 person. The lease rate is to be reviewed by the utilities
21 board. Access to and use of Part III of the network is not to
22 be limited so long as the transmission facilities are owned
23 and operated by a nongovernmental entity.

24 Section 18.136 is also amended to provide that access shall
25 not be provided to an entity pursuant to a chapter 28E
26 agreement unless specifically authorized by this section; to
27 provide that a lease of facilities for the purposes of Part
28 III of the system with respect to an educational user or other
29 user specifically authorized by the Iowa communications board,
30 includes a lease, lease-purchase, or purchase of wireless
31 communications systems utilizing a portion of the
32 electromagnetic spectrum allocated by the federal government;
33 and to provide that access to and use of Part III of the
34 network shall not be limited so long as the transmission
35 facilities are owned and operated by a nongovernmental entity.

1 New section 18.137A is created which provides for the
2 disposition of investment interest income for repayment of
3 debt related to Parts I and II of the system.

4 Section 256.9 is amended to provide that the department of
5 education is to provide technical assistance to users of the
6 educational telecommunications system.

7 Chapter 476 is amended to provide for the deregulation of
8 rate-regulated telephone companies as currently provided for.
9 An alternative form of rate review is established. Rate-
10 regulated telephone utilities are to file rate lists for
11 telecommunications services which are effective after 10 days'
12 notice to the board, with the exception of monthly rates for
13 basic local exchange services. Monthly rates or charges for
14 basic local exchange services may be changed after 60 days'
15 notice to affected customers. The utility must hold at least
16 one public informational meeting for every 100,000 customers
17 for which it provides basic local exchange service. The
18 utility's board is to review such rates only upon formal
19 complaint signed by a set number of the utility's customers
20 based upon the total number served by the utility.

21 Section 477.1 is amended to provide for a right-of-way for
22 the construction of the state communications network.

23 The bill is effective upon enactment.

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SENATE FILE 417
FISCAL NOTE

A fiscal note for Senate File 417 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 417 makes changes in the Iowa Communications Network (ICN) and regulation of rate-regulated telephone companies.

FISCAL EFFECT

1. The fiscal impact for the operation of the Iowa Communications Network Board (ICNB) is estimated to be \$7,920 per year. This assumes 6 non-State employee board members, 12 meetings per year, and actual member expenses of \$360 per meeting. The Department of General Services (DGS), Communications Division, is responsible for staff and resources, no estimate is available for this cost.
2. The fiscal impact for administrative support and staffing of the Educational Telecommunications Council (ETC) and the users committee under the ETC is estimated to be \$84,000. The Department of Education (DE) is responsible for administrative support and staffing. This includes DE's responsibility to provide technical assistance to users of the educational telecommunications system, coordinate staff development activities, and provide assistance in policy development.
3. The savings from the elimination of the Narrowcast Advisory Committee is approximately \$1,800.
4. Information is not available to accurately estimate the additional revenue to the State Communications Network Fund by allowing access to licensed hospitals.
5. Information is not available to accurately estimate the additional revenue to the State Communications Network Fund by allowing access to the federal government. A federal government report from the State of Iowa Office for State-Federal Relations estimated \$9,000,000 in potential federal projects for the ICN. This includes hardware, software, and other direct costs as well as support costs.
6. The elimination of the 20.0% community college match requirement will forgive a payment of approximately \$6,000,000 or \$505,000 annually to the State Communications Network Fund. The \$6,000,000 was included in the original financing.
7. The State has an 80.0% match requirement for Part III of the system. The estimated savings to the State from schools who pay 100.0% of the cost to connect early to the ICN cannot be determined at this time.

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8. Information is not available to accurately estimate the fiscal impact of changing the basis for the State match from 80.0% of a one-way video to 80.0% of a two-way video for Part III.
9. Information is not available to accurately estimate the fiscal impact of requiring the State to lease all component parts for Part III of the system. Currently, Part III can be purchased, lease-purchased, or leased. A preliminary estimate of leasing Part III to all high schools is \$7,000,000 annually.
10. The fiscal impact of allowing certified local exchange telephone companies with fewer than 15,000 access lines to have the right of first refusal to provide Part III is unknown.
11. The fiscal impact to the Department of Commerce is \$290,601 per year. It is unclear if the work with the ICN could be assessed to the utilities or would require a General Fund appropriation. The fiscal impact includes:
 - A. No impact for the changes in regulation of rate-regulated telephone companies.
 - B. Assisting the ICNB to develop request-for-proposals for the video, voice, and data requirements of the ICN would require an additional 1.50 FTE positions. This assumes 10 end-point installations per county.
 - C. Assisting the ICNB by reviewing and approving the periodic lease rates as set by reasonable norms established by rule for each component of Part III of the ICN would require an additional 2.5 FTE positions.
 - D. Producing an annual report of the effect of the ICN on citizens of this State in relation to the rates paid for intrastate telecommunications service and the financial impact of the ICN on the State's public telecommunications utilities would require an estimated \$75,000.
12. The change in regulation of rate-regulated telephone companies could effect county communications bills, including Emergency 911 costs. No estimate is currently available.
13. The fiscal impact to consumers of rate-regulated telephone companies in changing the regulation of rate-regulated telephone companies is unable to be determined. If revenues fluctuate by 5.0%, the total impact to customers would be \$34,000,000. This is based on current revenues of \$690,000,000.
14. The fiscal impact to the Consumer Advocate is expected to be insignificant. This assumes the number of rate cases would decrease but the deadlines in the Bill would require outside contracts.

In Summary, the changes in Governance of the ICN have an estimated potential impact to the General Fund of \$90,120, the Department of Commerce

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responsibilities in regards to the ICN have an estimated potential impact to the General Fund of \$290,601 per year, elimination of the 20.0% community college match requirement will be an impact to the State Communication Network Fund of \$6,000,000. Information is not currently available to accurately estimate the other changes to the ICN and the changes in the regulation of rate-regulated telephone companies.

Sources: Department of Commerce, Consumer Advocate, Communications Division of DGS, Department of Education, Iowa Public Television, and State of Iowa Office for State-Federal Relations

(LSB 2077sv, JAS)

FILED APRIL 27, 1993

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 417

S-3764

1 Amend Senate File 417 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 476.30 FINDINGS --
5 STATEMENT OF POLICY.

6 The general assembly finds, in addition to other
7 standards for the provision of communications services
8 established in this chapter, all of the following:

9 1. Communications services should be available to
10 all citizens of this state at just, reasonable, and
11 affordable rates.

12 2. Competition should be permitted to function as
13 a substitute for certain aspects of regulation in
14 determining the variety, quality, and pricing of
15 communications services, when it is consistent with
16 the protection of consumers of communications services
17 and the furtherance of other relevant public interests
18 and goals.

19 3. The utilities board should be authorized to
20 respond with sufficient flexibility to the rapidly
21 changing nature of the communications industry.

22 4. Development of, and prudent investment in,
23 advanced communications networks which foster economic
24 development in this state should be encouraged.

25 Sec. 2. NEW SECTION. 476.30A ALTERNATIVE FORMS
26 OF REGULATION.

27 1. Notwithstanding contrary provisions of this
28 chapter relating to rate-of-return regulation, the
29 board may adopt rules for utilities furnishing
30 communications services which authorize and establish
31 alternative forms of regulation other than rate-of-
32 return regulation. Alternative forms of regulation,
33 if approved by the board, may include provisions for
34 earnings sharing, revenue sharing, rate moratoria,
35 network modernization, incentive plans, or a
36 combination of these. Participation in an alternative
37 form of regulation is optional and at the election of
38 the utility.

39 2. A rate-regulated public utility furnishing
40 communications services may submit and the board may,
41 after notice and opportunity for hearing, approve or
42 modify a plan for an alternative form of regulation
43 specific to that utility. The plan may be applied to
44 any pending proceeding involving the utility. The
45 hearing on the plan may be conducted separately or as
46 part of any pending proceeding involving the utility.
47 If the board modifies the proposed plan, participation
48 in the modified plan for alternative regulation shall
49 be optional and at the election of the utility.

50 3. Before a rate-regulated public utility

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1 furnishing communications services can operate under a
2 plan for alternative regulation, the consumer advocate
3 may file a petition under section 476.3, subsection 2.
4 The consumer advocate shall indicate whether a
5 complaint will be filed no later than sixty days after
6 the utility requests permission to operate under a
7 plan for alternative regulation under subsection 2.
8 If the consumer advocate indicates an intent to file a
9 petition, the consumer advocate shall have an
10 additional ninety days to file such petition. A
11 refund or rate adjustment to the customers of such
12 utility which results from a petition filed by the
13 consumer advocate, shall not be affected as a result
14 of the implementation or existence of a plan for
15 alternative regulation.

16 4. A utility participating in an alternative form
17 of regulation must participate for at least two years.

18 5. The board, in considering a plan for an
19 alternative form of regulation for a utility, shall
20 evaluate the effect of the proposed plan in
21 relationship to all of the following:

22 a. Effecting just, nondiscriminatory, and
23 reasonable rates.

24 b. Provision of high quality, universally
25 available communications services.

26 c. Encouragement of investment in the
27 communications infrastructure, efficiency
28 improvements, and technological innovation.

29 d. The introduction of new communications products
30 and services.

31 e. Regulatory efficiency including reduction of
32 regulatory costs and delays.

33 6. Any utility plan for alternative regulation
34 shall, at a minimum, include all of the following:

35 a. A provision that at least fifty percent of the
36 dollar amounts identified for sharing between the
37 utility and its customers shall be returned to the
38 utility's customers.

39 b. The terms upon which changes in prices for
40 essential communications services may be approved by
41 the board.

42 c. Flexibility in establishing and changing
43 prices, terms, and conditions for nonessential
44 communications services.

45 d. Applicability of the board's service quality
46 standards.

47 e. Reporting of service offerings, prices, and
48 price changes to the board.

49 f. The term of the plan, not to exceed five years;
50 a provision for full board review during the last year

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1 of the utility's operation under the plan, with notice
2 and an opportunity for hearing; and an opportunity,
3 not earlier than one year before the end of the plan,
4 for the consumer advocate or the utility to petition
5 for a rate case pursuant to section 476.3, subsection
6 2, or section 476.6.

7 g. The manner in which changes in revenues,
8 expenses, and investment due to exogenous factors
9 beyond the control of the utility may be reflected in
10 rates.

11 7. Notwithstanding the provisions of a plan for
12 alternative regulation, the board shall have authority
13 over both of the following:

14 a. The level, extent, scope, and timing of the
15 unbundling of services by the local exchange utility.

16 b. Appropriate methods for ensuring against cross-
17 subsidization of nonessential services through charges
18 made for essential services.

19 8. Nothing in this section shall interfere with
20 the right of any person or body politic to file a
21 complaint pursuant to section 476.3, subsection 1,
22 regarding a utility's operation under a plan of
23 alternative regulation.

24 9. The utilities board shall study the effective-
25 ness of any plans for alternative regulation which are
26 approved. A study shall include a description of the
27 plan, identification of the local exchange utility or
28 utilities participating under the plan, and an
29 analysis of the effects of the plan, including but not
30 limited to, the extent to which the plan has generated
31 savings as a result of inducing additional
32 efficiencies by the utility. The results of a study
33 conducted pursuant to this subsection shall be
34 reported to the general assembly by January 15 after
35 the first full year that the plan is in effect.

36 Sec. 3. NEW SECTION. 476.30B PROHIBITED ACTS.

37 A utility electing to participate and submitting an
38 alternative regulation plan pursuant to section
39 476.30A shall not do any of the following:

40 1. Discriminate against another provider of
41 communications services in the pricing of, or by
42 refusing or delaying access to, essential network
43 services of the participating utility's local exchange
44 network.

45 2. Degrade the quality of access or service
46 provided to another provider of communications
47 services.

48 3. Fail to disclose in a timely manner, upon
49 request and pursuant to a protective agreement
50 concerning proprietary information, all information

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1 reasonably necessary for the design of network
2 interface equipment or network interface services that
3 will meet the specifications of the participating
4 utility's local exchange network.

5 Sec. 4. NEW SECTION. 476.30C DEFINITIONS.

6 As used in sections 476.30 through 476.30B, unless
7 the context otherwise requires:

8 1. "Essential communications service" means that
9 communications service or equipment necessary for a
10 residential or business end-user to pursue, at a
11 minimum, voice communications on the public network in
12 a manner consistent with community expectations and
13 the public interest as determined by the board.

14 Essential communications services include, at a
15 minimum, basic local telephone service, switched
16 access, 911 and E-911 services, and relay service for
17 communications-impaired persons. The board is
18 authorized to classify by rule other communications
19 services as essential communications services
20 consistent with this definition.

21 2. "Nonessential communications services" means
22 all communications services subject to the board's
23 jurisdiction not deemed either by statute or by rule
24 as essential communications services.

25 Sec. 5. Section 476.3, subsection 2, Code 1993, is
26 amended by adding the following new unnumbered
27 paragraph:

28 NEW UNNUMBERED PARAGRAPH. Notwithstanding the
29 provisions of this subsection authorizing the consumer
30 advocate to file a petition with the board alleging
31 that a utility's rates are excessive, the consumer
32 advocate shall not file a petition under this
33 subsection which alleges that a local exchange
34 utility's rates are excessive while the local exchange
35 utility is participating in an approved plan of
36 alternative regulation approved by the board pursuant
37 to section 476.30A, except as provided in section
38 476.30A, subsection 6, paragraph "f".

39 2. Title page, by striking lines 1 through 11,
40 and inserting the following: "An Act relating to
41 authorization of alternative forms of regulation for
42 utilities providing communications services and
43 providing an effective date."

By MICHAEL GRONSTAL

S-3764 FILED MAY 1, 1993

SENATE FILE 417

S-3763

1 Amend Senate File 417 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 18.133, subsection 1, Code
5 1993, is amended by striking the subsection and
6 inserting in lieu thereof the following:

7 1. "Board" means the Iowa communications network
8 board.

9 Sec. 2. Section 18.133, subsections 2 and 3, Code
10 1993, are amended to read as follows:

11 2. "Private agency" means accredited nonpublic
12 schools, and nonprofit institutions of higher
13 education eligible for tuition grants, and hospitals
14 licensed pursuant to chapter 135B.

15 3. "Public agency" means a state agency, a school
16 corporation, a city library, a regional library as
17 provided in chapter 303B, and a county library as
18 provided in chapter 336, and agencies of the federal
19 government not including the United States postal
20 service or any United States post office.

21 Sec. 3. NEW SECTION. 18.133A IOWA COMMUNICATIONS
22 NETWORK BOARD.

23 1. An Iowa communications network board is
24 established within the department of commerce with the
25 sole authority to supervise the management and
26 operation of the network. The board shall ensure that
27 the network operates in an efficient and responsible
28 manner consistent with the provisions of this chapter
29 for the purpose of providing the best economic service
30 attainable to the users consistent with the state's
31 financial capacity. The use of the Iowa
32 communications network is subject to the review and
33 approval of the board. Such review and approval by
34 the board shall provide for the centralized,
35 coordinated use and control of the network. The board
36 may contract with appropriate vendors for the
37 maintenance, operation, management, and development of
38 the technical aspects and uses of Part I and Part II
39 of the network in a manner consistent with this
40 chapter for the purpose of providing the best services
41 attainable to the users consistent with the state's
42 financial capacity.

43 2. The communications division of the department
44 of general services shall provide sufficient resources
45 and staff to the board and to the department of
46 commerce to carry out all board responsibilities.

47 3. The board consists of nine members appointed by
48 the governor, subject to senate confirmation. The
49 members shall be citizens of the state who have
50 substantial knowledge of the subjects related to the

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1 state communications network. Members of the board
2 shall not have any interest, financially or otherwise,
3 in any entity related to or associated with any
4 activity concerning the planning, development,
5 operation, or maintenance of Part I or Part II of the
6 network as provided in chapter 68B. Members of the
7 board also shall not serve in any manner or be
8 employed by an interest or institution the interests
9 of which are represented by a member of the
10 educational telecommunications council established in
11 subsection 4. The appointments shall be based upon
12 the training, experience, and capacity of the
13 appointees in areas including, but not limited to,
14 public utility regulation, telecommunications, and
15 education issues related to the network. Members of
16 the board shall serve four-year staggered terms as
17 designated by the governor and appointments to the
18 board are subject to sections 69.16, 69.16A, and
19 69.19. Members shall receive actual and necessary
20 expenses and a per diem as provided in section 7E.6.
21 However, a member who is also a state employee shall
22 only receive the member's actual and necessary
23 expenses.

24 4. An educational telecommunications council is
25 established to advise the Iowa communications network
26 board concerning the educational telecommunication
27 applications of the system and other matters as
28 assigned by the board. The council consists of seven
29 members to be appointed by the board. The seven
30 members shall include one person representing the
31 state board of regents; one person representing the
32 department of education; one person representing the
33 community colleges; one person representing public
34 libraries; one person representing school districts;
35 one person representing the area education agencies;
36 and one person representing private colleges. The
37 council shall make long range plans for enhancements
38 needed for educational applications. Administrative
39 support and staffing for the council shall be provided
40 by the department of education.

41 The board shall establish a users' committee which
42 is broadly representative of users of the network to
43 advise the council and the board concerning
44 telecommunications applications. The council shall
45 also consult with any regional committees established
46 for educational telecommunications.

47 Sec. 4. NEW SECTION. 18.133B ANNUAL REPORT TO
48 LEGISLATURE.

49 The Iowa utilities board, the consumer advocate,
50 and the Iowa communications network board shall

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1 cooperate to produce a report to be delivered to the
2 governor and the general assembly no later than
3 December 31 of each year. The report shall include a
4 review of the effect of the state communications
5 network on the citizens of this state in relation to
6 the rates paid for intrastate telecommunications
7 service and the financial impact of the state
8 communications network on the state's public
9 telecommunications utilities. Additionally, the
10 report shall include information related to the number
11 of users on the network, the hours of use, a listing
12 of new users added to the network during the previous
13 year, a detailed accounting of how any amounts
14 appropriated for the Iowa communications network are
15 expended, other relevant financial information, and
16 other information deemed appropriate by the Iowa
17 utilities board, the consumer advocate, or the state
18 communications network board.

19 Sec. 5. Section 18.134, Code 1993, is amended by
20 adding the following new subsection:

21 NEW SUBSECTION. 3. The use of any switching
22 equipment used for routing traffic on the network
23 shall be governed by the policies adopted by the Iowa
24 communications network board.

25 Sec. 6. NEW SECTION. 18.134A DISPOSITION OF
26 NETWORK -- LEGISLATIVE APPROVAL.

27 Notwithstanding any provision to the contrary, the
28 Iowa communications network board or the department of
29 general services shall not sell, lease, or otherwise
30 dispose of any component part of Part I or II of the
31 system without prior authorization by a constitutional
32 majority of each house of the general assembly and
33 approval by the governor.

34 Sec. 7. Section 18.135, Code 1993, is amended to
35 read as follows:

36 18.135 RULES.

37 The director board shall adopt rules relating to
38 the state communications network and its use in
39 accordance with this chapter, respecting the rights of
40 a public or private educational agency to determine
41 the contents of its educational program and its rights
42 to control its classrooms and teleconferencing
43 facility. Rules adopted by the board shall not
44 abridge the academic freedom of institutions offering
45 programs through the network. Rules adopted by the
46 board shall also not abridge or modify agreements
47 between an educator and an educational institution
48 related to any copyright, patent, invention, software,
49 instruction, instructional programming, or other
50 intellectual property interest. However, a public or

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1 private agency which is connected to the
2 communications network, as a condition to such
3 connection, shall establish procedures, terms, and
4 conditions governing the use of its teleconferencing
5 classroom or center by others in a manner which
6 provides reasonable access to educational
7 telecommunications applications available through the
8 network. The board shall adopt rules relating to this
9 provision, but shall not interfere with the prior
10 right of the public or private agency to use, manage,
11 or control such teleconferencing classroom or center.
12 The director board shall also adopt and provide for
13 standard communications procedures and policies to be
14 used by state agencies. However, rules adopted by the
15 board relating to state communications which are not
16 part of the network shall not apply to public
17 universities governed by the state board of regents.

18 Sec. 8. Section 18.136, subsections 1, 2, 3, 4, 8,
19 11, 12, and 14, Code 1993, are amended to read as
20 follows:

21 1. Moneys in the state communications network fund
22 are appropriated to the Iowa public broadcasting board
23 for purposes of providing financing for the
24 procurement, operation, and maintenance of a state
25 communications network with sufficient capacity to
26 serve the video, data, and voice requirements of state
27 agencies and the educational telecommunications
28 system. The treasurer of state, the department of
29 general services, the Iowa public broadcasting board,
30 the Iowa communications network board, and other
31 parties to any financing agreement for the network may
32 enter into a state communications network fund
33 agreement as to the application of proceeds of the
34 fund and procedures for the payment of amounts due
35 under the financing agreement from the state
36 communications network fund. The state communications
37 network consists of Part I, Part II, and Part III of
38 the system.

39 2. For purposes of this section, unless the
40 context otherwise requires:

41 a. "Part I of the system" means the communications
42 connections between and including the central
43 switching and the regional switching centers' centers'
44 equipment for the remainder of the network as
45 designated by the board.

46 b. "Part II of the system" means the
47 communications connections between and including the
48 regional switching centers' equipment and the
49 secondary-switching-centers points of presence as
50 designated by the board including the network

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1 equipment at these points of presence. There shall be
2 a minimum of one point of presence in each county.

3 c. "Part III of the system" means the
4 communications connection between the secondary
5 switching-centers point of presence and the end points
6 at the agencies defined in section 18.133, subsections
7 2 and 3 and-4.

8 d. "State communications network" or "network"
9 means Part I, Part II, and Part III of the system.

10 3. The financing for the procurement costs for the
11 entirety of Part I of the system, and the video, data,
12 and voice capacity for state agencies for Part II and
13 Part III of the system, shall be provided by the
14 state. The financing for the procurement costs for
15 Part II of the system shall also be provided eighty
16 percent-from by the state and-twenty-percent-from-the
17 ~~community-colleges-for-the-areas-in-which-Part-II-of~~
18 ~~the-system-is-located.--The-basis-for-the-state-match~~
19 ~~is-eighty-percent-of-a-single-interactive-video-and~~
20 ~~interactive-audio-for-Parts-I-and-II-of-the-system,~~
21 ~~and-such-data-and-voice-capacity-as-is-necessary. The~~
22 financing for the procurement-and-maintenance lease
23 costs for Part III of the system shall be provided
24 eighty-percent-from by the state and-twenty-percent
25 ~~from-the-local-school-boards-of-the-areas-which~~
26 ~~receive-transmissions-from-the-system. The-local~~
27 ~~school-boards-may-meet-all-or-part-of-the-match~~
28 ~~requirements-of-Part-III-of-the-system-through-a~~
29 ~~cooperative-arrangement-with-community-colleges. The~~
30 basis for the amount of state match financing is
31 eighty one hundred percent of a single interactive
32 audio and one-way interactive video connection for
33 Part III of the system, and such data and voice
34 capacity as is necessary. ~~The-local-school-boards-and~~
35 ~~community-colleges-may-meet-the-match-requirements-for~~
36 ~~Part-II-and-Part-III-of-the-system-from-funds-they~~
37 ~~have-already-spent-for-their-systems,-from-funds~~
38 ~~available-in-the-school-budget,-or-from-funds-received~~
39 ~~from-other-nonstate-sources.--In-the-case-of-existing~~
40 ~~systems,-in-order-to-upgrade-facilities-to-the~~
41 ~~specifications-of-the-state-communications-network,~~
42 ~~the-local-school-boards-and-community-colleges,-in~~
43 ~~lieu-of-a-cash-match,-may-meet-the-match-requirements~~
44 ~~from-funds-they-have-already-spent-for-their-systems~~
45 ~~provided-that-the-state-match-does-not-exceed-the~~
46 ~~lesser-of-eighty-percent-of-the-total-cost-of-the~~
47 ~~upgraded-system-or-eighty-percent-of-the-replacement~~
48 ~~cost-of-the-system.--The-communications-equipment~~
49 ~~funds-used-as-a-match-by-a-community-college-shall-be~~
50 ~~calculated-based-on-verified-expenditures-for-capital,~~

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~~1 equipment, hardware, and software for long distance~~
~~2 learning technologies, including both audio and visual~~
~~3 transmission. The communications equipment used as a~~
~~4 match shall not subsequently be used as a match by~~
~~5 another educational entity or for another part of the~~
~~6 system. A local school board may request the school~~
~~7 budget review committee to adjust the allowable growth~~
~~8 for the school district so that the resulting increase~~
~~9 in budget could be used for the match. A local school~~
10 board shall determine the type of classroom facility
11 to be provided and the type of facility or equipment
12 to be used in providing the connection to the school
13 or the classroom. If a local school board elects to
14 provide one hundred percent of the financing for the
15 lease costs for Part III, the school district may
16 become part of the system as soon as the network can
17 reasonably connect it. A local school board may also
18 elect that the school district not to become part of
19 the system. Such election shall be made on an annual
20 basis. State matching funds shall not be provided for
21 Part III of the system until Part I and Part II of the
22 system have been completed. Leasing of Part III of
23 the system may proceed before Part I and Part II of
24 the system have been completed as determined by the
25 board.

26 4. The department of general services Iowa
27 communications network board shall develop the
28 requests for proposals that are needed for a state
29 communications network with sufficient capacity to
30 serve the video, data, and voice requirements of state
31 agencies and the educational telecommunications
32 applications required by the Iowa public broadcasting
33 communications network board. The department shall
34 develop a request for proposals for each of the
35 systems that will make up the network. The utilities
36 board shall provide technical assistance to the Iowa
37 communications network board in the development of the
38 request for proposals. The department may Iowa
39 communications network board shall develop a request
40 for proposals for each definitive component of Part I,
41 Part II, and Part III of the system as provided in
42 this section, or the department board may provide in
43 the request for proposals for each such system that
44 separate contracts may shall be entered into for each
45 definitive component covered by the request for
46 proposals. The requests for proposals for components
47 of Parts I and II of the system may be for the
48 purchase, lease-purchase, or lease of the component
49 parts of the system, may require maintenance costs to
50 be identified, and the resulting contract may provide

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1 for maintenance for parts of the system. The master
2 contract may provide for electronic classrooms,
3 satellite equipment, receiving equipment, studio and
4 production equipment, and other associated equipment
5 as required.

6 The state shall lease all component parts for Part
7 III of the system from qualified providers. A
8 component of Part III shall not be owned by the state.
9 The board shall develop a statewide plan for leasing
10 of the components of Part III. The board must approve
11 a Part III statewide leasing plan before Part III of
12 the system may proceed. The board is authorized to
13 review the terms of any lease entered into related to
14 Part III of the system. However, a local school
15 district is not required to be included in the
16 statewide Part III leasing plan if the local school
17 board elects to provide one hundred percent of the
18 financing for the lease costs related to Part III.

19 Nothing in this section shall preclude a school
20 corporation from using or upgrading existing
21 facilities for use in the corporation's own district
22 or region for Part III of the system which meet the
23 specifications of the state communications network and
24 provide interactive audio and interactive video and
25 such data and voice capacity as is necessary.

26 A certified local exchange telephone company with
27 fewer than fifteen thousand access lines shall have
28 the right to provide through a lease with a school
29 corporation or a public library located within the
30 company's service territory any required individual
31 facility from a point of presence to an end point to
32 be used for providing any component of Part III. The
33 lease rate for a school corporation or a public
34 library for each component of Part III of the system
35 is limited to a fixed periodic fee to cover a ten-year
36 amortization of the capital cost of new facilities,
37 including the placement and construction of such
38 facilities, to serve the school corporation or public
39 library and the actual ongoing costs of providing
40 service, including costs for maintenance, repairs,
41 taxes, and other costs directly related to leasing a
42 component of Part III of the system to the school
43 corporation or public library. Such amortization
44 shall be based upon the actual cost of the financing
45 for such facilities. The certified local exchange
46 telephone company shall not assess a school
47 corporation or public library any toll charge for
48 communications transmitted entirely on the state
49 communications network.

50 A certified local exchange telephone company with

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1 fewer than fifteen thousand access lines shall have
2 the right to provide through a lease with a public or
3 private agency which is an authorized user, other than
4 a school corporation or public library located within
5 the company's service territory, any required
6 individual facility from a point of presence to an end
7 point to be used for providing any component of Part
8 III. The lease rate for such authorized user for each
9 component of Part III of the system is limited to a
10 fixed periodic fee to cover a ten-year amortization of
11 the capital cost of new facilities to serve such
12 authorized user; and the actual ongoing costs of
13 providing service, including costs for maintenance,
14 repairs, taxes, and other costs directly related to
15 leasing a component of Part III of the system to such
16 authorized user; and may include a reasonable return
17 on the unamortized balance of the capital costs.

18 A certified local exchange telephone company with
19 fewer than fifteen thousand access lines shall have
20 ninety days, from the date an authorized user has
21 requested that the local exchange telephone company
22 provide through a lease the required facilities
23 related to Part III of the network, to notify such
24 user as to whether the local exchange telephone
25 company elects to provide the required facilities. If
26 a certified local exchange telephone company with
27 fewer than fifteen thousand access lines elects not to
28 provide required facilities pursuant to a lease with
29 an authorized user as provided by this subsection, the
30 Iowa communications network board shall develop a
31 request for proposals for lease of the required
32 facilities. The board shall determine the form and
33 content of the request for proposals and shall
34 determine which proposal will be accepted for
35 providing the required facilities. Proposals may be
36 submitted by any qualified person including other
37 certified local exchange telephone companies.
38 However, a proposal shall not be submitted by the
39 certified local exchange telephone company electing
40 not to provide such facilities pursuant to this
41 subsection.

42 For all private agencies and public agencies
43 located in an area served by a certified local
44 exchange telephone company with fifteen thousand or
45 more access lines, proposals for providing the
46 components of Part III of the system may be submitted
47 by any qualified person. Notwithstanding the terms of
48 any lease agreement entered into between a qualified
49 person and a school corporation located in an area
50 served by a certified local exchange telephone company

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1 with fifteen thousand or more access lines, the school
2 district shall not be assessed any toll charge for
3 communications transmitted entirely on the state
4 communications network.

5 The periodic lease rate for each component shall be
6 reviewed by the Iowa communications network board for
7 compliance with reasonable norms established by rule.
8 The Iowa communications network board may reject a
9 lease rate proposal made by a certified local exchange
10 telephone company with fewer than fifteen thousand
11 access lines related to providing a component part for
12 Part III of the system if the board determines that
13 the rate is unreasonable. The board shall notify the
14 company of such rejection and the company may resubmit
15 an alternative lease rate proposal in the same manner
16 as the original proposal within forty-five days of
17 receipt of the notice of the rejection.

18 For purposes of this section, "new facilities" for
19 purposes of determining the capital cost to be
20 amortized in establishing the lease rate are those
21 facilities which are procured, installed, or
22 constructed to provide Part III of the system to a
23 user on or after the date such user certifies to the
24 board, in a manner as determined by the board, that
25 the user is ready to be connected to the network.

26 8. ~~The Iowa public broadcasting board retains sole~~
27 ~~authority over the educational telecommunications~~
28 ~~applications of Part I of the system, and its~~
29 ~~authority shall include management and operational~~
30 ~~control, programming, budget, personnel, scheduling,~~
31 ~~and program switching of educational material carried~~
32 ~~by Part I of the system educational telecommunications~~
33 ~~council shall coordinate the educational~~
34 ~~telecommunication applications of the system pursuant~~
35 ~~to the rules adopted by the Iowa communications~~
36 ~~network board, including scheduling and program~~
37 ~~switching of educational material carried by the~~
38 ~~system. The Iowa public broadcasting board, through~~
39 ~~its narrowcast system advisory committee, retains~~
40 ~~coordination authority over the educational~~
41 ~~telecommunications applications of Part II and Part~~
42 ~~III of the system. Community colleges are responsible~~
43 ~~for scheduling and switching of educational materials~~
44 ~~carried by Part II and Part III of the system within~~
45 ~~their respective areas. Such responsibility may be~~
46 ~~accomplished by a chapter 28E agreement with the~~
47 ~~department of general services. Scheduling of~~
48 ~~educational applications on the system shall be~~
49 ~~administered by Iowa public television pursuant to~~
50 ~~rules adopted by the board.~~

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1 The narrowcast-system-advisory-committee council
2 shall review all requests for grants for facilities
3 made by public agencies for educational
4 telecommunications applications, if they are a part of
5 the state the proposed activities involve the use of
6 or a connection to the state communications network,
7 to ensure that the educational-telecommunications
8 application is objectives of the grants are consistent
9 with the telecommunications plan. If the narrowcast
10 system-advisory-committee council recommends to the
11 Iowa communications network board, and the Iowa
12 communications network board finds that a grant
13 request is inconsistent with the telecommunications
14 plan, the grant request shall not be allowed.

15 11. The fees charged for use of the network by an
16 authorized user for educational telecommunications
17 shall be based on the ongoing operational and
18 maintenance costs of the network only.

19 12. The Iowa public-broadcasting communications
20 network board, in consultation with its narrowcast
21 system-advisory-committee, shall determine the fee
22 fees to be charged per course or credit hour by the
23 state for Parts I, II, and III of the system to the
24 originating institution, and the public and private
25 agencies authorized to use the system. The fees shall
26 be substantially the same for comparable courses uses
27 and authorized users. An authorized user of the
28 system may request a hearing pursuant to section 476.3
29 on a fee approved by the Iowa communications network
30 board.

31 14. Notwithstanding chapter 476, the provisions of
32 chapter 476 shall not apply to a public utility in
33 furnishing a telecommunications service or facility to
34 the department of general services for any part of the
35 state communications network.

36 Sec. 9. Section 18.136, Code 1993, is amended by
37 adding the following new subsections:

38 NEW SUBSECTION. 13A. a. Access to the network
39 shall be offered to agencies of the federal
40 government, not including the United States postal
41 service or any United States post office. An agency
42 of the federal government shall contribute, at a
43 minimum, an amount consistent with its share of use
44 for the part of the system in which the entity
45 participates, as determined by the Iowa communications
46 network board. Access to the network shall be
47 provided pursuant to a lease unless such lease would
48 be prohibited by any of the following:

49 (1) Federal law.

50 (2) Rule or regulation of the federal agency.

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1 (3) Policy of the federal agency.

2 (4) Lack of funding which prevents an ongoing
3 lease arrangement from being entered into.

4 If the Iowa communications network board determines
5 that a lease is prohibited as provided in this
6 paragraph, the board may still permit an agency of the
7 federal government access to the network upon a
8 showing by the federal agency to the board that
9 sufficient federal funding is available to pay for the
10 costs of connection to the network.

11 b. Access shall be offered to hospitals licensed
12 pursuant to chapter 135B. A hospital shall
13 contribute, at a minimum, an amount consistent with
14 its share of use for the part of the system in which
15 the hospital participates as determined by the Iowa
16 communications network board. Access to Parts I and
17 II of the network shall be offered to hospitals
18 licensed pursuant to chapter 135B for education and
19 distance learning applications; continuing medical
20 education applications; diagnostic, clinical, and
21 consultative services which require the use of
22 interactive video, the transmission of high quality
23 images, or the combination of text, video, visual, or
24 graphic information; the transmission of payments and
25 claims information to and from the medicaid program
26 established under Title XVIII of the federal Social
27 Security Act and the medical assistance (medicare)
28 program established pursuant to chapter 249A, the
29 health data commission or its successor agency, the
30 Iowa department of public health, and the community
31 health management information system, where such
32 information transmission assists in satisfying an
33 information-gathering duty assigned by statute; and
34 the transmission of government payments and claims
35 information to hospitals. This paragraph is repealed
36 effective June 30, 2003.

37 NEW SUBSECTION. 13B. Access shall not be provided
38 to any other entity pursuant to a chapter 28E or other
39 agreement except as expressly provided for by this
40 section.

41 NEW SUBSECTION. 13C. Notwithstanding the
42 provisions of subsection 4 regarding the lease of all
43 component parts for Part III of the system, an
44 authorized user may purchase a wireless system
45 utilizing a portion of the electromagnetic spectrum
46 allocated by the federal communications commission.
47 An authorized user eligible to receive state funding
48 for the provision of the component parts for Part III
49 of the system, as provided in subsection 3, may also
50 utilize such wireless system. If such authorized user

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1 determines to use such wireless system, the user shall
2 inform the board of the decision to utilize such
3 wireless system and the board shall develop a request
4 for proposals for providing such system. The wireless
5 system may be provided under a lease, lease-purchase
6 agreement, or a purchase of the wireless
7 communications system.

8 NEW SUBSECTION. 13D. Notwithstanding subsection
9 13B, access to and use of Part III of the network
10 shall not be limited so long as the transmission
11 facilities are owned and operated by a nongovernmental
12 entity.

13 Sec. 10. NEW SECTION. 18.137A DISPOSITION OF
14 INVESTMENT INTEREST EARNED.

15 Interest income earned on investment of funds
16 contained in the state communications network fund
17 shall be credited by the treasurer of state to the
18 state communications network fund to be used only for
19 making additional payments above and beyond those
20 scheduled to be made for the repayment of debt related
21 to Parts I and II of the system when permissible under
22 any financing agreement.

23 Sec. 11. Section 256.7, subsection 9, unnumbered
24 paragraph 1, Code 1993, is amended to read as follows:

25 Adopt rules under chapter 17A for the use of
26 telecommunications as an instructional tool for
27 students enrolled in kindergarten through grade twelve
28 and served by local school districts, accredited or
29 approved nonpublic schools, area education agencies,
30 community colleges, institutions of higher education
31 under the state board of regents, and independent
32 colleges and universities in elementary and secondary
33 school classes and courses. The rules shall include
34 but need not be limited to rules relating to programs,
35 educational policy, instructional practices, staff
36 development, use of pilot projects, curriculum
37 monitoring, and the accessibility of licensed
38 teachers. The rules shall encourage innovative use of
39 educational telecommunications to meet student needs.
40 The rules shall not abridge or modify agreements
41 between an educator and an educational institution
42 related to any copyright, patent, invention, software,
43 instruction, instructional programming, or other
44 intellectual property interest.

45 Sec. 12. Section 256.9, Code 1993, is amended by
46 adding the following new subsection:

47 NEW SUBSECTION. 52. Provide technical assistance
48 to users of the educational telecommunications system,
49 coordinate staff development activities for
50 educational users, and provide assistance in policy

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1 development to local and area education agencies for
2 the use of educational telecommunications.

3 Sec. 13. NEW SECTION. 256.29 LOAN FOR
4 TELECOMMUNICATIONS EQUIPMENT.

5 1. Notwithstanding sections 257B.1 and 257B.1A,
6 for the fiscal year beginning July 1, 1993, from
7 moneys designated as the permanent school fund of the
8 state in section 257B.1, a merged area may obtain a
9 loan to be used to pay for equipment to be located at
10 the merged areas to enable the merged area to
11 participate in a system which serves the educational
12 needs of children of the state through
13 telecommunications. The department of revenue and
14 finance shall transfer funds from the permanent school
15 fund to the Iowa communications network training and
16 operations fund upon receipt of a written request from
17 the board of directors of a merged area up to the
18 following amounts:

19	a. Merged Area I	\$	153,535
20	b. Merged Area II	\$	134,343
21	c. Merged Area III	\$	95,960
22	d. Merged Area IV	\$	76,768
23	e. Merged Area V	\$	172,727
24	f. Merged Area VI	\$	76,768
25	g. Merged Area VII	\$	95,960
26	h. Merged Area IX	\$	76,768
27	i. Merged Area X	\$	134,343
28	j. Merged Area XI	\$	211,111
29	k. Merged Area XII	\$	115,152
30	l. Merged Area XIII	\$	134,343
31	m. Merged Area XIV	\$	153,535
32	n. Merged Area XV	\$	191,919
33	o. Merged Area XVI	\$	76,768

34 2. Loan moneys received under this section that
35 are not expended during the fiscal year beginning July
36 1, 1993, are available for expenditure during the
37 fiscal year beginning July 1, 1994.

38 Sec. 14. NEW SECTION. 256.36A MEDIA AND
39 EDUCATIONAL SERVICES FUND.

40 A media and educational services fund is
41 established in the treasurer's office under the
42 control of the department of education. Moneys
43 deposited in the fund shall be used for the
44 development of staff development programs for use on
45 the state communications network, and for the
46 development of programs to assist teachers in the use
47 of, and teaching on, the state communications network.

48 Sec. 15. If the actual taxable valuation of real
49 property in the state is at least one-half of one
50 percent more than the estimated taxable valuation used

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1 for determining property tax payments in the fiscal
 2 year beginning July 1, 1993, resulting in a decrease
 3 in the amount of general fund expenditures for
 4 foundation aid payments pursuant to chapter 257, there
 5 is appropriated from the general fund of the state to
 6 the department of education for the fiscal year
 7 beginning July 1, 1993, and ending June 30, 1994, the
 8 following amount, or so much thereof as may be
 9 necessary, to be used for the purpose designated:

10 1. Notwithstanding chapter 260D, to merged areas
 11 as defined in section 260C.2, for educational training
 12 and for ongoing operational expenses related to
 13 participation in the state communications network,
 14 including but not limited to maintenance costs, repair
 15 costs, cost of necessary equipment, and other
 16 necessary expenditures:

17 \$ 2,000,000

18 The funds appropriated in this subsection shall be
 19 allocated as follows:

20	a. Merged Area I	\$	161,616
21	b. Merged Area II	\$	141,414
22	c. Merged Area III	\$	101,010
23	d. Merged Area IV	\$	80,808
24	e. Merged Area V	\$	181,818
25	f. Merged Area VI	\$	80,808
26	g. Merged Area VII	\$	101,010
27	h. Merged Area IX	\$	80,808
28	i. Merged Area X	\$	141,414
29	j. Merged Area XI	\$	222,222
30	k. Merged Area XII	\$	121,212
31	l. Merged Area XIII	\$	141,414
32	m. Merged Area XIV	\$	161,616
33	n. Merged Area XV	\$	202,020
34	o. Merged Area XVI	\$	80,810

35 2. If the increase in taxable valuation is less
 36 than one-half of one percent as provided in subsection
 37 1, then the actual amount appropriated pursuant to
 38 this section shall be reduced proportionally by the
 39 percentage represented by the actual percent increase
 40 in taxable valuation divided by one-half of one
 41 percent.

42 Sec. 16. NEW SECTION. 260C.80 IOWA
 43 COMMUNICATIONS NETWORK TRAINING AND OPERATIONS FUND.

44 1. An Iowa communications network training and
 45 operations fund is established in the office of the
 46 treasurer of state under the control of the department
 47 of education. Moneys deposited in the fund from
 48 sources other than the permanent school fund of the
 49 state shall be used to reimburse the permanent school
 50 fund of the state, as provided in subsection 3, for

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1 amounts transferred to the merged areas pursuant to
2 section 256.29, costs of educational training, costs
3 associated with the state communications network, and
4 for other necessary expenditures related to the
5 network. All moneys deposited in the fund are subject
6 to appropriation by the general assembly.

7 2. It is the intent of the general assembly that
8 the amounts deposited into this fund be appropriated
9 for educational training related to use of the state
10 communications network and for ongoing operational
11 expenses related to participation in the state
12 communications network, including maintenance costs,
13 repair costs, costs of necessary equipment, and other
14 necessary expenditures. It is the intent of the
15 general assembly that amounts in the fund be
16 appropriated for the merged areas' participation in
17 the state communications network.

18 3. Notwithstanding any other provision of chapter
19 260E to the contrary, for a period of ten years beyond
20 the scheduled maturity of certificates issued under
21 chapter 260E prior to July 1, 1993, an amount equal to
22 the new jobs credit from withholding for each employer
23 which has entered into a new jobs training agreement
24 shall be deposited in the Iowa communications network
25 training and operations fund from amounts paid to the
26 treasurer of state by employers who have entered into
27 new jobs training agreements. Amounts in the Iowa
28 communications network training and operations fund
29 shall be used by the department for the payment of
30 principal and interest, pursuant to a schedule as
31 determined by the department of management, on amounts
32 transferred from the permanent school fund of the
33 state to a merged area pursuant to section 256.29.
34 Any unencumbered funds may be appropriated for the
35 purposes identified in subsection 2.

36 Sec. 17. Section 273.3, Code 1993, is amended by
37 adding the following new subsection:

38 NEW SUBSECTION. 20. Be authorized to purchase
39 equipment as provided in section 279.48.

40 Sec. 18. NEW SECTION. 279.48 EQUIPMENT PURCHASE.

41 The board of directors of a school corporation may
42 purchase equipment, and may enter into a contract and
43 issue a note to pay for the equipment. The note must
44 mature within five years and bear interest at a rate
45 to be determined by the board of directors in the
46 manner provided in section 74A.3, subsection 1. The
47 board of directors, by resolution, shall provide for
48 the form of the contract and note. Principal and
49 interest on the note must be payable from budgeted
50 receipts in the current budget for each year of a

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1 period of up to five years.

2 Sec. 19. Section 298.3, subsection 3, Code 1993,
3 is amended to read as follows:

4 3. The purchase of buildings and the purchase of a
5 ~~single-unit-of~~ equipment or a technology system
6 exceeding five thousand dollars in value.

7 Sec. 20. Section 303.77, subsection 3, Code 1993,
8 is amended to read as follows:

9 3. The board shall appoint at least two one
10 ~~advisory committees~~ committee, each of which ~~has~~ no
11 more than a simple majority of members shall be of the
12 same gender, as follows:

13 ~~---a---Advisory-committee-on-the-operation-of-the~~
14 ~~narrowcast-system---The-advisory-committee-shall-be~~
15 ~~composed-of-members-from-among-the-users-of-the~~
16 ~~narrowcast-system-including-representatives-of~~
17 ~~institutions-under-the-state-board-of-regents,~~
18 ~~community-colleges,-area-education-agencies,-classroom~~
19 ~~teachers,-school-district-administrators,-school~~
20 ~~district-boards-of-directors,-the-department-of~~
21 ~~economic-development,-the-department-of-education,-and~~
22 ~~private-colleges-and-universities.~~

23 ~~---b---Advisory~~ the advisory committee on journalistic
24 and editorial integrity. The division shall be
25 governed by the national principles of editorial
26 integrity developed by the editorial integrity
27 project.

28 Duties of the advisory ~~committees~~ committee, and of
29 additional advisory committees the board may from time
30 to time appoint, shall be specified in rules of
31 internal management adopted by the board.

32 Members of advisory committees shall receive actual
33 expenses incurred in performing their official duties.

34 Sec. 21. NEW SECTION. 476.30 FINDINGS --
35 STATEMENT OF POLICY.

36 The general assembly finds, in addition to other
37 standards for the provision of communications services
38 established in this chapter, all of the following:

39 1. Communications services should be available to
40 all citizens of this state at just, reasonable, and
41 affordable rates.

42 2. Competition should be permitted to function as
43 a substitute for certain aspects of regulation in
44 determining the variety, quality, and pricing of
45 communications services, when it is consistent with
46 the protection of consumers of communications services
47 and the furtherance of other relevant public interests
48 and goals.

49 3. The utilities board should be authorized to
50 respond with sufficient flexibility to the rapidly

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1 changing nature of the communications industry.
2 4. Development of, and prudent investment in,
3 advanced communications networks which foster economic
4 development in this state should be encouraged.

5 Sec. 22. NEW SECTION. 476.30A ALTERNATIVE FORMS
6 OF REGULATION.

7 1. Notwithstanding contrary provisions of this
8 chapter relating to rate-of-return regulation, the
9 board may adopt rules for utilities furnishing
10 communications services which authorize and establish
11 alternative forms of regulation other than rate-of-
12 return regulation. Alternative forms of regulation,
13 if approved by the board, may include provisions for
14 earnings sharing, revenue sharing, rate moratoria,
15 network modernization, incentive plans, or a
16 combination of these. Participation in an alternative
17 form of regulation is optional and at the election of
18 the utility.

19 2. A rate-regulated public utility furnishing
20 communications services may submit and the board may,
21 after notice and opportunity for hearing, approve or
22 modify a plan for an alternative form of regulation
23 specific to that utility. The plan may be applied to
24 any pending proceeding involving the utility. The
25 hearing on the plan may be conducted separately or as
26 part of any pending proceeding involving the utility.
27 If the board modifies the proposed plan, participation
28 in the modified plan for alternative regulation shall
29 be optional and at the election of the utility.

30 3. Before a rate-regulated public utility
31 furnishing communications services can operate under a
32 plan for alternative regulation, the consumer advocate
33 may file a petition under section 476.3, subsection 2.
34 The consumer advocate shall indicate whether a
35 complaint will be filed no later than sixty days after
36 the utility requests permission to operate under a
37 plan for alternative regulation under subsection 2.
38 If the consumer advocate indicates an intent to file a
39 petition, the consumer advocate shall have an
40 additional ninety days to file such petition. A
41 refund or rate adjustment to the customers of such
42 utility which results from a petition filed by the
43 consumer advocate, shall not be affected as a result
44 of the implementation or existence of a plan for
45 alternative regulation.

46 4. A utility participating in an alternative form
47 of regulation must participate for at least two years.

48 5. The board, in considering a plan for an
49 alternative form of regulation for a utility, shall
50 evaluate the effect of the proposed plan in

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- 1 relationship to all of the following:
- 2 a. Effecting just, nondiscriminatory, and
- 3 reasonable rates.
- 4 b. Provision of high quality, universally
- 5 available communications services.
- 6 c. Encouragement of investment in the
- 7 communications infrastructure, efficiency
- 8 improvements, and technological innovation.
- 9 d. The introduction of new communications products
- 10 and services.
- 11 e. Regulatory efficiency including reduction of
- 12 regulatory costs and delays.
- 13 6. Any utility plan for alternative regulation
- 14 shall, at a minimum, include all of the following:
- 15 a. A provision that at least fifty percent of the
- 16 dollar amounts identified for sharing between the
- 17 utility and its customers shall be returned to the
- 18 utility's customers.
- 19 b. The terms upon which changes in prices for
- 20 essential communications services may be approved by
- 21 the board.
- 22 c. Flexibility in establishing and changing
- 23 prices, terms, and conditions for nonessential
- 24 communications services.
- 25 d. Applicability of the board's service quality
- 26 standards.
- 27 e. Reporting of service offerings, prices, and
- 28 price changes to the board.
- 29 f. The term of the plan, not to exceed five years;
- 30 a provision for full board review during the last year
- 31 of the utility's operation under the plan, with notice
- 32 and an opportunity for hearing; and an opportunity,
- 33 not earlier than one year before the end of the plan,
- 34 for the consumer advocate or the utility to petition
- 35 for a rate case pursuant to section 476.3, subsection
- 36 2, or section 476.6.
- 37 g. The manner in which changes in revenues,
- 38 expenses, and investment due to exogenous factors
- 39 beyond the control of the utility may be reflected in
- 40 rates.
- 41 7. Notwithstanding the provisions of a plan for
- 42 alternative regulation, the board shall have authority
- 43 over both of the following:
- 44 a. The level, extent, scope, and timing of the
- 45 unbundling of services by the local exchange utility.
- 46 b. Appropriate methods for ensuring against cross-
- 47 subsidization of nonessential services through charges
- 48 made for essential services.
- 49 8. Nothing in this section shall interfere with
- 50 the right of any person or body politic to file a

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1 complaint pursuant to section 476.3, subsection 1,
2 regarding a utility's operation under a plan of
3 alternative regulation.

4 9. The utilities board shall study the effective-
5 ness of any plans for alternative regulation which are
6 approved. A study shall include a description of the
7 plan, identification of the local exchange utility or
8 utilities participating under the plan, and an
9 analysis of the effects of the plan, including but not
10 limited to, the extent to which the plan has generated
11 savings as a result of inducing additional
12 efficiencies by the utility. The results of a study
13 conducted pursuant to this subsection shall be
14 reported to the general assembly by January 15 after
15 the first full year that the plan is in effect.

16 Sec. 23. NEW SECTION. 476.30B PROHIBITED ACTS.

17 A utility electing to participate and submitting an
18 alternative regulation plan pursuant to section
19 476.30A shall not do any of the following:

20 1. Discriminate against another provider of
21 communications services in the pricing of, or by
22 refusing or delaying access to, essential network
23 services of the participating utility's local exchange
24 network.

25 2. Degrade the quality of access or service
26 provided to another provider of communications
27 services.

28 3. Fail to disclose in a timely manner, upon
29 request and pursuant to a protective agreement
30 concerning proprietary information, all information
31 reasonably necessary for the design of network
32 interface equipment or network interface services that
33 will meet the specifications of the participating
34 utility's local exchange network.

35 Sec. 24. NEW SECTION. 476.30C DEFINITIONS.

36 As used in sections 476.30 through 476.30B, unless
37 the context otherwise requires:

38 1. "Essential communications service" means that
39 communications service or equipment necessary for a
40 residential or business end-user to pursue, at a
41 minimum, voice communications on the public network in
42 a manner consistent with community expectations and
43 the public interest as determined by the board.
44 Essential communications services include, at a
45 minimum, basic local telephone service, switched
46 access, 911 and E-911 services, and relay service for
47 communications-impaired persons. The board is
48 authorized to classify by rule other communications
49 services as essential communications services
50 consistent with this definition.

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1 2. "Nonessential communications services" means
2 all communications services subject to the board's
3 jurisdiction not deemed either by statute or by rule
4 as essential communications services.

5 Sec. 25. Section 476.3, subsection 2, Code 1993,
6 is amended by adding the following new unnumbered
7 paragraph:

8 NEW UNNUMBERED PARAGRAPH. Notwithstanding the
9 provisions of this subsection authorizing the consumer
10 advocate to file a petition with the board alleging
11 that a utility's rates are excessive, the consumer
12 advocate shall not file a petition under this
13 subsection which alleges that a local exchange
14 utility's rates are excessive while the local exchange
15 utility is participating in an approved plan of
16 alternative regulation approved by the board pursuant
17 to section 476.30A, except as provided in section
18 476.30A, subsection 6, paragraph "f".

19 Sec. 26. Section 477.1, Code 1993, is amended to
20 read as follows:

21 477.1 RIGHT-OF-WAY.

22 Any person, firm, and corporation, within or
23 without the state, may construct a telegraph or
24 telephone line or cable system along the public roads
25 of the state, or across or under the rivers or over,
26 under, or through any lands belonging to the state or
27 any private individual, and may erect or install
28 necessary fixtures. The state may construct Parts I
29 and II and a certified local exchange telephone
30 company may construct Part III of the state
31 communications network established in division V of
32 chapter 18 along the public roads of the state, and
33 private ways, or across or under the rivers or over,
34 under, or through any lands belonging to a private
35 person or individual, and may erect or install
36 necessary equipment and fixtures on such property
37 including installing and maintaining equipment in
38 structures at an endpoint, and at other points along
39 the network. However, construction of a telegraph or
40 telephone line or cable system along a primary road is
41 subject to rules adopted by the state department of
42 transportation.

43 Sec. 27. INITIAL BOARD CHAIRPERSON.

44 Notwithstanding the provision of section 18.133A,
45 subsection 3, the initial chairperson of the board
46 shall be appointed by the governor from the membership
47 of the board for a two-year term."

By MICHAEL E. GRONSTAL

S-3763 FILED MAY 1, 1993

SENATE FILE 417

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1 Amend the amendment, S-3689, to Senate File 417, as
2 follows:

3 1. By striking page 1, line 2, through page 13
4 line 46, and inserting the following:

5 "_____. By striking everything after the enacting
6 clause and inserting the following:

7 "Section 1. Section 18.133, subsection 1, Code
8 1993, is amended by striking the subsection and
9 inserting in lieu thereof the following:

10 1. "Board" means the Iowa communications network
11 board.

12 Sec. 2. Section 18.133, subsections 2 and 3, Code
13 1993, are amended to read as follows:

14 2. "Private agency" means accredited nonpublic
15 schools, and nonprofit institutions of higher
16 education eligible for tuition grants, and hospitals
17 licensed pursuant to chapter 135B.

18 3. "Public agency" means a state agency, a school
19 corporation, a city library, a regional library as
20 provided in chapter 303B, and a county library as
21 provided in chapter 336, and agencies of the federal
22 government not including the United States postal
23 service or any United States post office.

24 Sec. 3. NEW SECTION. 18.133A IOWA COMMUNICATIONS
25 NETWORK BOARD.

26 1. An Iowa communications network board is
27 established within the department of commerce with the
28 sole authority to supervise the management and
29 operation of the network. The board shall ensure that
30 the network operates in an efficient and responsible
31 manner consistent with the provisions of this chapter
32 for the purpose of providing the best economic service
33 attainable to the users consistent with the state's
34 financial capacity. The use of the Iowa
35 communications network is subject to the review and
36 approval of the board. Such review and approval by
37 the board shall provide for the centralized,
38 coordinated use and control of the network. The board
39 may contract with appropriate vendors for the
40 maintenance, operation, management, and development of
41 the technical aspects and uses of Part I and Part II
42 of the network in a manner consistent with this
43 chapter for the purpose of providing the best services
44 attainable to the users consistent with the state's
45 financial capacity.

46 2. The communications division of the department
47 of general services shall provide sufficient resources
48 and staff to the board and to the department of
49 commerce to carry out all board responsibilities.

50 3. The board consists of nine members appointed by

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1 the governor, subject to senate confirmation. The
2 members shall be citizens of the state who have
3 substantial knowledge of the subjects related to the
4 state communications network. Members of the board
5 shall not have any interest, financially or otherwise,
6 in any entity related to or associated with any
7 activity concerning the planning, development,
8 operation, or maintenance of Part I or Part II of the
9 network as provided in chapter 68B. Members of the
10 board also shall not serve in any manner or be
11 employed by an interest or institution the interests
12 of which are represented by a member of the
13 educational telecommunications council established in
14 subsection 4. The appointments shall be based upon
15 the training, experience, and capacity of the
16 appointees in areas including, but not limited to,
17 public utility regulation, telecommunications, and
18 education issues related to the network. Members of
19 the board shall serve four-year staggered terms as
20 designated by the governor and appointments to the
21 board are subject to sections 69.16, 69.16A, and
22 69.19. Members shall receive actual and necessary
23 expenses and a per diem as provided in section 7E.6.
24 However, a member who is also a state employee shall
25 only receive the member's actual and necessary
26 expenses.

27 4. An educational telecommunications council is
28 established to advise the Iowa communications network
29 board concerning the educational telecommunication
30 applications of the system and other matters as
31 assigned by the board. The council consists of seven
32 members to be appointed by the board. The seven
33 members shall include one person representing the
34 state board of regents; one person representing the
35 department of education; one person representing the
36 community colleges; one person representing public
37 libraries; one person representing school districts;
38 one person representing the area education agencies;
39 and one person representing private colleges. The
40 council shall make long range plans for enhancements
41 needed for educational applications. Administrative
42 support and staffing for the council shall be provided
43 by the department of education.

44 The board shall establish a users' committee which
45 is broadly representative of users of the network to
46 advise the council and the board concerning
47 telecommunications applications. The council shall
48 also consult with any regional committees established
49 for educational telecommunications.

50 Sec. 4. NEW SECTION. 18.133B ANNUAL REPORT TO

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1 LEGISLATURE.

2 The Iowa utilities board, the consumer advocate,
3 and the Iowa communications network board shall
4 cooperate to produce a report to be delivered to the
5 governor and the general assembly no later than
6 December 31 of each year. The report shall include a
7 review of the effect of the state communications
8 network on the citizens of this state in relation to
9 the rates paid for intrastate telecommunications
10 service and the financial impact of the state
11 communications network on the state's public
12 telecommunications utilities. Additionally, the
13 report shall include information related to the number
14 of users on the network, the hours of use, a listing
15 of new users added to the network during the previous
16 year, a detailed accounting of how any amounts
17 appropriated for the Iowa communications network are
18 expended, other relevant financial information, and
19 other information deemed appropriate by the Iowa
20 utilities board, the consumer advocate, or the state
21 communications network board.

22 Sec. 5. Section 18.134, Code 1993, is amended by
23 adding the following new subsection:

24 NEW SUBSECTION. 3. The use of any switching
25 equipment used for routing traffic on the network
26 shall be governed by the policies adopted by the Iowa
27 communications network board.

28 Sec. 6. NEW SECTION. 18.134A DISPOSITION OF
29 NETWORK -- LEGISLATIVE APPROVAL.

30 Notwithstanding any provision to the contrary, the
31 Iowa communications network board or the department of
32 general services shall not sell, lease, or otherwise
33 dispose of any component part of Part I or II of the
34 system without prior authorization by a constitutional
35 majority of each house of the general assembly and
36 approval by the governor.

37 Sec. 7. Section 18.135, Code 1993, is amended to
38 read as follows:

39 18.135 RULES.

40 The director board shall adopt rules relating to
41 the state communications network and its use in
42 accordance with this chapter, respecting the rights of
43 a public or private educational agency to determine
44 the contents of its educational program and its rights
45 to control its classrooms and teleconferencing
46 facility. Rules adopted by the board shall not
47 abridge the academic freedom of institutions offering
48 programs through the network. Rules adopted by the
49 board shall also not abridge or modify agreements
50 between an educator and an educational institution

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1 related to any copyright, patent, invention, software,
2 instruction, instructional programming, or other
3 intellectual property interest. However, a public or
4 private agency which is connected to the
5 communications network, as a condition to such
6 connection, shall establish procedures, terms, and
7 conditions governing the use of its teleconferencing
8 classroom or center by others in a manner which
9 provides reasonable access to educational
10 telecommunications applications available through the
11 network. The board shall adopt rules relating to this
12 provision, but shall not interfere with the prior
13 right of the public or private agency to use, manage,
14 or control such teleconferencing classroom or center.
15 The director board shall also adopt and provide for
16 standard communications procedures and policies to be
17 used by state agencies. However, rules adopted by the
18 board relating to state communications which are not
19 part of the network shall not apply to public
20 universities governed by the state board of regents.

21 Sec. 8. Section 18.136, subsections 1, 2, 3, 4, 8,
22 11, 12, and 14, Code 1993, are amended to read as
23 follows:

24 1. Moneys in the state communications network fund
25 are appropriated to the Iowa public broadcasting board
26 for purposes of providing financing for the
27 procurement, operation, and maintenance of a state
28 communications network with sufficient capacity to
29 serve the video, data, and voice requirements of state
30 agencies and the educational telecommunications
31 system. The treasurer of state, the department of
32 general services, the Iowa public broadcasting board,
33 the Iowa communications network board, and other
34 parties to any financing agreement for the network may
35 enter into a state communications network fund
36 agreement as to the application of proceeds of the
37 fund and procedures for the payment of amounts due
38 under the financing agreement from the state
39 communications network fund. The state communications
40 network consists of Part I, Part II, and Part III of
41 the system.

42 2. For purposes of this section, unless the
43 context otherwise requires:

44 a. "Part I of the system" means the communications
45 connections between and including the central
46 switching and the regional switching ~~centers~~ centers'
47 equipment for the remainder of the network as
48 designated by the board.

49 b. "Part II of the system" means the
50 communications connections between and including the

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1 regional switching centers' equipment and the
2 secondary-switching-centers points of presence as
3 designated by the board including the network
4 equipment at these points of presence. There shall be
5 a minimum of one point of presence in each county.

6 c. "Part III of the system" means the
7 communications connection between the secondary
8 switching-centers point of presence and the end points
9 at the agencies defined in section 18.133, subsections
10 2 and 3 and-4.

11 d. "State communications network" or "network"
12 means Part I, Part II, and Part III of the system.

13 3. The financing for the procurement costs for the
14 entirety of Part I of the system, and the video, data,
15 and voice capacity for state agencies for Part II and
16 Part III of the system, shall be provided by the
17 state. The financing for the procurement costs for
18 Part II of the system shall also be provided eighty
19 percent-from by the state and-twenty-percent-from-the
20 ~~community-colleges-for-the-areas-in-which-Part-II-of~~
21 ~~the-system-is-located.--The-basis-for-the-state-match~~
22 ~~is-eighty-percent-of-a-single-interactive-video-and~~
23 ~~interactive-audio-for-Parts-I-and-II-of-the-system,~~
24 ~~and-such-data-and-voice-capacity-as-is-necessary. The~~
25 ~~financing for the procurement-and-maintenance lease~~
26 ~~costs for Part III of the system shall be provided~~
27 ~~eighty-percent-from by the state and-twenty-percent~~
28 ~~from-the-local-school-boards-of-the-areas-which~~
29 ~~receive-transmissions-from-the-system. The-local~~
30 ~~school-boards-may-meet-all-or-part-of-the-match~~
31 ~~requirements-of-Part-III-of-the-system-through-a~~
32 ~~cooperative-arrangement-with-community-colleges. The~~
33 ~~basis for the amount of state match financing is~~
34 ~~eighty one hundred percent of a single interactive~~
35 ~~audio and one-way interactive video connection for~~
36 ~~Part III of the system, and such data and voice~~
37 ~~capacity as is necessary. The-local-school-boards-and~~
38 ~~community-colleges-may-meet-the-match-requirements-for~~
39 ~~Part-II-and-Part-III-of-the-system-from-funds-they~~
40 ~~have-already-spent-for-their-systems,-from-funds~~
41 ~~available-in-the-school-budget,-or-from-funds-received~~
42 ~~from-other-nonstate-sources.--In-the-case-of-existing~~
43 ~~systems,-in-order-to-upgrade-facilities-to-the~~
44 ~~specifications-of-the-state-communications-network,~~
45 ~~the-local-school-boards-and-community-colleges,-in~~
46 ~~lieu-of-a-cash-match,-may-meet-the-match-requirements~~
47 ~~from-funds-they-have-already-spent-for-their-systems~~
48 ~~provided-that-the-state-match-does-not-exceed-the~~
49 ~~lesser-of-eighty-percent-of-the-total-cost-of-the~~
50 ~~upgraded-system-or-eighty-percent-of-the-replacement~~

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1 ~~cost-of-the-system:--The-communications-equipment~~
2 ~~funds-used-as-a-match-by-a-community-college-shall-be~~
3 ~~calculated-based-on-verified-expenditures-for-capital,~~
4 ~~equipment,-hardware,-and-software-for-long-distance~~
5 ~~learning-technologies,-including-both-audio-and-visua~~
6 ~~transmission:--The-communications-equipment-used-as-a~~
7 ~~match-shall-not-subsequently-be-used-as-a-match-by~~
8 ~~another-educational-entity-or-for-another-part-of-the~~
9 ~~system:--A-local-school-board-may-request-the-school~~
10 ~~budget-review-committee-to-adjust-the-allowable-growth~~
11 ~~for-the-school-district-so-that-the-resulting-increase~~
12 ~~in-budget-could-be-used-for-the-match: A local school~~
13 ~~board shall determine the type of classroom facility~~
14 ~~to be provided and the type of facility or equipment~~
15 ~~to be used in providing the connection to the school~~
16 ~~or the classroom. If a local school board elects to~~
17 ~~provide one hundred percent of the financing for the~~
18 ~~lease costs for Part III, the school district may~~
19 ~~become part of the system as soon as the network can~~
20 ~~reasonably connect it. A local school board may also~~
21 ~~elect that the school district not to become part of~~
22 ~~the system. Such-election-shall-be-made-on-an-annual~~
23 ~~basis:--State-matching-funds-shall-not-be-provided-for~~
24 ~~Part-III-of-the-system-until-Part-I-and-Part-II-of-the~~
25 ~~system-have-been-completed: Leasing of Part III of~~
26 ~~the system may proceed before Part I and Part II of~~
27 ~~the system have been completed as determined by the~~
28 ~~board.~~

29 4. The department of general services Iowa
30 communications network board shall develop the
31 requests for proposals that are needed for a state
32 communications network with sufficient capacity to
33 serve the video, data, and voice requirements of state
34 agencies and the educational telecommunications
35 applications required by the Iowa public-broadcasting
36 communications network board. The department shall
37 develop a request for proposals for each of the
38 systems that will make up the network The utilities
39 board shall provide technical assistance to the Iowa
40 communications network board in the development of the
41 request for proposals. The department may Iowa
42 communications network board shall develop a request
43 for proposals for each definitive component of Part I,
44 Part II, and Part III of the system as provided in
45 this section, or the department board may provide in
46 the request for proposals for each such system that
47 separate contracts may shall be entered into for each
48 definitive component covered by the request for
49 proposals. The requests for proposals for components
50 of Parts I and II of the system may be for the

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1 purchase, lease-purchase, or lease of the component
2 parts of the system, may require maintenance costs to
3 be identified, and the resulting contract may provide
4 for maintenance for parts of the system. The master
5 contract may provide for electronic classrooms,
6 satellite equipment, receiving equipment, studio and
7 production equipment, and other associated equipment
8 as required.

9 The state shall lease all component parts for Part
10 III of the system from qualified providers. A
11 component of Part III shall not be owned by the state.
12 The board shall develop a statewide plan for leasing
13 of the components of Part III. The board must approve
14 a Part III statewide leasing plan before Part III of
15 the system may proceed. The board is authorized to
16 review the terms of any lease entered into related to
17 Part III of the system. However, a local school
18 district is not required to be included in the
19 statewide Part III leasing plan if the local school
20 board elects to provide one hundred percent of the
21 financing for the lease costs related to Part III.

22 Nothing in this section shall preclude a school
23 corporation from using or upgrading existing
24 facilities for use in the corporation's own district
25 or region for Part III of the system which meet the
26 specifications of the state communications network and
27 provide interactive audio and interactive video and
28 such data and voice capacity as is necessary.

29 A certified local exchange telephone company with
30 fewer than fifteen thousand access lines shall have
31 the right to provide through a lease with a school
32 corporation or a public library located within the
33 company's service territory any required individual
34 facility from a point of presence to an end point to
35 be used for providing any component of Part III. The
36 lease rate for a school corporation or a public
37 library for each component of Part III of the system
38 is limited to a fixed periodic fee to cover a ten-year
39 amortization of the capital cost of new facilities,
40 including the placement and construction of such
41 facilities, to serve the school corporation or public
42 library and the actual ongoing costs of providing
43 service, including costs for maintenance, repairs,
44 taxes, and other costs directly related to leasing a
45 component of Part III of the system to the school
46 corporation or public library. Such amortization
47 shall be based upon the actual cost of the financing
48 for such facilities. The certified local exchange
49 telephone company shall not assess a school
50 corporation or public library any toll charge for

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1 communications transmitted entirely on the state
2 communications network.

3 A certified local exchange telephone company with
4 fewer than fifteen thousand access lines shall have
5 the right to provide through a lease with a public or
6 private agency which is an authorized user, other than
7 a school corporation or public library located within
8 the company's service territory, any required
9 individual facility from a point of presence to an end
10 point to be used for providing any component of Part
11 III. The lease rate for such authorized user for each
12 component of Part III of the system is limited to a
13 fixed periodic fee to cover a ten-year amortization of
14 the capital cost of new facilities to serve such
15 authorized user; and the actual ongoing costs of
16 providing service, including costs for maintenance,
17 repairs, taxes, and other costs directly related to
18 leasing a component of Part III of the system to such
19 authorized user; and may include a reasonable return
20 on the unamortized balance of the capital costs.

21 A certified local exchange telephone company with
22 fewer than fifteen thousand access lines shall have
23 ninety days, from the date an authorized user has
24 requested that the local exchange telephone company
25 provide through a lease the required facilities
26 related to Part III of the network, to notify such
27 user as to whether the local exchange telephone
28 company elects to provide the required facilities. If
29 a certified local exchange telephone company with
30 fewer than fifteen thousand access lines elects not to
31 provide required facilities pursuant to a lease with
32 an authorized user as provided by this subsection, the
33 Iowa communications network board shall develop a
34 request for proposals for lease of the required
35 facilities. The board shall determine the form and
36 content of the request for proposals and shall
37 determine which proposal will be accepted for
38 providing the required facilities. Proposals may be
39 submitted by any qualified person including other
40 certified local exchange telephone companies.
41 However, a proposal shall not be submitted by the
42 certified local exchange telephone company electing
43 not to provide such facilities pursuant to this
44 subsection.

45 For all private agencies and public agencies
46 located in an area served by a certified local
47 exchange telephone company with fifteen thousand or
48 more access lines, proposals for providing the
49 components of Part III of the system may be submitted
50 by any qualified person. Notwithstanding the terms of

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1 any lease agreement entered into between a qualified
2 person and a school corporation located in an area
3 served by a certified local exchange telephone company
4 with fifteen thousand or more access lines, the school
5 district shall not be assessed any toll charge for
6 communications transmitted entirely on the state
7 communications network.

8 The periodic lease rate for each component shall be
9 reviewed by the Iowa communications network board for
10 compliance with reasonable norms established by rule.
11 The Iowa communications network board may reject a
12 lease rate proposal made by a certified local exchange
13 telephone company with fewer than fifteen thousand
14 access lines related to providing a component part for
15 Part III of the system if the board determines that
16 the rate is unreasonable. The board shall notify the
17 company of such rejection and the company may resubmit
18 an alternative lease rate proposal in the same manner
19 as the original proposal within forty-five days of
20 receipt of the notice of the rejection.

21 For purposes of this section, "new facilities" for
22 purposes of determining the capital cost to be
23 amortized in establishing the lease rate are those
24 facilities which are procured, installed, or
25 constructed to provide Part III of the system to a
26 user on or after the date such user certifies to the
27 board, in a manner as determined by the board, that
28 the user is ready to be connected to the network.

29 ~~8. The Iowa-public-broadcasting-board-retains-sole~~
30 ~~authority-over-the-educational-telecommunications~~
31 ~~applications-of-Part-I-of-the-system,-and-its~~
32 ~~authority-shall-include-management-and-operational~~
33 ~~control,-programming,-budget,-personnel,-scheduling,~~
34 ~~and-program-switching-of-educational-material-carried~~
35 ~~by-Part-I-of-the-system educational telecommunications~~
36 ~~council shall coordinate the educational~~
37 ~~telecommunication applications of the system pursuant~~
38 ~~to the rules adopted by the Iowa communications~~
39 ~~network board, including scheduling and program~~
40 ~~switching of educational material carried by the~~
41 ~~system. The Iowa-public-broadcasting-board,-through~~
42 ~~its-narrowcast-system-advisory-committee,-retains~~
43 ~~coordination-authority-over-the-educational~~
44 ~~telecommunications-applications-of-Part-II-and-Part~~
45 ~~III-of-the-system.--Community-colleges-are-responsible~~
46 ~~for-scheduling-and-switching-of-educational-materials~~
47 ~~carried-by-Part-II-and-Part-III-of-the-system-within~~
48 ~~their-respective-areas.--Such-responsibility-may-be~~
49 ~~accomplished-by-a-chapter-28E-agreement-with-the~~
50 ~~department-of-general-services. Scheduling of~~

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1 educational applications on the system shall be
2 administered by Iowa public television pursuant to
3 rules adopted by the board.

4 The narrowcast-system-advisory-committee council
5 shall review all requests for grants for facilities
6 made by public agencies for educational
7 telecommunications applications, if they are a part of
8 the state the proposed activities involve the use of
9 or a connection to the state communications network,
10 to ensure that the educational-telecommunications
11 application is objectives of the grants are consistent
12 with the telecommunications plan. If the narrowcast
13 system-advisory-committee council recommends to the
14 Iowa communications network board, and the Iowa
15 communications network board finds that a grant
16 request is inconsistent with the telecommunications
17 plan, the grant request shall not be allowed.

18 11. The fees charged for use of the network by an
19 authorized user for educational telecommunications
20 shall be based on the ongoing operational and
21 maintenance costs of the network only.

22 12. The Iowa public-broadcasting communications
23 network board, in consultation with its narrowcast
24 system-advisory-committee, shall determine the fee
25 fees to be charged per course or credit hour by the
26 state for Parts I, II, and III of the system to the
27 originating institution, and the public and private
28 agencies authorized to use the system. The fees shall
29 be substantially the same for comparable courses uses
30 and authorized users. An authorized user of the
31 system may request a hearing pursuant to section 476.3
32 on a fee approved by the Iowa communications network
33 board.

34 14. Notwithstanding chapter 476, the provisions of
35 chapter 476 shall not apply to a public utility in
36 furnishing a telecommunications service or facility to
37 the department of general services for any part of the
38 state communications network.

39 Sec. 9. Section 18.136, Code 1993, is amended by
40 adding the following new subsections:

41 NEW SUBSECTION. 13A. a. Access to the network
42 shall be offered to agencies of the federal
43 government, not including the United States postal
44 service or any United States post office. An agency
45 of the federal government shall contribute, at a
46 minimum, an amount consistent with its share of use
47 for the part of the system in which the entity
48 participates, as determined by the Iowa communications
49 network board. Access to the network shall be
50 provided pursuant to a lease unless such lease would

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1 be prohibited by any of the following:

2 (1) Federal law.

3 (2) Rule or regulation of the federal agency.

4 (3) Policy of the federal agency.

5 (4) Lack of funding which prevents an ongoing
6 lease arrangement from being entered into.

7 If the Iowa communications network board determines
8 that a lease is prohibited as provided in this
9 paragraph, the board may still permit an agency of the
10 federal government access to the network upon a
11 showing by the federal agency to the board that
12 sufficient federal funding is available to pay for the
13 costs of connection to the network.

14 b. Access shall be offered to hospitals licensed
15 pursuant to chapter 135B. A hospital shall
16 contribute, at a minimum, an amount consistent with
17 its share of use for the part of the system in which
18 the hospital participates as determined by the Iowa
19 communications network board. Access to Parts I and
20 II of the network shall be offered to hospitals
21 licensed pursuant to chapter 135B for education and
22 distance learning applications; continuing medical
23 education applications; diagnostic, clinical, and
24 consultative services which require the use of
25 interactive video, the transmission of high quality
26 images, or the combination of text, video, visual, or
27 graphic information; the transmission of payments and
28 claims information to and from the medicaid program
29 established under Title XVIII of the federal Social
30 Security Act and the medical assistance (medicare)
31 program established pursuant to chapter 249A, the
32 health data commission or its successor agency, the
33 Iowa department of public health, and the community
34 health management information system, where such
35 information transmission assists in satisfying an
36 information-gathering duty assigned by statute; and
37 the transmission of government payments and claims
38 information to hospitals. This paragraph is repealed
39 effective June 30, 2003.

40 NEW SUBSECTION. 13B. Access shall not be provided
41 to any other entity pursuant to a chapter 28E or other
42 agreement except as expressly provided for by this
43 section.

44 NEW SUBSECTION. 13C. Notwithstanding the
45 provisions of subsection 4 regarding the lease of all
46 component parts for Part III of the system, an
47 authorized user may purchase a wireless system
48 utilizing a portion of the electromagnetic spectrum
49 allocated by the federal communications commission.
50 An authorized user eligible to receive state funding

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1 for the provision of the component parts for Part III
2 of the system, as provided in subsection 3, may also
3 utilize such wireless system. If such authorized user
4 determines to use such wireless system, the user shall
5 inform the board of the decision to utilize such
6 wireless system and the board shall develop a request
7 for proposals for providing such system. The wireless
8 system may be provided under a lease, lease-purchase
9 agreement, or a purchase of the wireless
10 communications system.

11 NEW SUBSECTION. 13D. Notwithstanding subsection
12 13B, access to and use of Part III of the network
13 shall not be limited so long as the transmission
14 facilities are owned and operated by a nongovernmental
15 entity.

16 Sec. 10. NEW SECTION. 18.137A DISPOSITION OF
17 INVESTMENT INTEREST EARNED.

18 Interest income earned on investment of funds
19 contained in the state communications network fund
20 shall be credited by the treasurer of state to the
21 state communications network fund to be used only for
22 making additional payments above and beyond those
23 scheduled to be made for the repayment of debt related
24 to Parts I and II of the system when permissible under
25 any financing agreement.

26 Sec. 11. Section 256.7, subsection 9, unnumbered
27 paragraph 1, Code 1993, is amended to read as follows:

28 Adopt rules under chapter 17A for the use of
29 telecommunications as an instructional tool for
30 students enrolled in kindergarten through grade twelve
31 and served by local school districts, accredited or
32 approved nonpublic schools, area education agencies,
33 community colleges, institutions of higher education
34 under the state board of regents, and independent
35 colleges and universities in elementary and secondary
36 school classes and courses. The rules shall include
37 but need not be limited to rules relating to programs,
38 educational policy, instructional practices, staff
39 development, use of pilot projects, curriculum
40 monitoring, and the accessibility of licensed
41 teachers. The rules shall encourage innovative use of
42 educational telecommunications to meet student needs.
43 The rules shall not abridge or modify agreements
44 between an educator and an educational institution
45 related to any copyright, patent, invention, software,
46 instruction, instructional programming, or other
47 intellectual property interest.

48 Sec. 12. Section 256.9, Code 1993, is amended by
49 adding the following new subsection:

50 NEW SUBSECTION. 52. Provide technical assistance

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1 to users of the educational telecommunications system,
2 coordinate staff development activities for
3 educational users, and provide assistance in policy
4 development to local and area education agencies for
5 the use of educational telecommunications.

6 Sec. 13. NEW SECTION. 256.29 LOAN FOR

7 TELECOMMUNICATIONS EQUIPMENT.

8 1. Notwithstanding sections 257B.1 and 257B.1A,
9 for the fiscal year beginning July 1, 1993, from
10 moneys designated as the permanent school fund of the
11 state in section 257B.1, a merged area may obtain a
12 loan to be used to pay for equipment to be located at
13 the merged areas to enable the merged area to
14 participate in a system which serves the educational
15 needs of children of the state through
16 telecommunications. The department of revenue and
17 finance shall transfer funds from the permanent school
18 fund to the Iowa communications network training and
19 operations fund upon receipt of a written request from
20 the board of directors of a merged area up to the
21 following amounts:

22	a. Merged Area I	\$	153,535
23	b. Merged Area II	\$	134,343
24	c. Merged Area III	\$	95,960
25	d. Merged Area IV	\$	76,768
26	e. Merged Area V	\$	172,727
27	f. Merged Area VI	\$	76,768
28	g. Merged Area VII	\$	95,960
29	h. Merged Area IX	\$	76,768
30	i. Merged Area X	\$	134,343
31	j. Merged Area XI	\$	211,111
32	k. Merged Area XII	\$	115,152
33	l. Merged Area XIII	\$	134,343
34	m. Merged Area XIV	\$	153,535
35	n. Merged Area XV	\$	191,919
36	o. Merged Area XVI	\$	76,768

37 2. Loan moneys received under this section that
38 are not expended during the fiscal year beginning July
39 1, 1993, are available for expenditure during the
40 fiscal year beginning July 1, 1994.

41 Sec. 14. NEW SECTION. 256.36A MEDIA AND

42 EDUCATIONAL SERVICES FUND.

43 A media and educational services fund is
44 established in the treasurer's office under the
45 control of the department of education. Moneys
46 deposited in the fund shall be used for the
47 development of staff development programs for use on
48 the state communications network, and for the
49 development of programs to assist teachers in the use
50 of, and teaching on, the state communications network.

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1 Sec. 15. If the actual taxable valuation of real
 2 property in the state is at least one-half of one
 3 percent more than the estimated taxable valuation used
 4 for determining property tax payments in the fiscal
 5 year beginning July 1, 1993, resulting in a decrease
 6 in the amount of general fund expenditures for
 7 foundation aid payments pursuant to chapter 257, there
 8 is appropriated from the general fund of the state to
 9 the department of education for the fiscal year
 10 beginning July 1, 1993, and ending June 30, 1994, the
 11 following amount, or so much thereof as may be
 12 necessary, to be used for the purpose designated:

13 1. Notwithstanding chapter 260D, to merged areas
 14 as defined in section 260C.2, for educational training
 15 and for ongoing operational expenses related to
 16 participation in the state communications network,
 17 including but not limited to maintenance costs, repair
 18 costs, cost of necessary equipment, and other
 19 necessary expenditures:

20 \$ 2,000,000

21 The funds appropriated in this subsection shall be
 22 allocated as follows:

23	a. Merged Area I	\$	161,616
24	b. Merged Area II	\$	141,414
25	c. Merged Area III	\$	101,010
26	d. Merged Area IV	\$	80,808
27	e. Merged Area V	\$	181,818
28	f. Merged Area VI	\$	80,808
29	g. Merged Area VII	\$	101,010
30	h. Merged Area IX	\$	80,808
31	i. Merged Area X	\$	141,414
32	j. Merged Area XI	\$	222,222
33	k. Merged Area XII	\$	121,212
34	l. Merged Area XIII	\$	141,414
35	m. Merged Area XIV	\$	161,616
36	n. Merged Area XV	\$	202,020
37	o. Merged Area XVI	\$	80,810

38 2. If the increase in taxable valuation is less
 39 than one-half of one percent as provided in subsection
 40 1, then the actual amount appropriated pursuant to
 41 this section shall be reduced proportionally by the
 42 percentage represented by the actual percent increase
 43 in taxable valuation divided by one-half of one
 44 percent.

45 Sec. 16. NEW SECTION. 260C.80 IOWA
 46 COMMUNICATIONS NETWORK TRAINING AND OPERATIONS FUND.

47 1. An Iowa communications network training and
 48 operations fund is established in the office of the
 49 treasurer of state under the control of the department
 50 of education. Moneys deposited in the fund from

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1 sources other than the permanent school fund of the
2 state shall be used to reimburse the permanent school
3 fund of the state, as provided in subsection 3, for
4 amounts transferred to the merged areas pursuant to
5 section 256.29, costs of educational training, costs
6 associated with the state communications network, and
7 for other necessary expenditures related to the
8 network. All moneys deposited in the fund are subject
9 to appropriation by the general assembly.

10 2. It is the intent of the general assembly that
11 the amounts deposited into this fund be appropriated
12 for educational training related to use of the state
13 communications network and for ongoing operational
14 expenses related to participation in the state
15 communications network, including maintenance costs,
16 repair costs, costs of necessary equipment, and other
17 necessary expenditures. It is the intent of the
18 general assembly that amounts in the fund be
19 appropriated for the merged areas' participation in
20 the state communications network.

21 3. Notwithstanding any other provision of chapter
22 260E to the contrary, for a period of ten years beyond
23 the scheduled maturity of certificates issued under
24 chapter 260E prior to July 1, 1993, an amount equal to
25 the new jobs credit from withholding for each employer
26 which has entered into a new jobs training agreement
27 shall be deposited in the Iowa communications network
28 training and operations fund from amounts paid to the
29 treasurer of state by employers who have entered into
30 new jobs training agreements. Amounts in the Iowa
31 communications network training and operations fund
32 shall be used by the department for the payment of
33 principal and interest, pursuant to a schedule as
34 determined by the department of management, on amounts
35 transferred from the permanent school fund of the
36 state to a merged area pursuant to section 256.29.
37 Any unencumbered funds may be appropriated for the
38 purposes identified in subsection 2.

39 Sec. 17. Section 273.3, Code 1993, is amended by
40 adding the following new subsection:

41 NEW SUBSECTION. 20. Be authorized to purchase
42 equipment as provided in section 279.48.

43 Sec. 18. NEW SECTION. 279.48 EQUIPMENT PURCHASE.

44 The board of directors of a school corporation may
45 purchase equipment, and may enter into a contract and
46 issue a note to pay for the equipment. The note must
47 mature within five years and bear interest at a rate
48 to be determined by the board of directors in the
49 manner provided in section 74A.3, subsection 1. The
50 board of directors, by resolution, shall provide for

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1 the form of the contract and note. Principal and
2 interest on the note must be payable from budgeted
3 receipts in the current budget for each year of a
4 period of up to five years.

5 Sec. 19. Section 298.3, subsection 3, Code 1993,
6 is amended to read as follows:

7 3. The purchase of buildings and the purchase of a
8 ~~single-unit-of~~ equipment or a technology system
9 exceeding five thousand dollars in value.

10 Sec. 20. Section 303.77, subsection 3, Code 1993,
11 is amended to read as follows:

12 3. The board shall appoint at least two one
13 ~~advisory committees~~ committee, each of which has no
14 more than a simple majority of members shall be of the
15 same gender, as follows:

16 ~~---a---Advisory-committee-on-the-operation-of-the~~
17 ~~narrowcast-system---The-advisory-committee-shall-be~~
18 ~~composed-of-members-from-among-the-users-of-the~~
19 ~~narrowcast-system-including-representatives-of~~
20 ~~institutions-under-the-state-board-of-regents,~~
21 ~~community-colleges,-area-education-agencies,-classroom~~
22 ~~teachers,-school-district-administrators,-school~~
23 ~~district-boards-of-directors,-the-department-of~~
24 ~~economic-development,-the-department-of-education,-and~~
25 ~~private-colleges-and-universities-~~

26 ~~---b---Advisory~~ the advisory committee on journalistic
27 and editorial integrity. The division shall be
28 governed by the national principles of editorial
29 integrity developed by the editorial integrity
30 project.

31 Duties of the advisory ~~committees~~ committee, and of
32 additional advisory committees the board may from time
33 to time appoint, shall be specified in rules of
34 internal management adopted by the board.

35 Members of advisory committees shall receive actual
36 expenses incurred in performing their official duties.

37 Sec. 21. NEW SECTION. 476.30 FINDINGS --

38 STATEMENT OF POLICY.

39 The general assembly finds, in addition to other
40 standards for the provision of communications services
41 established in this chapter, all of the following:

42 1. Communications services should be available to
43 all citizens of this state at just, reasonable, and
44 affordable rates.

45 2. Competition should be permitted to function as
46 a substitute for certain aspects of regulation in
47 determining the variety, quality, and pricing of
48 communications services, when it is consistent with
49 the protection of consumers of communications services
50 and the furtherance of other relevant public interests

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1 and goals.

2 3. The utilities board should be authorized to
3 respond with sufficient flexibility to the rapidly
4 changing nature of the communications industry.

5 4. Development of, and prudent investment in,
6 advanced communications networks which foster economic
7 development in this state should be encouraged.

8 Sec. 22. NEW SECTION. 476.30A ALTERNATIVE FORMS
9 OF REGULATION.

10 1. Notwithstanding contrary provisions of this
11 chapter relating to rate-of-return regulation, the
12 board may adopt rules for utilities furnishing
13 communications services which authorize and establish
14 alternative forms of regulation other than rate-of-
15 return regulation. Alternative forms of regulation,
16 if approved by the board, may include provisions for
17 earnings sharing, revenue sharing, rate moratoria,
18 network modernization, incentive plans, or a
19 combination of these. Participation in an alternative
20 form of regulation is optional and at the election of
21 the utility.

22 2. A rate-regulated public utility furnishing
23 communications services may submit and the board may,
24 after notice and opportunity for hearing, approve or
25 modify a plan for an alternative form of regulation
26 specific to that utility. The plan may be applied to
27 any pending proceeding involving the utility. The
28 hearing on the plan may be conducted separately or as
29 part of any pending proceeding involving the utility.
30 If the board modifies the proposed plan, participation
31 in the modified plan for alternative regulation shall
32 be optional and at the election of the utility.

33 3. Before a rate-regulated public utility
34 furnishing communications services can operate under a
35 plan for alternative regulation, the consumer advocate
36 may file a petition under section 476.3, subsection 2.
37 The consumer advocate shall indicate whether a
38 complaint will be filed no later than sixty days after
39 the utility requests permission to operate under a
40 plan for alternative regulation under subsection 2.
41 If the consumer advocate indicates an intent to file a
42 petition, the consumer advocate shall have an
43 additional ninety days to file such petition. A
44 refund or rate adjustment to the customers of such
45 utility which results from a petition filed by the
46 consumer advocate, shall not be affected as a result
47 of the implementation or existence of a plan for
48 alternative regulation.

49 4. A utility participating in an alternative form
50 of regulation must participate for at least two years.

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1 5. The board, in considering a plan for an
2 alternative form of regulation for a utility, shall
3 evaluate the effect of the proposed plan in
4 relationship to all of the following:
5 a. Effecting just, nondiscriminatory, and
6 reasonable rates.
7 b. Provision of high quality, universally
8 available communications services.
9 c. Encouragement of investment in the
10 communications infrastructure, efficiency
11 improvements, and technological innovation.
12 d. The introduction of new communications products
13 and services.
14 e. Regulatory efficiency including reduction of
15 regulatory costs and delays.
16 6. Any utility plan for alternative regulation
17 shall, at a minimum, include all of the following:
18 a. A provision that at least fifty percent of the
19 dollar amounts identified for sharing between the
20 utility and its customers shall be returned to the
21 utility's customers.
22 b. The terms upon which changes in prices for
23 essential communications services may be approved by
24 the board.
25 c. Flexibility in establishing and changing
26 prices, terms, and conditions for nonessential
27 communications services.
28 d. Applicability of the board's service quality
29 standards.
30 e. Reporting of service offerings, prices, and
31 price changes to the board.
32 f. The term of the plan, not to exceed five years;
33 a provision for full board review during the last year
34 of the utility's operation under the plan, with notice
35 and an opportunity for hearing; and an opportunity,
36 not earlier than one year before the end of the plan,
37 for the consumer advocate or the utility to petition
38 for a rate case pursuant to section 476.3, subsection
39 2, or section 476.6.
40 g. The manner in which changes in revenues,
41 expenses, and investment due to exogenous factors
42 beyond the control of the utility may be reflected in
43 rates.
44 7. Notwithstanding the provisions of a plan for
45 alternative regulation, the board shall have authority
46 over both of the following:
47 a. The level, extent, scope, and timing of the
48 unbundling of services by the local exchange utility.
49 b. Appropriate methods for ensuring against cross-
50 subsidization of nonessential services through charges

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1 made for essential services.

2 8. Nothing in this section shall interfere with
3 the right of any person or body politic to file a
4 complaint pursuant to section 476.3, subsection 1,
5 regarding a utility's operation under a plan of
6 alternative regulation.

7 9. The utilities board shall study the effective-
8 ness of any plans for alternative regulation which are
9 approved. A study shall include a description of the
10 plan, identification of the local exchange utility or
11 utilities participating under the plan, and an
12 analysis of the effects of the plan, including but not
13 limited to, the extent to which the plan has generated
14 savings as a result of inducing additional
15 efficiencies by the utility. The results of a study
16 conducted pursuant to this subsection shall be
17 reported to the general assembly by January 15 after
18 the first full year that the plan is in effect.

19 Sec. 23. NEW SECTION. 476.30B PROHIBITED ACTS.

20 A utility electing to participate and submitting an
21 alternative regulation plan pursuant to section
22 476.30A shall not do any of the following:

23 1. Discriminate against another provider of
24 communications services in the pricing of, or by
25 refusing or delaying access to, essential network
26 services of the participating utility's local exchange
27 network.

28 2. Degrade the quality of access or service
29 provided to another provider of communications
30 services.

31 3. Fail to disclose in a timely manner, upon
32 request and pursuant to a protective agreement
33 concerning proprietary information, all information
34 reasonably necessary for the design of network
35 interface equipment or network interface services that
36 will meet the specifications of the participating
37 utility's local exchange network.

38 Sec. 24. NEW SECTION. 476.30C DEFINITIONS.

39 As used in sections 476.30 through 476.30B, unless
40 the context otherwise requires:

41 1. "Essential communications service" means that
42 communications service or equipment necessary for a
43 residential or business end-user to pursue, at a
44 minimum, voice communications on the public network in
45 a manner consistent with community expectations and
46 the public interest as determined by the board.
47 Essential communications services include, at a
48 minimum, basic local telephone service, switched
49 access, 911 and E-911 services, and relay service for
50 communications-impaired persons. The board is

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1 authorized to classify by rule other communications
2 services as essential communications services
3 consistent with this definition.

4 2. "Nonessential communications services" means
5 all communications services subject to the board's
6 jurisdiction not deemed either by statute or by rule
7 as essential communications services.

8 Sec. 25. Section 476.3, subsection 2, Code 1993,
9 is amended by adding the following new unnumbered
10 paragraph:

11 NEW UNNUMBERED PARAGRAPH. Notwithstanding the
12 provisions of this subsection authorizing the consumer
13 advocate to file a petition with the board alleging
14 that a utility's rates are excessive, the consumer
15 advocate shall not file a petition under this
16 subsection which alleges that a local exchange
17 utility's rates are excessive while the local exchange
18 utility is participating in an approved plan of
19 alternative regulation approved by the board pursuant
20 to section 476.30A, except as provided in section
21 476.30A, subsection 6, paragraph "f".

22 Sec. 26. Section 477.1, Code 1993, is amended to
23 read as follows:

24 477.1 RIGHT-OF-WAY.

25 Any person, firm, and corporation, within or
26 without the state, may construct a telegraph or
27 telephone line or cable system along the public roads
28 of the state, or across or under the rivers or over,
29 under, or through any lands belonging to the state or
30 any private individual, and may erect or install
31 necessary fixtures. The state may construct Parts I
32 and II and a certified local exchange telephone
33 company may construct Part III of the state
34 communications network established in division V of
35 chapter 18 along the public roads of the state, and
36 private ways, or across or under the rivers or over,
37 under, or through any lands belonging to a private
38 person or individual, and may erect or install
39 necessary equipment and fixtures on such property
40 including installing and maintaining equipment in
41 structures at an endpoint, and at other points along
42 the network. However, construction of a telegraph or
43 telephone line or cable system along a primary road is
44 subject to rules adopted by the state department of
45 transportation.

46 Sec. 27. INITIAL BOARD CHAIRPERSON.

47 Notwithstanding the provision of section 18.133A,
48 subsection 3, the initial chairperson of the board
49 shall be appointed by the governor from the membership
50 of the board for a two-year term."

By MICHAEL E. GRONSTAL

S-3762 FILED MAY 1, 1993

SENATE FILE 417

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1 Amend Senate File 417 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 18.133, subsection 1, Code
5 1993, is amended by striking the subsection and
6 inserting in lieu thereof the following:

7 1. "Board" means the Iowa communications network
8 board.

9 Sec. 2. Section 18.133, subsections 2 and 3, Code
10 1993, are amended to read as follows:

11 2. "Private agency" means accredited nonpublic
12 schools, and nonprofit institutions of higher
13 education eligible for tuition grants, and hospitals
14 licensed pursuant to chapter 135B.

15 3. "Public agency" means a state agency, a school
16 corporation, a city library, a regional library as
17 provided in chapter 303B, and a county library as
18 provided in chapter 336, and agencies of the federal
19 government not including the United States postal
20 service or any United States post office.

21 Sec. 3. NEW SECTION. 18.133A IOWA COMMUNICATIONS
22 NETWORK BOARD.

23 1. An Iowa communications network board is
24 established within the department of commerce with the
25 sole authority to supervise the management and
26 operation of the network. The board shall ensure that
27 the network operates in an efficient and responsible
28 manner consistent with the provisions of this chapter
29 for the purpose of providing the best economic service
30 attainable to the users consistent with the state's
31 financial capacity. The use of the Iowa
32 communications network is subject to the review and
33 approval of the board. Such review and approval by
34 the board shall provide for the centralized,
35 coordinated use and control of the network. The board
36 may contract with appropriate vendors for the
37 maintenance, operation, management, and development of
38 the technical aspects and uses of Part I and Part II
39 of the network in a manner consistent with this
40 chapter for the purpose of providing the best services
41 attainable to the users consistent with the state's
42 financial capacity.

43 2. The communications division of the department
44 of general services shall provide sufficient resources
45 and staff to the board and to the department of
46 commerce to carry out all board responsibilities.

47 3. The board consists of nine members appointed by
48 the governor, subject to senate confirmation. The
49 members shall be citizens of the state who have
50 substantial knowledge of the subjects related to the

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1 state communications network. Members of the board
2 shall not have any interest, financially or otherwise,
3 in any entity related to or associated with any
4 activity concerning the planning, development,
5 operation, or maintenance of Part I or Part II of the
6 network as provided in chapter 68B. Members of the
7 board also shall not serve in any manner or be
8 employed by an interest or institution the interests
9 of which are represented by a member of the
10 educational telecommunications council established in
11 subsection 4. The appointments shall be based upon
12 the training, experience, and capacity of the
13 appointees in areas including, but not limited to,
14 public utility regulation, telecommunications, and
15 education issues related to the network. Members of
16 the board shall serve four-year staggered terms as
17 designated by the governor and appointments to the
18 board are subject to sections 69.16, 69.16A, and
19 69.19. Members shall receive actual and necessary
20 expenses and a per diem as provided in section 7E.6.
21 However, a member who is also a state employee shall
22 only receive the member's actual and necessary
23 expenses.

24 4. An educational telecommunications council is
25 established to advise the Iowa communications network
26 board concerning the educational telecommunication
27 applications of the system and other matters as
28 assigned by the board. The council consists of seven
29 members to be appointed by the board. The seven
30 members shall include one person representing the
31 state board of regents; one person representing the
32 department of education; one person representing the
33 community colleges; one person representing public
34 libraries; one person representing school districts;
35 one person representing the area education agencies;
36 and one person representing private colleges. The
37 council shall make long range plans for enhancements
38 needed for educational applications. Administrative
39 support and staffing for the council shall be provided
40 by the department of education.

41 The board shall establish a users' committee which
42 is broadly representative of users of the network to
43 advise the council and the board concerning
44 telecommunications applications. The council shall
45 also consult with any regional committees established
46 for educational telecommunications.

47 Sec. 4. NEW SECTION. 18.133B ANNUAL REPORT TO
48 LEGISLATURE.

49 The Iowa utilities board, the consumer advocate,
50 and the Iowa communications network board shall

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1 cooperate to produce a report to be delivered to the
2 governor and the general assembly no later than
3 December 31 of each year. The report shall include a
4 review of the effect of the state communications
5 network on the citizens of this state in relation to
6 the rates paid for intrastate telecommunications
7 service and the financial impact of the state
8 communications network on the state's public
9 telecommunications utilities. Additionally, the
10 report shall include information related to the number
11 of users on the network, the hours of use, a listing
12 of new users added to the network during the previous
13 year, a detailed accounting of how any amounts
14 appropriated for the Iowa communications network are
15 expended, other relevant financial information, and
16 other information deemed appropriate by the Iowa
17 utilities board, the consumer advocate, or the state
18 communications network board.

19 Sec. 5. Section 18.134, Code 1993, is amended by
20 adding the following new subsection:

21 NEW SUBSECTION. 3. The use of any switching
22 equipment used for routing traffic on the network
23 shall be governed by the policies adopted by the Iowa
24 communications network board.

25 Sec. 6. NEW SECTION. 18.134A DISPOSITION OF
26 NETWORK -- LEGISLATIVE APPROVAL.

27 Notwithstanding any provision to the contrary, the
28 Iowa communications network board or the department of
29 general services shall not sell, lease, or otherwise
30 dispose of any component part of Part I or II of the
31 system without prior authorization by a constitutional
32 majority of each house of the general assembly and
33 approval by the governor.

34 Sec. 7. Section 18.135, Code 1993, is amended to
35 read as follows:

36 18.135 RULES.

37 The director board shall adopt rules relating to
38 the state communications network and its use in
39 accordance with this chapter, respecting the rights of
40 a public or private educational agency to determine
41 the contents of its educational program and its rights
42 to control its classrooms and teleconferencing
43 facility. Rules adopted by the board shall not
44 abridge the academic freedom of institutions offering
45 programs through the network. Rules adopted by the
46 board shall also not abridge or modify agreements
47 between an educator and an educational institution
48 related to any copyright, patent, invention, software,
49 instruction, instructional programming, or other
50 intellectual property interest. However, a public or

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1 private agency which is connected to the
2 communications network, as a condition to such
3 connection, shall establish procedures, terms, and
4 conditions governing the use of its teleconferencing
5 classroom or center by others in a manner which
6 provides reasonable access to educational
7 telecommunications applications available through the
8 network. The board shall adopt rules relating to this
9 provision, but shall not interfere with the prior
10 right of the public or private agency to use, manage,
11 or control such teleconferencing classroom or center.
12 The ~~director~~ board shall also adopt and provide for
13 standard communications procedures and policies to be
14 used by state agencies. However, rules adopted by the
15 board relating to state communications which are not
16 part of the network shall not apply to public
17 universities governed by the state board of regents.

18 Sec. 8. Section 18.136, subsections 1, 2, 3, 4, 8,
19 11, 12, and 14, Code 1993, are amended to read as
20 follows:

21 1. Moneys in the state communications network fund
22 are appropriated to the Iowa public broadcasting board
23 for purposes of providing financing for the
24 procurement, operation, and maintenance of a state
25 communications network with sufficient capacity to
26 serve the video, data, and voice requirements of state
27 agencies and the educational telecommunications
28 system. The treasurer of state, the department of
29 general services, the Iowa public broadcasting board,
30 the Iowa communications network board, and other
31 parties to any financing agreement for the network may
32 enter into a state communications network fund
33 agreement as to the application of proceeds of the
34 fund and procedures for the payment of amounts due
35 under the financing agreement from the state
36 communications network fund. The state communications
37 network consists of Part I, Part II, and Part III of
38 the system.

39 2. For purposes of this section, unless the
40 context otherwise requires:

41 a. "Part I of the system" means the communications
42 connections between and including the central
43 switching and the regional switching centers' centers'
44 equipment for the remainder of the network as
45 designated by the board.

46 b. "Part II of the system" means the
47 communications connections between and including the
48 regional switching centers' centers' equipment and the
49 secondary-switching-centers points of presence as
50 designated by the board including the network

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1 equipment at these points of presence. There shall be
2 a minimum of one point of presence in each county.

3 c. "Part III of the system" means the
4 communications connection between the secondary
5 switching-centers point of presence and the end points
6 at the agencies defined in section 18.133, subsections
7 2 and 3 and-4.

8 d. "State communications network" or "network"
9 means Part I, Part II, and Part III of the system.

10 3. The financing for the procurement costs for the
11 entirety of Part I of the system, and the video, data,
12 and voice capacity for state agencies for Part II and
13 Part III of the system, shall be provided by the
14 state. The financing for the procurement costs for
15 Part II of the system shall also be provided eighty
16 percent-from by the state and-twenty-percent-from-the
17 ~~community-colleges-for-the-areas-in-which-Part-II-of~~
18 ~~the-system-is-located---The-basis-for-the-state-match~~
19 ~~is-eighty-percent-of-a-single-interactive-video-and~~
20 ~~interactive-audio-for-Parts-I-and-II-of-the-system;~~
21 ~~and-such-data-and-voice-capacity-as-is-necessary. The~~
22 financing for the procurement-and-maintenance lease
23 costs for Part III of the system shall be provided
24 eighty-percent-from by the state and-twenty-percent
25 ~~from-the-local-school-boards-of-the-areas-which~~
26 ~~receive-transmissions-from-the-system. The-local~~
27 ~~school-boards-may-meet-all-or-part-of-the-match~~
28 ~~requirements-of-Part-III-of-the-system-through-a~~
29 ~~cooperative-arrangement-with-community-colleges. The~~
30 basis for the amount of state match financing is
31 eighty one hundred percent of a single interactive
32 audio and one-way interactive video connection for
33 Part III of the system, and such data and voice
34 capacity as is necessary. ~~The-local-school-boards-and~~
35 ~~community-colleges-may-meet-the-match-requirements-for~~
36 ~~Part-II-and-Part-III-of-the-system-from-funds-they~~
37 ~~have-already-spent-for-their-systems,-from-funds~~
38 ~~available-in-the-school-budget,-or-from-funds-received~~
39 ~~from-other-nonstate-sources---in-the-case-of-existing~~
40 ~~systems,-in-order-to-upgrade-facilities-to-the~~
41 ~~specifications-of-the-state-communications-network,~~
42 ~~the-local-school-boards-and-community-colleges,-in~~
43 ~~lieu-of-a-cash-match,-may-meet-the-match-requirements~~
44 ~~from-funds-they-have-already-spent-for-their-systems~~
45 ~~provided-that-the-state-match-does-not-exceed-the~~
46 ~~lesser-of-eighty-percent-of-the-total-cost-of-the~~
47 ~~upgraded-system-or-eighty-percent-of-the-replacement~~
48 ~~cost-of-the-system---The-communications-equipment~~
49 ~~funds-used-as-a-match-by-a-community-college-shall-be~~
50 ~~calculated-based-on-verified-expenditures-for-capita;~~

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1 equipment, hardware, and software for long distance
2 learning technologies, including both audio and visual
3 transmission. The communications equipment used as a
4 match shall not subsequently be used as a match by
5 another educational entity or for another part of the
6 system. A local school board may request the school
7 budget review committee to adjust the allowable growth
8 for the school district so that the resulting increase
9 in budget could be used for the match. A local school
10 board shall determine the type of classroom facility
11 to be provided and the type of facility or equipment
12 to be used in providing the connection to the school
13 or the classroom. If a local school board elects to
14 provide one hundred percent of the financing for the
15 lease costs for Part III, the school district may
16 become part of the system as soon as the network can
17 reasonably connect it. A local school board may also
18 elect that the school district not to become part of
19 the system. Such election shall be made on an annual
20 basis. State matching funds shall not be provided for
21 Part III of the system until Part I and Part II of the
22 system have been completed. Leasing of Part III of
23 the system may proceed before Part I and Part II of
24 the system have been completed as determined by the
25 board.

26 4. The department of general services Iowa
27 communications network board shall develop the
28 requests for proposals that are needed for a state
29 communications network with sufficient capacity to
30 serve the video, data, and voice requirements of state
31 agencies and the educational telecommunications
32 applications required by the Iowa public broadcasting
33 communications network board. The department shall
34 develop a request for proposals for each of the
35 systems that will make up the network. The utilities
36 board shall provide technical assistance to the Iowa
37 communications network board in the development of the
38 request for proposals. The department may Iowa
39 communications network board shall develop a request
40 for proposals for each definitive component of Part I,
41 Part II, and Part III of the system as provided in
42 this section, or the department board may provide in
43 the request for proposals for each such system that
44 separate contracts may shall be entered into for each
45 definitive component covered by the request for
46 proposals. The requests for proposals for components
47 of Parts I and II of the system may be for the
48 purchase, lease-purchase, or lease of the component
49 parts of the system, may require maintenance costs to
50 be identified, and the resulting contract may provide

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1 for maintenance for parts of the system. The master
2 contract may provide for electronic classrooms,
3 satellite equipment, receiving equipment, studio and
4 production equipment, and other associated equipment
5 as required.

6 The state shall lease all component parts for Part
7 III of the system from qualified providers. A
8 component of Part III shall not be owned by the state.
9 The board shall develop a statewide plan for leasing
10 of the components of Part III. The board must approve
11 a Part III statewide leasing plan before Part III of
12 the system may proceed. The board is authorized to
13 review the terms of any lease entered into related to
14 Part III of the system. However, a local school
15 district is not required to be included in the
16 statewide Part III leasing plan if the local school
17 board elects to provide one hundred percent of the
18 financing for the lease costs related to Part III.

19 Nothing in this section shall preclude a school
20 corporation from using or upgrading existing
21 facilities for use in the corporation's own district
22 or region for Part III of the system which meet the
23 specifications of the state communications network and
24 provide interactive audio and interactive video and
25 such data and voice capacity as is necessary.

26 A certified local exchange telephone company with
27 fewer than fifteen thousand access lines shall have
28 the right to provide through a lease with a school
29 corporation or a public library located within the
30 company's service territory any required individual
31 facility from a point of presence to an end point to
32 be used for providing any component of Part III. The
33 lease rate for a school corporation or a public
34 library for each component of Part III of the system
35 is limited to a fixed periodic fee to cover a ten-year
36 amortization of the capital cost of new facilities,
37 including the placement and construction of such
38 facilities, to serve the school corporation or public
39 library and the actual ongoing costs of providing
40 service, including costs for maintenance, repairs,
41 taxes, and other costs directly related to leasing a
42 component of Part III of the system to the school
43 corporation or public library. Such amortization
44 shall be based upon the actual cost of the financing
45 for such facilities. The certified local exchange
46 telephone company shall not assess a school
47 corporation or public library any toll charge for
48 communications transmitted entirely on the state
49 communications network.

50 A certified local exchange telephone company with

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1 fewer than fifteen thousand access lines shall have
2 the right to provide through a lease with a public or
3 private agency which is an authorized user, other than
4 a school corporation or public library located within
5 the company's service territory, any required
6 individual facility from a point of presence to an end
7 point to be used for providing any component of Part
8 III. The lease rate for such authorized user for each
9 component of Part III of the system is limited to a
10 fixed periodic fee to cover a ten-year amortization of
11 the capital cost of new facilities to serve such
12 authorized user; and the actual ongoing costs of
13 providing service, including costs for maintenance,
14 repairs, taxes, and other costs directly related to
15 leasing a component of Part III of the system to such
16 authorized user; and may include a reasonable return
17 on the unamortized balance of the capital costs.

18 A certified local exchange telephone company with
19 fewer than fifteen thousand access lines shall have
20 ninety days, from the date an authorized user has
21 requested that the local exchange telephone company
22 provide through a lease the required facilities
23 related to Part III of the network, to notify such
24 user as to whether the local exchange telephone
25 company elects to provide the required facilities. If
26 a certified local exchange telephone company with
27 fewer than fifteen thousand access lines elects not to
28 provide required facilities pursuant to a lease with
29 an authorized user as provided by this subsection, the
30 Iowa communications network board shall develop a
31 request for proposals for lease of the required
32 facilities. The board shall determine the form and
33 content of the request for proposals and shall
34 determine which proposal will be accepted for
35 providing the required facilities. Proposals may be
36 submitted by any qualified person including other
37 certified local exchange telephone companies.
38 However, a proposal shall not be submitted by the
39 certified local exchange telephone company electing
40 not to provide such facilities pursuant to this
41 subsection.

42 For all private agencies and public agencies
43 located in an area served by a certified local
44 exchange telephone company with fifteen thousand or
45 more access lines, proposals for providing the
46 components of Part III of the system may be submitted
47 by any qualified person. Notwithstanding the terms of
48 any lease agreement entered into between a qualified
49 person and a school corporation located in an area
50 served by a certified local exchange telephone company

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1 with fifteen thousand or more access lines, the school
2 district shall not be assessed any toll charge for
3 communications transmitted entirely on the state
4 communications network.

5 The periodic lease rate for each component shall be
6 reviewed by the Iowa communications network board for
7 compliance with reasonable norms established by rule.
8 The Iowa communications network board may reject a
9 lease rate proposal made by a certified local exchange
10 telephone company with fewer than fifteen thousand
11 access lines related to providing a component part for
12 Part III of the system if the board determines that
13 the rate is unreasonable. The board shall notify the
14 company of such rejection and the company may resubmit
15 an alternative lease rate proposal in the same manner
16 as the original proposal within forty-five days of
17 receipt of the notice of the rejection.

18 For purposes of this section, "new facilities" for
19 purposes of determining the capital cost to be
20 amortized in establishing the lease rate are those
21 facilities which are procured, installed, or
22 constructed to provide Part III of the system to a
23 user on or after the date such user certifies to the
24 board, in a manner as determined by the board, that
25 the user is ready to be connected to the network.

26 ~~8. The Iowa public broadcasting board retains sole~~
27 ~~authority over the educational telecommunications~~
28 ~~applications of Part I of the system, and its~~
29 ~~authority shall include management and operational~~
30 ~~control, programming, budget, personnel, scheduling,~~
31 ~~and program switching of educational material carried~~
32 ~~by Part I of the system educational telecommunications~~
33 ~~council shall coordinate the educational~~
34 ~~telecommunication applications of the system pursuant~~
35 ~~to the rules adopted by the Iowa communications~~
36 ~~network board, including scheduling and program~~
37 ~~switching of educational material carried by the~~
38 ~~system. The Iowa public broadcasting board, through~~
39 ~~its narrowcast system advisory committee, retains~~
40 ~~coordination authority over the educational~~
41 ~~telecommunications applications of Part II and Part~~
42 ~~III of the system. Community colleges are responsible~~
43 ~~for scheduling and switching of educational materials~~
44 ~~carried by Part II and Part III of the system within~~
45 ~~their respective areas. Such responsibility may be~~
46 ~~accomplished by a chapter 28E agreement with the~~
47 ~~department of general services. Scheduling of~~
48 ~~educational applications on the system shall be~~
49 ~~administered by Iowa public television pursuant to~~
50 ~~rules adopted by the board.~~

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1 ~~The narrowcast-system-advisory-committee council~~
2 shall review all requests for grants for facilities
3 made by public agencies for educational
4 telecommunications applications, if they-are-a-part-of
5 the-state the proposed activities involve the use of
6 or a connection to the state communications network,
7 to ensure that the educational-telecommunications
8 application-is objectives of the grants are consistent
9 with the telecommunications plan. If the narrowcast
10 system-advisory-committee council recommends to the
11 Iowa communications network board, and the Iowa
12 communications network board finds that a grant
13 request is inconsistent with the telecommunications
14 plan, the grant request shall not be allowed.

15 11. The fees charged for use of the network by an
16 authorized user for educational telecommunications
17 shall be based on the ongoing operational and
18 maintenance costs of the network only.

19 12. The Iowa public-broadcasting communications
20 network board, in consultation with its narrowcast
21 system-advisory-committee, shall determine the fee
22 fees to be charged per course-or-credit hour by the
23 state for Parts I, II, and III of the system to the
24 originating-institution, and the public and private
25 agencies authorized to use the system. The fees shall
26 be substantially the same for comparable courses uses
27 and authorized users. An authorized user of the
28 system may request a hearing pursuant to section 476.3
29 on a fee approved by the Iowa communications network
30 board.

31 14. Notwithstanding chapter 476, the provisions of
32 chapter 476 shall not apply to a public utility in
33 furnishing a telecommunications service or facility to
34 the department of general services for any part of the
35 state communications network.

36 Sec. 9. Section 18.136, Code 1993, is amended by
37 adding the following new subsections:

38 NEW SUBSECTION. 13A. a. Access to the network
39 shall be offered to agencies of the federal
40 government, not including the United States postal
41 service or any United States post office. An agency
42 of the federal government shall contribute, at a
43 minimum, an amount consistent with its share of use
44 for the part of the system in which the entity
45 participates, as determined by the Iowa communications
46 network board. Access to the network shall be
47 provided pursuant to a lease unless such lease would
48 be prohibited by any of the following:

49 (1) Federal law.

50 (2) Rule or regulation of the federal agency.

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1 (3) Policy of the federal agency.

2 (4) Lack of funding which prevents an ongoing
3 lease arrangement from being entered into.

4 If the Iowa communications network board determines
5 that a lease is prohibited as provided in this
6 paragraph, the board may still permit an agency of the
7 federal government access to the network upon a
8 showing by the federal agency to the board that
9 sufficient federal funding is available to pay for the
10 costs of connection to the network.

11 b. Access shall be offered to hospitals licensed
12 pursuant to chapter 135B. A hospital shall
13 contribute, at a minimum, an amount consistent with
14 its share of use for the part of the system in which
15 the hospital participates as determined by the Iowa
16 communications network board. Access to Parts I and
17 II of the network shall be offered to hospitals
18 licensed pursuant to chapter 135B for education and
19 distance learning applications; continuing medical
20 education applications; diagnostic, clinical, and
21 consultative services which require the use of
22 interactive video, the transmission of high quality
23 images, or the combination of text, video, visual, or
24 graphic information; the transmission of payments and
25 claims information to and from the medicaid program
26 established under Title XVIII of the federal Social
27 Security Act and the medical assistance (medicare)
28 program established pursuant to chapter 249A, the
29 health data commission or its successor agency, the
30 Iowa department of public health, and the community
31 health management information system, where such
32 information transmission assists in satisfying an
33 information-gathering duty assigned by statute; and
34 the transmission of government payments and claims
35 information to hospitals. This paragraph is repealed
36 effective June 30, 2003.

37 NEW SUBSECTION. 13B. Access shall not be provided
38 to any other entity pursuant to a chapter 28E or other
39 agreement except as expressly provided for by this
40 section.

41 NEW SUBSECTION. 13C. Notwithstanding the
42 provisions of subsection 4 regarding the lease of all
43 component parts for Part III of the system, an
44 authorized user may purchase a wireless system
45 utilizing a portion of the electromagnetic spectrum
46 allocated by the federal communications commission.
47 An authorized user eligible to receive state funding
48 for the provision of the component parts for Part III
49 of the system, as provided in subsection 3, may also
50 utilize such wireless system. If such authorized user

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1 determines to use such wireless system, the user shall
2 inform the board of the decision to utilize such
3 wireless system and the board shall develop a request
4 for proposals for providing such system. The wireless
5 system may be provided under a lease, lease-purchase
6 agreement, or a purchase of the wireless
7 communications system.

8 NEW SUBSECTION. 13D. Notwithstanding subsection
9 13B, access to and use of Part III of the network
10 shall not be limited so long as the transmission
11 facilities are owned and operated by a nongovernmental
12 entity.

13 Sec. 10. NEW SECTION. 18.137A DISPOSITION OF
14 INVESTMENT INTEREST EARNED.

15 Interest income earned on investment of funds
16 contained in the state communications network fund
17 shall be credited by the treasurer of state to the
18 state communications network fund to be used only for
19 making additional payments above and beyond those
20 scheduled to be made for the repayment of debt related
21 to Parts I and II of the system when permissible under
22 any financing agreement.

23 Sec. 11. Section 256.7, subsection 9, unnumbered
24 paragraph 1, Code 1993, is amended to read as follows:

25 Adopt rules under chapter 17A for the use of
26 telecommunications as an instructional tool for
27 students enrolled in kindergarten through grade twelve
28 and served by local school districts, accredited or
29 approved nonpublic schools, area education agencies,
30 community colleges, institutions of higher education
31 under the state board of regents, and independent
32 colleges and universities in elementary and secondary
33 school classes and courses. The rules shall include
34 but need not be limited to rules relating to programs,
35 educational policy, instructional practices, staff
36 development, use of pilot projects, curriculum
37 monitoring, and the accessibility of licensed
38 teachers. The rules shall encourage innovative use of
39 educational telecommunications to meet student needs.
40 The rules shall not abridge or modify agreements
41 between an educator and an educational institution
42 related to any copyright, patent, invention, software,
43 instruction, instructional programming, or other
44 intellectual property interest.

45 Sec. 12. Section 256.9, Code 1993, is amended by
46 adding the following new subsection:

47 NEW SUBSECTION. 52. Provide technical assistance
48 to users of the educational telecommunications system,
49 coordinate staff development activities for
50 educational users, and provide assistance in policy

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1 development to local and area education agencies for
2 the use of educational telecommunications.

3 Sec. 13. NEW SECTION. 256.29 LOAN FOR
4 TELECOMMUNICATIONS EQUIPMENT.

5 1. Notwithstanding sections 257B.1 and 257B.1A,
6 for the fiscal year beginning July 1, 1993, from
7 moneys designated as the permanent school fund of the
8 state in section 257B.1, a merged area may obtain a
9 loan to be used to pay for equipment to be located at
10 the merged areas to enable the merged area to
11 participate in a system which serves the educational
12 needs of children of the state through
13 telecommunications. The department of revenue and
14 finance shall transfer funds from the permanent school
15 fund to the Iowa communications network training and
16 operations fund upon receipt of a written request from
17 the board of directors of a merged area up to the
18 following amounts:

19	a. Merged Area I	\$	153,535
20	b. Merged Area II	\$	134,343
21	c. Merged Area III	\$	95,960
22	d. Merged Area IV	\$	76,768
23	e. Merged Area V	\$	172,727
24	f. Merged Area VI	\$	76,768
25	g. Merged Area VII	\$	95,960
26	h. Merged Area IX	\$	76,768
27	i. Merged Area X	\$	134,343
28	j. Merged Area XI	\$	211,111
29	k. Merged Area XII	\$	115,152
30	l. Merged Area XIII	\$	134,343
31	m. Merged Area XIV	\$	153,535
32	n. Merged Area XV	\$	191,919
33	o. Merged Area XVI	\$	76,768

34 2. Loan moneys received under this section that
35 are not expended during the fiscal year beginning July
36 1, 1993, are available for expenditure during the
37 fiscal year beginning July 1, 1994.

38 Sec. 14. NEW SECTION. 256.36A MEDIA AND
39 EDUCATIONAL SERVICES FUND.

40 A media and educational services fund is
41 established in the treasurer's office under the
42 control of the department of education. Moneys
43 deposited in the fund shall be used for the
44 development of staff development programs for use on
45 the state communications network, and for the
46 development of programs to assist teachers in the use
47 of, and teaching on, the state communications network.

48 Sec. 15. If the actual taxable valuation of real
49 property in the state is at least one-half of one
50 percent more than the estimated taxable valuation used

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1 for determining property tax payments in the fiscal
 2 year beginning July 1, 1993, resulting in a decrease
 3 in the amount of general fund expenditures for
 4 foundation aid payments pursuant to chapter 257, there
 5 is appropriated from the general fund of the state to
 6 the department of education for the fiscal year
 7 beginning July 1, 1993, and ending June 30, 1994, the
 8 following amount, or so much thereof as may be
 9 necessary, to be used for the purpose designated:

10 1. Notwithstanding chapter 260D, to merged areas
 11 as defined in section 260C.2, for educational training
 12 and for ongoing operational expenses related to
 13 participation in the state communications network,
 14 including but not limited to maintenance costs, repair
 15 costs, cost of necessary equipment, and other
 16 necessary expenditures:

17 \$ 2,000,000

18 The funds appropriated in this subsection shall be
 19 allocated as follows:

20	a. Merged Area I	\$	161,616
21	b. Merged Area II	\$	141,414
22	c. Merged Area III	\$	101,010
23	d. Merged Area IV	\$	80,808
24	e. Merged Area V	\$	181,818
25	f. Merged Area VI	\$	80,808
26	g. Merged Area VII	\$	101,010
27	h. Merged Area IX	\$	80,808
28	i. Merged Area X	\$	141,414
29	j. Merged Area XI	\$	222,222
30	k. Merged Area XII	\$	121,212
31	l. Merged Area XIII	\$	141,414
32	m. Merged Area XIV	\$	161,616
33	n. Merged Area XV	\$	202,020
34	o. Merged Area XVI	\$	80,810

35 2. If the increase in taxable valuation is less
 36 than one-half of one percent as provided in subsection
 37 1, then the actual amount appropriated pursuant to
 38 this section shall be reduced proportionally by the
 39 percentage represented by the actual percent increase
 40 in taxable valuation divided by one-half of one
 41 percent.

42 Sec. 16. NEW SECTION. 260C.80 IOWA
 43 COMMUNICATIONS NETWORK TRAINING AND OPERATIONS FUND.

44 1. An Iowa communications network training and
 45 operations fund is established in the office of the
 46 treasurer of state under the control of the department
 47 of education. Moneys deposited in the fund from
 48 sources other than the permanent school fund of the
 49 state shall be used to reimburse the permanent school
 50 fund of the state, as provided in subsection 3, for

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1 amounts transferred to the merged areas pursuant to
2 section 256.29, costs of educational training, costs
3 associated with the state communications network, and
4 for other necessary expenditures related to the
5 network. All moneys deposited in the fund are subject
6 to appropriation by the general assembly.

7 2. It is the intent of the general assembly that
8 the amounts deposited into this fund be appropriated
9 for educational training related to use of the state
10 communications network and for ongoing operational
11 expenses related to participation in the state
12 communications network, including maintenance costs,
13 repair costs, costs of necessary equipment, and other
14 necessary expenditures. It is the intent of the
15 general assembly that amounts in the fund be
16 appropriated for the merged areas' participation in
17 the state communications network.

18 3. Notwithstanding any other provision of chapter
19 260E to the contrary, for a period of ten years beyond
20 the scheduled maturity of certificates issued under
21 chapter 260E prior to July 1, 1993, an amount equal to
22 the new jobs credit from withholding for each employer
23 which has entered into a new jobs training agreement
24 shall be deposited in the Iowa communications network
25 training and operations fund from amounts paid to the
26 treasurer of state by employers who have entered into
27 new jobs training agreements. Amounts in the Iowa
28 communications network training and operations fund
29 shall be used by the department for the payment of
30 principal and interest, pursuant to a schedule as
31 determined by the department of management, on amounts
32 transferred from the permanent school fund of the
33 state to a merged area pursuant to section 256.29.
34 Any unencumbered funds may be appropriated for the
35 purposes identified in subsection 2.

36 Sec. 17. Section 273.3, Code 1993, is amended by
37 adding the following new subsection:

38 NEW SUBSECTION. 20. Be authorized to purchase
39 equipment as provided in section 279.48.

40 Sec. 18. NEW SECTION. 279.48 EQUIPMENT PURCHASE.

41 The board of directors of a school corporation may
42 purchase equipment, and may enter into a contract and
43 issue a note to pay for the equipment. The note must
44 mature within five years and bear interest at a rate
45 to be determined by the board of directors in the
46 manner provided in section 74A.3, subsection 1. The
47 board of directors, by resolution, shall provide for
48 the form of the contract and note. Principal and
49 interest on the note must be payable from budgeted
50 receipts in the current budget for each year of a

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1 period of up to five years.

2 Sec. 19. Section 298.3, subsection 3, Code 1993,
3 is amended to read as follows:

4 3. The purchase of buildings and the purchase of a
5 ~~single-unit-of~~ equipment or a technology system
6 exceeding five thousand dollars in value.

7 Sec. 20. Section 303.77, subsection 3, Code 1993,
8 is amended to read as follows:

9 3. The board shall appoint at least two one
10 ~~advisory committees~~ committee, each of which has no
11 more than a simple majority of members shall be of the
12 same gender, as follows:

13 ~~---a---Advisory-committee-on-the-operation-of-the~~
14 ~~narrowcast-system---The-advisory-committee-shall-be~~
15 ~~composed-of-members-from-among-the-users-of-the~~
16 ~~narrowcast-system-including-representatives-of~~
17 ~~institutions-under-the-state-board-of-regents,~~
18 ~~community-colleges,-area-education-agencies,-classroom~~
19 ~~teachers,-school-district-administrators,-school~~
20 ~~district-boards-of-directors,-the-department-of~~
21 ~~economic-development,-the-department-of-education,-and~~
22 ~~private-colleges-and-universities-~~

23 ~~---b---Advisory~~ the advisory committee on journalistic
24 and editorial integrity. The division shall be
25 governed by the national principles of editorial
26 integrity developed by the editorial integrity
27 project.

28 Duties of the advisory ~~committees~~ committee, and of
29 additional advisory committees the board may from time
30 to time appoint, shall be specified in rules of
31 internal management adopted by the board.

32 Members of advisory committees shall receive actual
33 expenses incurred in performing their official duties.

34 Sec. 21. Section 476.1, unnumbered paragraph 4,
35 Code 1993, is amended to read as follows:

36 Mutual telephone companies in which at least fifty
37 percent of the users are owners, co-operative
38 telephone corporations or associations, telephone
39 companies having less than fifteen thousand customers
40 and less than fifteen thousand access lines,
41 municipally owned utilities, and unincorporated
42 villages which own their own distribution systems are
43 not subject to the rate regulation provided for in
44 this chapter. Rate-regulated telephone companies
45 shall be regulated as set forth in section 476.1E.

46 Sec. 22. NEW SECTION. 476.1E REGULATION OF RATE-
47 REGULATED TELEPHONE COMPANIES.

48 1. For purposes of this section, the following
49 terms are defined:

50 a. "Basic local exchange rate" means the flat

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1 monthly charge for an access line, whether the service
2 is provided on a flat or measured basis, imposed by a
3 rate-regulated telephone company for basic local
4 exchange service. Basic local exchange rate does not
5 include any charges resulting from action by a federal
6 agency or taxes imposed by a governmental body which
7 are billed by a telephone company to its customers.

8 b. "Basic local exchange service" means the access
9 and transmission of two-way switched voice
10 communications within a local exchange area.

11 c. "Business service" means telecommunications
12 service which is used for occupational, professional,
13 or institutional purposes.

14 d. "Extended service area" means a grouping of two
15 or more exchanges which allows customers of one
16 exchange in the group to place and receive two-way
17 switched communications to and from customers in one
18 or more other exchanges in the group without an
19 interexchange toll charge.

20 e. "Interexchange service" means the access and
21 transmission of communications between two or more
22 local exchange areas, except for two-way switched
23 communications between local exchanges that are
24 included in the same extended service area.

25 f. "Local exchange area" means a territorial unit
26 established by a telephone company for the
27 administration of communications services within a
28 specific area generally encompassing a city and its
29 environs as described in maps filed with and approved
30 by the board.

31 g. "Residence service" means telecommunications
32 service which is furnished to a dwelling and which is
33 used for personal or domestic purposes and not for
34 business, professional, or institutional purposes.

35 2. Rate-regulated telephone companies are subject
36 to rate regulation under this section but are not
37 subject to rate regulation otherwise provided in this
38 chapter. Rate-regulated telephone companies shall
39 file rate lists for their telecommunications services
40 which shall be effective after ten days' notice to the
41 board, with the exception of monthly rates for basic
42 local exchange services.

43 3. The board shall retain authority over the
44 level, extent, scope, and timing of the unbundling of
45 services by a rate-regulated telephone company. The
46 board shall retain authority over matters concerning
47 dialing arrangements. The board shall also retain
48 authority, for purposes of establishing a price floor
49 for a local exchange carrier service, over the pricing
50 of components a rate-regulated telephone company

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1 charges a competing provider of communications
2 services for essential network services.

3 4. Notwithstanding the provisions of this section,
4 access charges imposed by an interexchange carrier for
5 access to a local exchange network for the purpose of
6 providing interexchange service shall be as agreed to
7 by the interexchange carrier and the rate-regulated
8 telephone company. The Iowa utilities board shall,
9 upon application by any affected interexchange carrier
10 or rate-regulated telephone company, review the access
11 charges. Upon receipt of the proper application by
12 the board, the board shall, unless otherwise agreed to
13 by all affected parties, hold and complete a hearing
14 on the application. The hearing shall be held within
15 sixty days of the application. The board may, within
16 sixty days of the close of the hearing, enter an order
17 setting access charges which are fair and reasonable.

18 5. In setting rates for interexchange services,
19 telephone companies that provide such services shall
20 continue to average their rates for all such services
21 on a statewide basis until December 31, 1995, unless
22 the board, upon application and hearing, orders
23 otherwise. This subsection does not prohibit volume
24 discounts or other discounts based on reasonable
25 business purposes. Nothing in this section shall
26 preempt or affect any right, liability, cause of
27 action, duty, or obligation arising from any law with
28 regard to unfair business practices or anticompetitive
29 activity with regard to interexchange services.

30 6. The board shall retain quality of service
31 regulation over the services provided by all telephone
32 companies and shall investigate and resolve customer
33 complaints concerning quality of service, customer
34 deposits, and disconnection of service. If the
35 complaint cannot be resolved informally, upon petition
36 by the customer, the board shall set the matter for
37 hearing in accordance with the board's rules for
38 notice and hearing, and the board may, by order,
39 render its decision granting or denying in whole or in
40 part the customer's petition.

41 7. The utilities board and the consumer advocate
42 shall cooperate to produce a report to be delivered to
43 the governor and the general assembly no later than
44 December 31 of each year concerning the impact of
45 changes in regulation of telecommunications services
46 provided to citizens of this state.

47 8. Notwithstanding the rate regulation set forth
48 in this section, the monthly local exchange rate for
49 basic local exchange service, 911 and E911 service as
50 provided for in chapters 34 and 34A, dual party relay

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1 service, and switched access service shall not be
2 greater than the rates in effect for those services on
3 January 1, 1994. For purposes of this section,
4 "switched access service" means the provision of
5 access to a local exchange telephone company for the
6 purpose of enabling an interexchange carrier to
7 originate or terminate telecommunications services
8 within the exchange. This subsection is repealed
9 effective July 1, 1997.

10 9. It is the intent of the general assembly that
11 the general assembly study and review the impact of
12 the implementation of this section on rates for
13 telecommunications services charged to consumers,
14 telecommunications service levels, and the service
15 quality of such services during the year including the
16 1996 regular session of the general assembly.

17 10. Effective July 1, 1997, chapter 476 and any
18 other provision of law relating to the regulation of
19 telephone companies is void and is of no effect.

20 Sec. 23. NEW SECTION. 476.1F PROHIBITED ACTS.

21 A rate-regulated telephone company subject to
22 section 476.1E shall not do any of the following:

23 1. Discriminate against a competing provider of
24 communications services in the price of, or by
25 refusing or delaying access to, essential network
26 service.

27 2. Degrade the quality of access or service or
28 connections to a competing provider of communications
29 services.

30 3. Fail to disclose in a timely manner, upon
31 request and pursuant to protective agreements
32 concerning proprietary information, all information
33 reasonably necessary for the network interface
34 equipment or network interface services that will meet
35 the specifications of the utility's local exchange
36 network.

37 4. Subsidize a service, except for basic local
38 telephone service, 911 services, E911 services, and
39 relay service for communications-impaired persons,
40 with revenues from other services.

41 Sec. 24. Section 476.6, subsections 3 and 12, Code
42 1993, are amended by striking the subsections.

43 Sec. 25. Section 476.71, Code 1993, is amended to
44 read as follows:

45 476.71 PURPOSE.

46 It is the intent of the general assembly that a
47 public utility should not directly or indirectly
48 include in regulated rates or charges, or rates or
49 charges in effect pursuant to section 476.1E, any
50 costs or expenses of an affiliate engaged in any

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1 business other than that of utility business unless
2 the affiliate provides goods or services to the public
3 utility. The costs that are included should be
4 reasonably necessary and appropriate for utility
5 business. It is also the intent of the general
6 assembly that a public utility should only provide
7 nonutility services in a manner that minimizes the
8 possibility of cross-subsidization or unfair
9 competitive advantage.

10 Sec. 26. Section 476.72, Code 1993, is amended to
11 read as follows:

12 476.72 DEFINITIONS.

13 As used in this division, unless the context
14 otherwise requires:

15 1. "Affiliate" means a party that directly, or
16 indirectly through one or more intermediaries,
17 controls, is controlled by, or is under common control
18 with a rate-regulated public utility.

19 2. "Control" means the possession, direct or
20 indirect, of the power to direct or cause the
21 direction of the management and policies of an
22 enterprise through ownership, by contract or
23 otherwise.

24 3. "Nonutility service" includes the sale, lease,
25 or other conveyance of commercial and residential gas
26 or electric appliances, interior lighting systems and
27 fixtures, or heating, ventilating, or air conditioning
28 systems and component parts, communications systems
29 and component parts, services, or products sold,
30 leased, or otherwise provided by a telephone company
31 subject to section 476.1E, other than those systems,
32 parts, services, or products regulated under section
33 476.1E, or the servicing, repair, or maintenance of
34 such equipment.

35 4. "Public utility" includes only gas or electric
36 rate-regulated public utilities and rate-regulated
37 telephone utilities providing heat-exchange
38 telecommunication service subject to section 476.1E.

39 5. "Utility business" means the generation or
40 transmission of electricity or furnishing of gas or
41 furnishing electricity or furnishing rate-regulated
42 communications services to the public for
43 compensation.

44 Sec. 27. Section 476.78, Code 1993, is amended to
45 read as follows:

46 476.78 CROSS-SUBSIDIZATION PROHIBITED.

47 A rate-regulated gas or electric public utility or
48 a rate-regulated telephone company subject to section
49 476.1E shall not directly or indirectly include any
50 costs or expenses attributable to providing nonutility

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1 service in regulated rates or charges.

2 Sec. 28. Section 476.79, Code 1993, is amended to
3 read as follows:

4 476.79 PROVISION OF NONUTILITY SERVICE.

5 1. A rate-regulated gas or electric public utility
6 or a rate-regulated telephone company subject to
7 section 476.1E, providing any nonutility service to
8 its customers shall keep and render to the board
9 separate records of the nonutility service. The board
10 may provide for the examination and inspection of the
11 books, accounts, papers, and records of the nonutility
12 service, as may be necessary, to enforce any
13 provisions of this chapter.

14 2. The board shall adopt rules which specify the
15 manner and form of the accounts relating to providing
16 nonutility services which the rate-regulated gas or
17 electric utility or a rate-regulated telephone company
18 subject to section 476.1E shall maintain.

19 Sec. 29. Section 476.80, Code 1993, is amended to
20 read as follows:

21 476.80 ADDITIONAL REQUIREMENTS.

22 A rate-regulated gas or electric public utility or
23 a rate-regulated telephone company subject to section
24 476.1E which engages in a systematic marketing effort
25 as defined by the board, other than on an incidental
26 or casual basis, to promote the availability of
27 nonutility service from the public utility shall make
28 available at reasonable compensation on a
29 nondiscriminatory basis to all persons engaged
30 primarily in providing the same competitive nonutility
31 services in that area all of the following services to
32 the same extent utilized by the public utility in
33 connection with its nonutility services:

34 1. Access to and use of the public utility's
35 customer lists.

36 2. Access to and use of the public utility's
37 billing and collection system.

38 3. Access to and use of the public utility's
39 mailing system.

40 Sec. 30. Section 476.81, Code 1993, is amended to
41 read as follows:

42 476.81 AUDIT REQUIRED.

43 The board may periodically retain a nationally or
44 regionally recognized independent auditing firm to
45 conduct an audit of the nonutility services provided
46 by a rate-regulated gas or electric public utility or
47 a rate-regulated telephone company subject to section
48 476.1E subject to the provisions of section 476.80. A
49 nonutility service audit shall not be conducted more
50 frequently than every three years, unless ordered by

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1 the board for good cause. The cost of the audit shall
2 be paid by the public utility to the independent
3 auditing firm and shall be included in its regulated
4 rates and charges, unless otherwise ordered by the
5 board for good cause after providing the public
6 utility the opportunity for a hearing on the board's
7 decision.

8 Sec. 31. Section 476.83, Code 1993, is amended to
9 read as follows:

10 476.83 COMPLAINTS.

11 Any person may file a written complaint with the
12 board requesting the board to determine compliance by
13 a rate-regulated gas or electric utility or a rate-
14 regulated telephone company subject to section 476.1E
15 with the provisions of section 476.78, 476.79, or
16 476.80 or any validly adopted rules to implement those
17 sections. If the board determines there is any
18 reasonable ground to investigate the complaint, the
19 board shall promptly initiate formal complaint
20 proceedings. The formal proceeding may be initiated
21 at any time by the board on its own motion.

22 Sec. 32. Section 477.1, Code 1993, is amended to
23 read as follows:

24 477.1 RIGHT-OF-WAY.

25 Any person, firm, and corporation, within or
26 without the state, may construct a telegraph or
27 telephone line or cable system along the public roads
28 of the state, or across or under the rivers or over,
29 under, or through any lands belonging to the state or
30 any private individual, and may erect or install
31 necessary fixtures. The state may construct Parts I
32 and II and a certified local exchange telephone
33 company may construct Part III of the state
34 communications network established in division V of
35 chapter 18 along the public roads of the state, and
36 private ways, or across or under the rivers or over,
37 under, or through any lands belonging to a private
38 person or individual, and may erect or install
39 necessary equipment and fixtures on such property
40 including installing and maintaining equipment in
41 structures at an endpoint, and at other points along
42 the network. However, construction of a telegraph or
43 telephone line or cable system along a primary road is
44 subject to rules adopted by the state department of
45 transportation.

46 Sec. 33. INITIAL BOARD CHAIRPERSON.

47 Notwithstanding the provision of section 18.133A,
48 subsection 3, the initial chairperson of the board
49 shall be appointed by the governor from the membership
50 of the board for a two-year term.

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1 Sec. 34. Sections 21 through 31 of this Act are
2 effective January 1, 1994."

By MICHAEL E. GRONSTAL

S-3761 FILED MAY 1, 1993

SENATE FILE 417

S-3758

1 Amend the amendment, S-3689, to Senate File 417, as
2 follows:

3 1. By striking page 1, line 2, through page 13
4 line 46, and inserting the following:

5 "_____. By striking everything after the enacting
6 clause and inserting the following:

7 "Section 1. Section 18.133, subsection 1, Code
8 1993, is amended by striking the subsection and
9 inserting in lieu thereof the following:

10 1. "Board" means the Iowa communications network
11 board.

12 Sec. 2. Section 18.133, subsections 2 and 3, Code
13 1993, are amended to read as follows:

14 2. "Private agency" means accredited nonpublic
15 schools, and nonprofit institutions of higher
16 education eligible for tuition grants, and hospitals
17 licensed pursuant to chapter 135B.

18 3. "Public agency" means a state agency, a school
19 corporation, a city library, a regional library as
20 provided in chapter 303B, and a county library as
21 provided in chapter 336, and agencies of the federal
22 government not including the United States postal
23 service or any United States post office.

24 Sec. 3. NEW SECTION. 18.133A IOWA COMMUNICATIONS
25 NETWORK BOARD.

26 1. An Iowa communications network board is
27 established within the department of commerce with the
28 sole authority to supervise the management and
29 operation of the network. The board shall ensure that
30 the network operates in an efficient and responsible
31 manner consistent with the provisions of this chapter
32 for the purpose of providing the best economic service
33 attainable to the users consistent with the state's
34 financial capacity. The use of the Iowa
35 communications network is subject to the review and
36 approval of the board. Such review and approval by
37 the board shall provide for the centralized,
38 coordinated use and control of the network. The board
39 may contract with appropriate vendors for the
40 maintenance, operation, management, and development of
41 the technical aspects and uses of Part I and Part II
42 of the network in a manner consistent with this
43 chapter for the purpose of providing the best services
44 attainable to the users consistent with the state's
45 financial capacity.

46 2. The communications division of the department
47 of general services shall provide sufficient resources
48 and staff to the board and to the department of
49 commerce to carry out all board responsibilities.

50 3. The board consists of nine members appointed by

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1 the governor, subject to senate confirmation. The
2 members shall be citizens of the state who have
3 substantial knowledge of the subjects related to the
4 state communications network. Members of the board
5 shall not have any interest, financially or otherwise,
6 in any entity related to or associated with any
7 activity concerning the planning, development,
8 operation, or maintenance of Part I or Part II of the
9 network as provided in chapter 68B. Members of the
10 board also shall not serve in any manner or be
11 employed by an interest or institution the interests
12 of which are represented by a member of the
13 educational telecommunications council established in
14 subsection 4. The appointments shall be based upon
15 the training, experience, and capacity of the
16 appointees in areas including, but not limited to,
17 public utility regulation, telecommunications, and
18 education issues related to the network. Members of
19 the board shall serve four-year staggered terms as
20 designated by the governor and appointments to the
21 board are subject to sections 69.16, 69.16A, and
22 69.19. Members shall receive actual and necessary
23 expenses and a per diem as provided in section 7E.6.
24 However, a member who is also a state employee shall
25 only receive the member's actual and necessary
26 expenses.

27 4. An educational telecommunications council is
28 established to advise the Iowa communications network
29 board concerning the educational telecommunication
30 applications of the system and other matters as
31 assigned by the board. The council consists of seven
32 members to be appointed by the board. The seven
33 members shall include one person representing the
34 state board of regents; one person representing the
35 department of education; one person representing the
36 community colleges; one person representing public
37 libraries; one person representing school districts;
38 one person representing the area education agencies;
39 and one person representing private colleges. The
40 council shall make long range plans for enhancements
41 needed for educational applications. Administrative
42 support and staffing for the council shall be provided
43 by the department of education.

44 The board shall establish a users' committee which
45 is broadly representative of users of the network to
46 advise the council and the board concerning
47 telecommunications applications. The council shall
48 also consult with any regional committees established
49 for educational telecommunications.

50 Sec. 4. NEW SECTION. 18.133B ANNUAL REPORT TO

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1 LEGISLATURE.

2 The Iowa utilities board, the consumer advocate,
3 and the Iowa communications network board shall
4 cooperate to produce a report to be delivered to the
5 governor and the general assembly no later than
6 December 31 of each year. The report shall include a
7 review of the effect of the state communications
8 network on the citizens of this state in relation to
9 the rates paid for intrastate telecommunications
10 service and the financial impact of the state
11 communications network on the state's public
12 telecommunications utilities. Additionally, the
13 report shall include information related to the number
14 of users on the network, the hours of use, a listing
15 of new users added to the network during the previous
16 year, a detailed accounting of how any amounts
17 appropriated for the Iowa communications network are
18 expended, other relevant financial information, and
19 other information deemed appropriate by the Iowa
20 utilities board, the consumer advocate, or the state
21 communications network board.

22 Sec. 5. Section 18.134, Code 1993, is amended by
23 adding the following new subsection:

24 NEW SUBSECTION. 3. The use of any switching
25 equipment used for routing traffic on the network
26 shall be governed by the policies adopted by the Iowa
27 communications network board.

28 Sec. 6. NEW SECTION. 18.134A DISPOSITION OF
29 NETWORK -- LEGISLATIVE APPROVAL.

30 Notwithstanding any provision to the contrary, the
31 Iowa communications network board or the department of
32 general services shall not sell, lease, or otherwise
33 dispose of any component part of Part I or II of the
34 system without prior authorization by a constitutional
35 majority of each house of the general assembly and
36 approval by the governor.

37 Sec. 7. Section 18.135, Code 1993, is amended to
38 read as follows:

39 18.135 RULES.

40 The director board shall adopt rules relating to
41 the state communications network and its use in
42 accordance with this chapter, respecting the rights of
43 a public or private educational agency to determine
44 the contents of its educational program and its rights
45 to control its classrooms and teleconferencing
46 facility. Rules adopted by the board shall not
47 abridge the academic freedom of institutions offering
48 programs through the network. Rules adopted by the
49 board shall also not abridge or modify agreements
50 between an educator and an educational institution

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1 related to any copyright, patent, invention, software,
2 instruction, instructional programming, or other
3 intellectual property interest. However, a public or
4 private agency which is connected to the
5 communications network, as a condition to such
6 connection, shall establish procedures, terms, and
7 conditions governing the use of its teleconferencing
8 classroom or center by others in a manner which
9 provides reasonable access to educational
10 telecommunications applications available through the
11 network. The board shall adopt rules relating to this
12 provision, but shall not interfere with the prior
13 right of the public or private agency to use, manage,
14 or control such teleconferencing classroom or center.
15 The ~~director~~ board shall also adopt and provide for
16 standard communications procedures and policies to be
17 used by state agencies. However, rules adopted by the
18 board relating to state communications which are not
19 part of the network shall not apply to public
20 universities governed by the state board of regents.

21 Sec. 8. Section 18.136, subsections 1, 2, 3, 4, 8,
22 11, 12, and 14, Code 1993, are amended to read as
23 follows:

24 1. Moneys in the state communications network fund
25 are appropriated to the Iowa public broadcasting board
26 for purposes of providing financing for the
27 procurement, operation, and maintenance of a state
28 communications network with sufficient capacity to
29 serve the video, data, and voice requirements of state
30 agencies and the educational telecommunications
31 system. The treasurer of state, the department of
32 general services, the Iowa public broadcasting board,
33 the Iowa communications network board, and other
34 parties to any financing agreement for the network may
35 enter into a state communications network fund
36 agreement as to the application of proceeds of the
37 fund and procedures for the payment of amounts due
38 under the financing agreement from the state
39 communications network fund. The state communications
40 network consists of Part I, Part II, and Part III of
41 the system.

42 2. For purposes of this section, unless the
43 context otherwise requires:

44 a. "Part I of the system" means the communications
45 connections between and including the central
46 switching and the regional switching centers' centers'
47 equipment for the remainder of the network as
48 designated by the board.

49 b. "Part II of the system" means the
50 communications connections between and including the

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1 regional switching centers centers' equipment and the
2 secondary-switching-centers points of presence as
3 designated by the board including the network
4 equipment at these points of presence. There shall be
5 a minimum of one point of presence in each county.

6 c. "Part III of the system" means the
7 communications connection between the secondary
8 switching-centers point of presence and the end points
9 at the agencies defined in section 18.133, subsections
10 2 and 3 and-4.

11 d. "State communications network" or "network"
12 means Part I, Part II, and Part III of the system.

13 3. The financing for the procurement costs for the
14 entirety of Part I of the system, and the video, data,
15 and voice capacity for state agencies for Part II and
16 Part III of the system, shall be provided by the
17 state. The financing for the procurement costs for
18 Part II of the system shall also be provided eighty
19 percent-from by the state and-twenty-percent-from-the
20 community-colleges-for-the-areas-in-which-Part-II-of
21 the-system-is-located.--The-basis-for-the-state-match
22 is-eighty-percent-of-a-single-interactive-video-and
23 interactive-audio-for-Parts-I-and-II-of-the-system,
24 and-such-data-and-voice-capacity-as-is-necessary. The
25 financing for the procurement-and-maintenance lease
26 costs for Part III of the system shall be provided
27 eighty-percent-from by the state and-twenty-percent
28 from-the-local-school-boards-of-the-areas-which
29 receive-transmissions-from-the-system. The-local
30 school-boards-may-meet-all-or-part-of-the-match
31 requirements-of-Part-III-of-the-system-through-a
32 cooperative-arrangement-with-community-colleges. The
33 basis for the amount of state match financing is
34 eighty one hundred percent of a single interactive
35 audio and one-way interactive video connection for
36 Part III of the system, and such data and voice
37 capacity as is necessary. The-local-school-boards-and
38 community-colleges-may-meet-the-match-requirements-for
39 Part-II-and-Part-III-of-the-system-from-funds-they
40 have-already-spent-for-their-systems,-from-funds
41 available-in-the-school-budget,-or-from-funds-received
42 from-other-nonstate-sources.--In-the-case-of-existing
43 systems,-in-order-to-upgrade-facilities-to-the
44 specifications-of-the-state-communications-network,
45 the-local-school-boards-and-community-colleges,-in
46 lieu-of-a-cash-match,-may-meet-the-match-requirements
47 from-funds-they-have-already-spent-for-their-systems
48 provided-that-the-state-match-does-not-exceed-the
49 lesser-of-eighty-percent-of-the-total-cost-of-the
50 upgraded-system-or-eighty-percent-of-the-replacement

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~~1 cost-of-the-system.--The-communications-equipment
2 funds-used-as-a-match-by-a-community-college-shall-be
3 calculated-based-on-verified-expenditures-for-capital,
4 equipment, hardware, and software-for-long-distance
5 learning-technologies, including-both-audio-and-visual
6 transmission.--The-communications-equipment-used-as-a
7 match-shall-not-subsequently-be-used-as-a-match-by
8 another-educational-entity-or-for-another-part-of-the
9 system.--A-local-school-board-may-request-the-school
10 budget-review-committee-to-adjust-the-allowable-growth
11 for-the-school-district-so-that-the-resulting-increase
12 in-budget-could-be-used-for-the-match; A local school
13 board shall determine the type of classroom facility
14 to be provided and the type of facility or equipment
15 to be used in providing the connection to the school
16 or the classroom. If a local school board elects to
17 provide one hundred percent of the financing for the
18 lease costs for Part III, the school district may
19 become part of the system as soon as the network can
20 reasonably connect it. A local school board may also
21 elect that the school district not to become part of
22 the system. Such-election-shall-be-made-on-an-annual
23 basis.--State-matching-funds-shall-not-be-provided-for
24 Part-III-of-the-system-until-Part-I-and-Part-II-of-the
25 system-have-been-completed. Leasing of Part III of
26 the system may proceed before Part I and Part II of
27 the system have been completed as determined by the
28 board.~~

29 4. The department-of-general-services Iowa
30 communications network board shall develop the
31 requests for proposals that are needed for a state
32 communications network with sufficient capacity to
33 serve the video, data, and voice requirements of state
34 agencies and the educational telecommunications
35 applications required by the Iowa public-broadcasting
36 communications network board. The department-shall
37 develop-a-request-for-proposals-for-each-of-the
38 systems-that-will-make-up-the-network The utilities
39 board shall provide technical assistance to the Iowa
40 communications network board in the development of the
41 request for proposals. The department-may Iowa
42 communications network board shall develop a request
43 for proposals for each definitive component of Part I,
44 Part II, and Part III of the system as provided in
45 this section, or the department board may provide in
46 the request for proposals for-each-such-system that
47 separate contracts may shall be entered into for each
48 definitive component covered by the request for
49 proposals. The requests for proposals for components
50 of Parts I and II of the system may be for the

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1 purchase, lease-purchase, or lease of the component
2 parts of the system, may require maintenance costs to
3 be identified, and the resulting contract may provide
4 for maintenance for parts of the system. The master
5 contract may provide for electronic classrooms,
6 satellite equipment, receiving equipment, studio and
7 production equipment, and other associated equipment
8 as required.

9 The state shall lease all component parts for Part
10 III of the system from qualified providers. A
11 component of Part III shall not be owned by the state.
12 The board shall develop a statewide plan for leasing
13 of the components of Part III. The board must approve
14 a Part III statewide leasing plan before Part III of
15 the system may proceed. The board is authorized to
16 review the terms of any lease entered into related to
17 Part III of the system. However, a local school
18 district is not required to be included in the
19 statewide Part III leasing plan if the local school
20 board elects to provide one hundred percent of the
21 financing for the lease costs related to Part III.

22 Nothing in this section shall preclude a school
23 corporation from using or upgrading existing
24 facilities for use in the corporation's own district
25 or region for Part III of the system which meet the
26 specifications of the state communications network and
27 provide interactive audio and interactive video and
28 such data and voice capacity as is necessary.

29 A certified local exchange telephone company with
30 fewer than fifteen thousand access lines shall have
31 the right to provide through a lease with a school
32 corporation or a public library located within the
33 company's service territory any required individual
34 facility from a point of presence to an end point to
35 be used for providing any component of Part III. The
36 lease rate for a school corporation or a public
37 library for each component of Part III of the system
38 is limited to a fixed periodic fee to cover a ten-year
39 amortization of the capital cost of new facilities,
40 including the placement and construction of such
41 facilities, to serve the school corporation or public
42 library and the actual ongoing costs of providing
43 service, including costs for maintenance, repairs,
44 taxes, and other costs directly related to leasing a
45 component of Part III of the system to the school
46 corporation or public library. Such amortization
47 shall be based upon the actual cost of the financing
48 for such facilities. The certified local exchange
49 telephone company shall not assess a school
50 corporation or public library any toll charge for

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1 communications transmitted entirely on the state
2 communications network.

3 A certified local exchange telephone company with
4 fewer than fifteen thousand access lines shall have
5 the right to provide through a lease with a public or
6 private agency which is an authorized user, other than
7 a school corporation or public library located within
8 the company's service territory, any required
9 individual facility from a point of presence to an end
10 point to be used for providing any component of Part
11 III. The lease rate for such authorized user for each
12 component of Part III of the system is limited to a
13 fixed periodic fee to cover a ten-year amortization of
14 the capital cost of new facilities to serve such
15 authorized user; and the actual ongoing costs of
16 providing service, including costs for maintenance,
17 repairs, taxes, and other costs directly related to
18 leasing a component of Part III of the system to such
19 authorized user; and may include a reasonable return
20 on the unamortized balance of the capital costs.

21 A certified local exchange telephone company with
22 fewer than fifteen thousand access lines shall have
23 ninety days, from the date an authorized user has
24 requested that the local exchange telephone company
25 provide through a lease the required facilities
26 related to Part III of the network, to notify such
27 user as to whether the local exchange telephone
28 company elects to provide the required facilities. If
29 a certified local exchange telephone company with
30 fewer than fifteen thousand access lines elects not to
31 provide required facilities pursuant to a lease with
32 an authorized user as provided by this subsection, the
33 Iowa communications network board shall develop a
34 request for proposals for lease of the required
35 facilities. The board shall determine the form and
36 content of the request for proposals and shall
37 determine which proposal will be accepted for
38 providing the required facilities. Proposals may be
39 submitted by any qualified person including other
40 certified local exchange telephone companies.
41 However, a proposal shall not be submitted by the
42 certified local exchange telephone company electing
43 not to provide such facilities pursuant to this
44 subsection.

45 For all private agencies and public agencies
46 located in an area served by a certified local
47 exchange telephone company with fifteen thousand or
48 more access lines, proposals for providing the
49 components of Part III of the system may be submitted
50 by any qualified person. Notwithstanding the terms of

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1 any lease agreement entered into between a qualified
2 person and a school corporation located in an area
3 served by a certified local exchange telephone company
4 with fifteen thousand or more access lines, the school
5 district shall not be assessed any toll charge for
6 communications transmitted entirely on the state
7 communications network.

8 The periodic lease rate for each component shall be
9 reviewed by the Iowa communications network board for
10 compliance with reasonable norms established by rule.
11 The Iowa communications network board may reject a
12 lease rate proposal made by a certified local exchange
13 telephone company with fewer than fifteen thousand
14 access lines related to providing a component part for
15 Part III of the system if the board determines that
16 the rate is unreasonable. The board shall notify the
17 company of such rejection and the company may resubmit
18 an alternative lease rate proposal in the same manner
19 as the original proposal within forty-five days of
20 receipt of the notice of the rejection.

21 For purposes of this section, "new facilities" for
22 purposes of determining the capital cost to be
23 amortized in establishing the lease rate are those
24 facilities which are procured, installed, or
25 constructed to provide Part III of the system to a
26 user on or after the date such user certifies to the
27 board, in a manner as determined by the board, that
28 the user is ready to be connected to the network.

29 ~~8. The Iowa-public-broadcasting-board-retains-sole~~
30 ~~authority-over-the-educational-telecommunications~~
31 ~~applications-of-Part-I-of-the-system,-and-its~~
32 ~~authority-shall-include-management-and-operational~~
33 ~~control,-programming,-budget,-personnel,-scheduling,~~
34 ~~and-program-switching-of-educational-material-carried~~
35 ~~by-Part-I-of-the-system educational telecommunications~~
36 ~~council shall coordinate the educational~~
37 ~~telecommunication applications of the system pursuant~~
38 ~~to the rules adopted by the Iowa communications~~
39 ~~network board, including scheduling and program~~
40 ~~switching of educational material carried by the~~
41 ~~system. The-Iowa-public-broadcasting-board,-through~~
42 ~~its-narrowcast-system-advisory-committee,-retains~~
43 ~~coordination-authority-over-the-educational~~
44 ~~telecommunications-applications-of-Part-II-and-Part~~
45 ~~III-of-the-system.--Community-colleges-are-responsible~~
46 ~~for-scheduling-and-switching-of-educational-materials~~
47 ~~carried-by-Part-II-and-Part-III-of-the-system-within~~
48 ~~their-respective-areas.--Such-responsibility-may-be~~
49 ~~accomplished-by-a-chapter-28E-agreement-with-the~~
50 ~~department-of-general-services. Scheduling of~~

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1 educational applications on the system shall be
2 administered by Iowa public television pursuant to
3 rules adopted by the board.

4 ~~The narrowcast-system-advisory-committee council~~
5 ~~shall review all requests for grants for facilities~~
6 ~~made by public agencies for educational~~
7 ~~telecommunications applications, if they are a part of~~
8 ~~the state the proposed activities involve the use of~~
9 ~~or a connection to the state communications network,~~
10 ~~to ensure that the educational-telecommunications~~
11 ~~application-is objectives of the grants are consistent~~
12 ~~with the telecommunications plan. If the narrowcast~~
13 ~~system-advisory-committee council recommends to the~~
14 ~~Iowa communications network board, and the Iowa~~
15 ~~communications network board finds that a grant~~
16 ~~request is inconsistent with the telecommunications~~
17 ~~plan, the grant request shall not be allowed.~~

18 11. The fees charged for use of the network by an
19 authorized user for educational telecommunications
20 shall be based on the ongoing operational and
21 maintenance costs of the network only.

22 12. The Iowa public-broadcasting communications
23 network board, in consultation with its narrowcast
24 system-advisory-committee, shall determine the fee
25 fees to be charged per course or credit hour by the
26 state for Parts I, II, and III of the system to the
27 originating institution, and the public and private
28 agencies authorized to use the system. The fees shall
29 be substantially the same for comparable courses uses
30 and authorized users. An authorized user of the
31 system may request a hearing pursuant to section 476.3
32 on a fee approved by the Iowa communications network
33 board.

34 14. Notwithstanding chapter 476, the provisions of
35 chapter 476 shall not apply to a public utility in
36 furnishing a telecommunications service or facility to
37 the department of general services for any part of the
38 state communications network.

39 Sec. 9. Section 18.136, Code 1993, is amended by
40 adding the following new subsections:

41 NEW SUBSECTION. 13A. a. Access to the network
42 shall be offered to agencies of the federal
43 government, not including the United States postal
44 service or any United States post office. An agency
45 of the federal government shall contribute, at a
46 minimum, an amount consistent with its share of use
47 for the part of the system in which the entity
48 participates, as determined by the Iowa communications
49 network board. Access to the network shall be
50 provided pursuant to a lease unless such lease would

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1 be prohibited by any of the following:

2 (1) Federal law.

3 (2) Rule or regulation of the federal agency.

4 (3) Policy of the federal agency.

5 (4) Lack of funding which prevents an ongoing
6 lease arrangement from being entered into.

7 If the Iowa communications network board determines
8 that a lease is prohibited as provided in this
9 paragraph, the board may still permit an agency of the
10 federal government access to the network upon a
11 showing by the federal agency to the board that
12 sufficient federal funding is available to pay for the
13 costs of connection to the network.

14 b. Access shall be offered to hospitals licensed
15 pursuant to chapter 135B. A hospital shall
16 contribute, at a minimum, an amount consistent with
17 its share of use for the part of the system in which
18 the hospital participates as determined by the Iowa
19 communications network board. Access to Parts I and
20 II of the network shall be offered to hospitals
21 licensed pursuant to chapter 135B for education and
22 distance learning applications; continuing medical
23 education applications; diagnostic, clinical, and
24 consultative services which require the use of
25 interactive video, the transmission of high quality
26 images, or the combination of text, video, visual, or
27 graphic information; the transmission of payments and
28 claims information to and from the medicaid program
29 established under Title XVIII of the federal Social
30 Security Act and the medical assistance (medicare)
31 program established pursuant to chapter 249A, the
32 health data commission or its successor agency, the
33 Iowa department of public health, and the community
34 health management information system, where such
35 information transmission assists in satisfying an
36 information-gathering duty assigned by statute; and
37 the transmission of government payments and claims
38 information to hospitals. This paragraph is repealed
39 effective June 30, 2003.

40 NEW SUBSECTION. 13B. Access shall not be provided
41 to any other entity pursuant to a chapter 28E or other
42 agreement except as expressly provided for by this
43 section.

44 NEW SUBSECTION. 13C. Notwithstanding the
45 provisions of subsection 4 regarding the lease of all
46 component parts for Part III of the system, an
47 authorized user may purchase a wireless system
48 utilizing a portion of the electromagnetic spectrum
49 allocated by the federal communications commission.
50 An authorized user eligible to receive state funding

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1 for the provision of the component parts for Part III
2 of the system, as provided in subsection 3, may also
3 utilize such wireless system. If such authorized user
4 determines to use such wireless system, the user shall
5 inform the board of the decision to utilize such
6 wireless system and the board shall develop a request
7 for proposals for providing such system. The wireless
8 system may be provided under a lease, lease-purchase
9 agreement, or a purchase of the wireless
10 communications system.

11 NEW SUBSECTION. 13D. Notwithstanding subsection
12 13B, access to and use of Part III of the network
13 shall not be limited so long as the transmission
14 facilities are owned and operated by a nongovernmental
15 entity.

16 Sec. 10. NEW SECTION. 18.137A DISPOSITION OF
17 INVESTMENT INTEREST EARNED.

18 Interest income earned on investment of funds
19 contained in the state communications network fund
20 shall be credited by the treasurer of state to the
21 state communications network fund to be used only for
22 making additional payments above and beyond those
23 scheduled to be made for the repayment of debt related
24 to Parts I and II of the system when permissible under
25 any financing agreement.

26 Sec. 11. Section 256.7, subsection 9, unnumbered
27 paragraph 1, Code 1993, is amended to read as follows:

28 Adopt rules under chapter 17A for the use of
29 telecommunications as an instructional tool for
30 students enrolled in kindergarten through grade twelve
31 and served by local school districts, accredited or
32 approved nonpublic schools, area education agencies,
33 community colleges, institutions of higher education
34 under the state board of regents, and independent
35 colleges and universities in elementary and secondary
36 school classes and courses. The rules shall include
37 but need not be limited to rules relating to programs,
38 educational policy, instructional practices, staff
39 development, use of pilot projects, curriculum
40 monitoring, and the accessibility of licensed
41 teachers. The rules shall encourage innovative use of
42 educational telecommunications to meet student needs.
43 The rules shall not abridge or modify agreements
44 between an educator and an educational institution
45 related to any copyright, patent, invention, software,
46 instruction, instructional programming, or other
47 intellectual property interest.

48 Sec. 12. Section 256.9, Code 1993, is amended by
49 adding the following new subsection:

50 NEW SUBSECTION. 52. Provide technical assistance

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1 to users of the educational telecommunications system,
2 coordinate staff development activities for
3 educational users, and provide assistance in policy
4 development to local and area education agencies for
5 the use of educational telecommunications.

6 Sec. 13. NEW SECTION. 256.29 LOAN FOR
7 TELECOMMUNICATIONS EQUIPMENT.

8 1. Notwithstanding sections 257B.1 and 257B.1A,
9 for the fiscal year beginning July 1, 1993, from
10 moneys designated as the permanent school fund of the
11 state in section 257B.1, a merged area may obtain a
12 loan to be used to pay for equipment to be located at
13 the merged areas to enable the merged area to
14 participate in a system which serves the educational
15 needs of children of the state through
16 telecommunications. The department of revenue and
17 finance shall transfer funds from the permanent school
18 fund to the Iowa communications network training and
19 operations fund upon receipt of a written request from
20 the board of directors of a merged area up to the
21 following amounts:

22	a. Merged Area I	\$	153,535
23	b. Merged Area II	\$	134,343
24	c. Merged Area III	\$	95,960
25	d. Merged Area IV	\$	76,768
26	e. Merged Area V	\$	172,727
27	f. Merged Area VI	\$	76,768
28	g. Merged Area VII	\$	95,960
29	h. Merged Area IX	\$	76,768
30	i. Merged Area X	\$	134,343
31	j. Merged Area XI	\$	211,111
32	k. Merged Area XII	\$	115,152
33	l. Merged Area XIII	\$	134,343
34	m. Merged Area XIV	\$	153,535
35	n. Merged Area XV	\$	191,919
36	o. Merged Area XVI	\$	76,768

37 2. Loan moneys received under this section that
38 are not expended during the fiscal year beginning July
39 1, 1993, are available for expenditure during the
40 fiscal year beginning July 1, 1994.

41 Sec. 14. NEW SECTION. 256.36A MEDIA AND
42 EDUCATIONAL SERVICES FUND.

43 A media and educational services fund is
44 established in the treasurer's office under the
45 control of the department of education. Moneys
46 deposited in the fund shall be used for the
47 development of staff development programs for use on
48 the state communications network, and for the
49 development of programs to assist teachers in the use
50 of, and teaching on, the state communications network.

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1 Sec. 15. If the actual taxable valuation of real
 2 property in the state is at least one-half of one
 3 percent more than the estimated taxable valuation used
 4 for determining property tax payments in the fiscal
 5 year beginning July 1, 1993, resulting in a decrease
 6 in the amount of general fund expenditures for
 7 foundation aid payments pursuant to chapter 257, there
 8 is appropriated from the general fund of the state to
 9 the department of education for the fiscal year
 10 beginning July 1, 1993, and ending June 30, 1994, the
 11 following amount, or so much thereof as may be
 12 necessary, to be used for the purpose designated:

13 1. Notwithstanding chapter 260D, to merged areas
 14 as defined in section 260C.2, for educational training
 15 and for ongoing operational expenses related to
 16 participation in the state communications network,
 17 including but not limited to maintenance costs, repair
 18 costs, cost of necessary equipment, and other
 19 necessary expenditures:

20 \$ 2,000,000

21 The funds appropriated in this subsection shall be
 22 allocated as follows:

23	a. Merged Area I	\$	161,616
24	b. Merged Area II	\$	141,414
25	c. Merged Area III	\$	101,010
26	d. Merged Area IV	\$	80,808
27	e. Merged Area V	\$	181,818
28	f. Merged Area VI	\$	80,808
29	g. Merged Area VII	\$	101,010
30	h. Merged Area IX	\$	80,808
31	i. Merged Area X	\$	141,414
32	j. Merged Area XI	\$	222,222
33	k. Merged Area XII	\$	121,212
34	l. Merged Area XIII	\$	141,414
35	m. Merged Area XIV	\$	161,616
36	n. Merged Area XV	\$	202,020
37	o. Merged Area XVI	\$	80,810

38 2. If the increase in taxable valuation is less
 39 than one-half of one percent as provided in subsection
 40 1, then the actual amount appropriated pursuant to
 41 this section shall be reduced proportionally by the
 42 percentage represented by the actual percent increase
 43 in taxable valuation divided by one-half of one
 44 percent.

45 Sec. 16. NEW SECTION. 260C.80 IOWA
 46 COMMUNICATIONS NETWORK TRAINING AND OPERATIONS FUND.

47 1. An Iowa communications network training and
 48 operations fund is established in the office of the
 49 treasurer of state under the control of the department
 50 of education. Moneys deposited in the fund from

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1 sources other than the permanent school fund of the
2 state shall be used to reimburse the permanent school
3 fund of the state, as provided in subsection 3, for
4 amounts transferred to the merged areas pursuant to
5 section 256.29, costs of educational training, costs
6 associated with the state communications network, and
7 for other necessary expenditures related to the
8 network. All moneys deposited in the fund are subject
9 to appropriation by the general assembly.

10 2. It is the intent of the general assembly that
11 the amounts deposited into this fund be appropriated
12 for educational training related to use of the state
13 communications network and for ongoing operational
14 expenses related to participation in the state
15 communications network, including maintenance costs,
16 repair costs, costs of necessary equipment, and other
17 necessary expenditures. It is the intent of the
18 general assembly that amounts in the fund be
19 appropriated for the merged areas' participation in
20 the state communications network.

21 3. Notwithstanding any other provision of chapter
22 260E to the contrary, for a period of ten years beyond
23 the scheduled maturity of certificates issued under
24 chapter 260E prior to July 1, 1993, an amount equal to
25 the new jobs credit from withholding for each employer
26 which has entered into a new jobs training agreement
27 shall be deposited in the Iowa communications network
28 training and operations fund from amounts paid to the
29 treasurer of state by employers who have entered into
30 new jobs training agreements. Amounts in the Iowa
31 communications network training and operations fund
32 shall be used by the department for the payment of
33 principal and interest, pursuant to a schedule as
34 determined by the department of management, on amounts
35 transferred from the permanent school fund of the
36 state to a merged area pursuant to section 256.29.
37 Any unencumbered funds may be appropriated for the
38 purposes identified in subsection 2.

39 Sec. 17. Section 273.3, Code 1993, is amended by
40 adding the following new subsection:

41 NEW SUBSECTION. 20. Be authorized to purchase
42 equipment as provided in section 279.48.

43 Sec. 18. NEW SECTION. 279.48 EQUIPMENT PURCHASE.

44 The board of directors of a school corporation may
45 purchase equipment, and may enter into a contract and
46 issue a note to pay for the equipment. The note must
47 mature within five years and bear interest at a rate
48 to be determined by the board of directors in the
49 manner provided in section 74A.3, subsection 1. The
50 board of directors, by resolution, shall provide for

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1 the form of the contract and note. Principal and
2 interest on the note must be payable from budgeted
3 receipts in the current budget for each year of a
4 period of up to five years.

5 Sec. 19. Section 298.3, subsection 3, Code 1993,
6 is amended to read as follows:

7 3. The purchase of buildings and the purchase of a
8 ~~single-unit-of~~ equipment or a technology system
9 exceeding five thousand dollars in value.

10 Sec. 20. Section 303.77, subsection 3, Code 1993,
11 is amended to read as follows:

12 3. The board shall appoint at least two one
13 ~~advisory committees~~ committee, each of which ~~has~~ no
14 more than a simple majority of members shall be of the
15 same gender, as follows:

16 ~~---a.---Advisory-committee-on-the-operation-of-the~~
17 ~~narrowcast-system.---The-advisory-committee-shall-be~~
18 ~~composed-of-members-from-among-the-users-of-the~~
19 ~~narrowcast-system-including-representatives-of~~
20 ~~institutions-under-the-state-board-of-regents,~~
21 ~~community-colleges,-area-education-agencies,-classroom~~
22 ~~teachers,-school-district-administrators,-school~~
23 ~~district-boards-of-directors,-the-department-of~~
24 ~~economic-development,-the-department-of-education,-and~~
25 ~~private-colleges-and-universities.~~

26 ~~---b.---Advisory~~ the advisory committee on journalistic
27 and editorial integrity. The division shall be
28 governed by the national principles of editorial
29 integrity developed by the editorial integrity
30 project.

31 Duties of the advisory ~~committees~~ committee, and of
32 additional advisory committees the board may from time
33 to time appoint, shall be specified in rules of
34 internal management adopted by the board.

35 Members of advisory committees shall receive actual
36 expenses incurred in performing their official duties.

37 Sec. 21. Section 476.1, unnumbered paragraph 4,
38 Code 1993, is amended to read as follows:

39 Mutual telephone companies in which at least fifty
40 percent of the users are owners, co-operative
41 telephone corporations or associations, telephone
42 companies having less than fifteen thousand customers
43 and less than fifteen thousand access lines,
44 municipally owned utilities, and unincorporated
45 villages which own their own distribution systems are
46 not subject to the rate regulation provided for in
47 this chapter. Rate-regulated telephone companies
48 shall be regulated as set forth in section 476.1E.

49 Sec. 22. NEW SECTION. 476.1E REGULATION OF RATE-
50 REGULATED TELEPHONE COMPANIES.

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1 1. For purposes of this section, the following
2 terms are defined:
3 a. "Basic local exchange rate" means the flat
4 monthly charge for an access line, whether the service
5 is provided on a flat or measured basis, imposed by a
6 rate-regulated telephone company for basic local
7 exchange service. Basic local exchange rate does not
8 include any charges resulting from action by a federal
9 agency or taxes imposed by a governmental body which
10 are billed by a telephone company to its customers.
11 b. "Basic local exchange service" means the access
12 and transmission of two-way switched voice
13 communications within a local exchange area.
14 c. "Business service" means telecommunications
15 service which is used for occupational, professional,
16 or institutional purposes.
17 d. "Extended service area" means a grouping of two
18 or more exchanges which allows customers of one
19 exchange in the group to place and receive two-way
20 switched communications to and from customers in one
21 or more other exchanges in the group without an
22 interexchange toll charge.
23 e. "Interexchange service" means the access and
24 transmission of communications between two or more
25 local exchange areas, except for two-way switched
26 communications between local exchanges that are
27 included in the same extended service area.
28 f. "Local exchange area" means a territorial unit
29 established by a telephone company for the
30 administration of communications services within a
31 specific area generally encompassing a city and its
32 environs as described in maps filed with and approved
33 by the board.
34 g. "Residence service" means telecommunications
35 service which is furnished to a dwelling and which is
36 used for personal or domestic purposes and not for
37 business, professional, or institutional purposes.
38 2. Rate-regulated telephone companies are subject
39 to rate regulation under this section but are not
40 subject to rate regulation otherwise provided in this
41 chapter. Rate-regulated telephone companies shall
42 file rate lists for their telecommunications services
43 which shall be effective after ten days' notice to the
44 board, with the exception of monthly rates for basic
45 local exchange services.
46 3. The board shall retain authority over the
47 level, extent, scope, and timing of the unbundling of
48 services by a rate-regulated telephone company. The
49 board shall retain authority over matters concerning
50 dialing arrangements. The board shall also retain

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1 authority, for purposes of establishing a price floor
2 for a local exchange carrier service, over the pricing
3 of components a rate-regulated telephone company
4 charges a competing provider of communications
5 services for essential network services.

6 4. Notwithstanding the provisions of this section,
7 access charges imposed by an interexchange carrier for
8 access to a local exchange network for the purpose of
9 providing interexchange service shall be as agreed to
10 by the interexchange carrier and the rate-regulated
11 telephone company. The Iowa utilities board shall,
12 upon application by any affected interexchange carrier
13 or rate-regulated telephone company, review the access
14 charges. Upon receipt of the proper application by
15 the board, the board shall, unless otherwise agreed to
16 by all affected parties, hold and complete a hearing
17 on the application. The hearing shall be held within
18 sixty days of the application. The board may, within
19 sixty days of the close of the hearing, enter an order
20 setting access charges which are fair and reasonable.

21 5. In setting rates for interexchange services,
22 telephone companies that provide such services shall
23 continue to average their rates for all such services
24 on a statewide basis until December 31, 1995, unless
25 the board, upon application and hearing, orders
26 otherwise. This subsection does not prohibit volume
27 discounts or other discounts based on reasonable
28 business purposes. Nothing in this section shall
29 preempt or affect any right, liability, cause of
30 action, duty, or obligation arising from any law with
31 regard to unfair business practices or anticompetitive
32 activity with regard to interexchange services.

33 6. The board shall retain quality of service
34 regulation over the services provided by all telephone
35 companies and shall investigate and resolve customer
36 complaints concerning quality of service, customer
37 deposits, and disconnection of service. If the
38 complaint cannot be resolved informally, upon petition
39 by the customer, the board shall set the matter for
40 hearing in accordance with the board's rules for
41 notice and hearing, and the board may, by order,
42 render its decision granting or denying in whole or in
43 part the customer's petition.

44 7. The utilities board and the consumer advocate
45 shall cooperate to produce a report to be delivered to
46 the governor and the general assembly no later than
47 December 31 of each year concerning the impact of
48 changes in regulation of telecommunications services
49 provided to citizens of this state.

50 8. Notwithstanding the rate regulation set forth

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1 in this section, the monthly local exchange rate for
2 basic local exchange service, 911 and E911 service as
3 provided for in chapters 34 and 34A, dual party relay
4 service, and switched access service shall not be
5 greater than the rates in effect for those services on
6 January 1, 1994. For purposes of this section,
7 "switched access service" means the provision of
8 access to a local exchange telephone company for the
9 purpose of enabling an interexchange carrier to
10 originate or terminate telecommunications services
11 within the exchange. This subsection is repealed
12 effective July 1, 1997.

13 9. It is the intent of the general assembly that
14 the general assembly study and review the impact of
15 the implementation of this section on rates for
16 telecommunications services charged to consumers,
17 telecommunications service levels, and the service
18 quality of such services during the year including the
19 1996 regular session of the general assembly.

20 10. Effective July 1, 1997, chapter 476 and any
21 other provision of law relating to the regulation of
22 telephone companies is void and is of no effect.

23 Sec. 23. NEW SECTION. 476.1F PROHIBITED ACTS.

24 A rate-regulated telephone company subject to
25 section 476.1E shall not do any of the following:

26 1. Discriminate against a competing provider of
27 communications services in the price of, or by
28 refusing or delaying access to, essential network
29 service.

30 2. Degrade the quality of access or service or
31 connections to a competing provider of communications
32 services.

33 3. Fail to disclose in a timely manner, upon
34 request and pursuant to protective agreements
35 concerning proprietary information, all information
36 reasonably necessary for the network interface
37 equipment or network interface services that will meet
38 the specifications of the utility's local exchange
39 network.

40 4. Subsidize a service, except for basic local
41 telephone service, 911 services, E911 services, and
42 relay service for communications-impaired persons,
43 with revenues from other services.

44 Sec. 24. Section 476.6, subsections 3 and 12, Code
45 1993, are amended by striking the subsections.

46 Sec. 25. Section 476.71, Code 1993, is amended to
47 read as follows:

48 476.71 PURPOSE.

49 It is the intent of the general assembly that a
50 public utility should not directly or indirectly

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1 include in regulated rates or charges, or rates or
2 charges in effect pursuant to section 476.1E, any
3 costs or expenses of an affiliate engaged in any
4 business other than that of utility business unless
5 the affiliate provides goods or services to the public
6 utility. The costs that are included should be
7 reasonably necessary and appropriate for utility
8 business. It is also the intent of the general
9 assembly that a public utility should only provide
10 nonutility services in a manner that minimizes the
11 possibility of cross-subsidization or unfair
12 competitive advantage.

13 Sec. 26. Section 476.72, Code 1993, is amended to
14 read as follows:

15 476.72 DEFINITIONS.

16 As used in this division, unless the context
17 otherwise requires:

18 1. "Affiliate" means a party that directly, or
19 indirectly through one or more intermediaries,
20 controls, is controlled by, or is under common control
21 with a rate-regulated public utility.

22 2. "Control" means the possession, direct or
23 indirect, of the power to direct or cause the
24 direction of the management and policies of an
25 enterprise through ownership, by contract or
26 otherwise.

27 3. "Nonutility service" includes the sale, lease,
28 or other conveyance of commercial and residential gas
29 or electric appliances, interior lighting systems and
30 fixtures, or heating, ventilating, or air conditioning
31 systems and component parts, communications systems
32 and component parts, services, or products sold,
33 leased, or otherwise provided by a telephone company
34 subject to section 476.1E, other than those systems,
35 parts, services, or products regulated under section
36 476.1E, or the servicing, repair, or maintenance of
37 such equipment.

38 4. "Public utility" includes only gas or electric
39 rate-regulated public utilities and rate-regulated
40 telephone utilities providing local-exchange
41 telecommunication service subject to section 476.1E.

42 5. "Utility business" means the generation or
43 transmission of electricity or furnishing of gas or
44 furnishing electricity or furnishing rate-regulated
45 communications services to the public for
46 compensation.

47 Sec. 27. Section 476.78, Code 1993, is amended to
48 read as follows:

49 476.78 CROSS-SUBSIDIZATION PROHIBITED.

50 A rate-regulated gas or electric public utility or

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1 a rate-regulated telephone company subject to section
2 476.1E shall not directly or indirectly include any
3 costs or expenses attributable to providing nonutility
4 service in regulated rates or charges.

5 Sec. 28. Section 476.79, Code 1993, is amended to
6 read as follows:

7 476.79 PROVISION OF NONUTILITY SERVICE.

8 1. A rate-regulated gas or electric public utility
9 or a rate-regulated telephone company subject to
10 section 476.1E, providing any nonutility service to
11 its customers shall keep and render to the board
12 separate records of the nonutility service. The board
13 may provide for the examination and inspection of the
14 books, accounts, papers, and records of the nonutility
15 service, as may be necessary, to enforce any
16 provisions of this chapter.

17 2. The board shall adopt rules which specify the
18 manner and form of the accounts relating to providing
19 nonutility services which the rate-regulated gas or
20 electric utility or a rate-regulated telephone company
21 subject to section 476.1E shall maintain.

22 Sec. 29. Section 476.80, Code 1993, is amended to
23 read as follows:

24 476.80 ADDITIONAL REQUIREMENTS.

25 A rate-regulated gas or electric public utility or
26 a rate-regulated telephone company subject to section
27 476.1E which engages in a systematic marketing effort
28 as defined by the board, other than on an incidental
29 or casual basis, to promote the availability of
30 nonutility service from the public utility shall make
31 available at reasonable compensation on a
32 nondiscriminatory basis to all persons engaged
33 primarily in providing the same competitive nonutility
34 services in that area all of the following services to
35 the same extent utilized by the public utility in
36 connection with its nonutility services:

37 1. Access to and use of the public utility's
38 customer lists.

39 2. Access to and use of the public utility's
40 billing and collection system.

41 3. Access to and use of the public utility's
42 mailing system.

43 Sec. 30. Section 476.81, Code 1993, is amended to
44 read as follows:

45 476.81 AUDIT REQUIRED.

46 The board may periodically retain a nationally or
47 regionally recognized independent auditing firm to
48 conduct an audit of the nonutility services provided
49 by a rate-regulated gas or electric public utility or
50 a rate-regulated telephone company subject to section

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1 476.1E subject to the provisions of section 476.80. A
2 nonutility service audit shall not be conducted more
3 frequently than every three years, unless ordered by
4 the board for good cause. The cost of the audit shall
5 be paid by the public utility to the independent
6 auditing firm and shall be included in its regulated
7 rates and charges, unless otherwise ordered by the
8 board for good cause after providing the public
9 utility the opportunity for a hearing on the board's
10 decision.

11 Sec. 31. Section 476.83, Code 1993, is amended to
12 read as follows:

13 476.83 COMPLAINTS.

14 Any person may file a written complaint with the
15 board requesting the board to determine compliance by
16 a rate-regulated gas or electric utility or a rate-
17 regulated telephone company subject to section 476.1E
18 with the provisions of section 476.78, 476.79, or
19 476.80 or any validly adopted rules to implement those
20 sections. If the board determines there is any
21 reasonable ground to investigate the complaint, the
22 board shall promptly initiate formal complaint
23 proceedings. The formal proceeding may be initiated
24 at any time by the board on its own motion.

25 Sec. 32. Section 477.1, Code 1993, is amended to
26 read as follows:

27 477.1 RIGHT-OF-WAY.

28 Any person, firm, and corporation, within or
29 without the state, may construct a telegraph or
30 telephone line or cable system along the public roads
31 of the state, or across or under the rivers or over,
32 under, or through any lands belonging to the state or
33 any private individual, and may erect or install
34 necessary fixtures. The state may construct Parts I
35 and II and a certified local exchange telephone
36 company may construct Part III of the state
37 communications network established in division V of
38 chapter 18 along the public roads of the state, and
39 private ways, or across or under the rivers or over,
40 under, or through any lands belonging to a private
41 person or individual, and may erect or install
42 necessary equipment and fixtures on such property
43 including installing and maintaining equipment in
44 structures at an endpoint, and at other points along
45 the network. However, construction of a telegraph or
46 telephone line or cable system along a primary road is
47 subject to rules adopted by the state department of
48 transportation.

49 Sec. 33. INITIAL BOARD CHAIRPERSON.

50 Notwithstanding the provision of section 18.133A,

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1 subsection 3, the initial chairperson of the board
2 shall be appointed by the governor from the membership
3 of the board for a two-year term.

4 Sec. 34. Sections 21 through 31 of this Act are
5 effective January 1, 1994."

By RICHARD VARN

EMIL J. HUSAK

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S-3758 FILED MAY 1, 1993
DEFERRED

SENATE FILE 417

S-3689

1 Amend Senate File 417 as follows:

2 1. Page 2, by striking lines 8 through 12 and
3 inserting the following: "Members of the board shall
4 not have any".

5 2. Page 2, line 16, by inserting after the word
6 "network" the following: "as provided in chapter
7 68B".

8 3. Page 2, line 21, by inserting after the word
9 "appointees" the following: "in areas including, but
10 not limited to, public utility regulation,
11 telecommunications, and education issues related to
12 the network".

13 4. Page 2, line 33, by striking the word "six"
14 and inserting the following: "seven".

15 5. Page 2, line 34, by striking the word "six"
16 and inserting the following: "seven".

17 6. Page 3, line 3, by inserting after the word
18 "districts;" the following: "one person representing
19 the area education agencies;"

20 7. Page 3, line 8, by striking the word "council"
21 and inserting the following: "board".

22 8. Page 4, line 21, by inserting after the word
23 "network." the following: "Rules adopted by the board
24 shall also not abridge or modify agreements between an
25 educator and an educational institution related to any
26 copyright, patent, invention, software, instruction,
27 instructional programming, or other intellectual
28 property interest."

29 9. Page 4, line 33, by inserting after the word
30 "agencies." the following: "However, rules adopted by
31 the board relating to state communications which are
32 not part of the network shall not apply to public
33 universities governed by the state board of regents."

34 10. Page 4, line 34, by inserting after the
35 figure "8," the following: "11,"

36 11. Page 5, line 9, by inserting after the word
37 "board," the following: "the Iowa communications
38 network board."

39 12. Page 5, by inserting after line 31 the
40 following:

41 "d. "State communications network" or "network"
42 means Part I, Part II, and Part III of the system."

43 13. By striking page 6, line 9, through page 7,
44 line 13; and inserting the following: "system shall
45 be provided eighty-percent-from by the state and
46 ~~twenty-percent-from-the-local-school-boards-of-the~~
47 ~~areas-which-receive-transmissions-from-the-system.~~
48 ~~The-local-school-boards-may-meet-all-or-part-of-the~~
49 ~~match-requirements-of-Part-III-of-the-system-through-a~~
50 ~~cooperative-arrangement-with-community-colleges. The~~

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1 basis for the amount of state match financing is
 2 eighty one hundred percent of a single interactive
 3 audio and one-way interactive video connection for
 4 Part III of the system, and such data and voice
 5 capacity as is necessary. ~~The local school boards and~~
 6 ~~community colleges may meet the match requirements for~~
 7 ~~Part II and Part III of the system from funds they~~
 8 ~~have already spent for their systems, from funds~~
 9 ~~available in the school budget, or from funds received~~
 10 ~~from other nonstate sources, in the case of existing~~
 11 ~~systems, in order to upgrade facilities to the~~
 12 ~~specifications of the state communications network,~~
 13 ~~the local school boards and community colleges, in~~
 14 ~~lieu of a cash match, may meet the match requirements~~
 15 ~~from funds they have already spent for their systems~~
 16 ~~provided that the state match does not exceed the~~
 17 ~~lesser of eighty percent of the total cost of the~~
 18 ~~upgraded system or eighty percent of the replacement~~
 19 ~~cost of the system. The communications equipment~~
 20 ~~funds used as a match by a community college shall be~~
 21 ~~calculated based on verified expenditures for capital,~~
 22 ~~equipment, hardware, and software for long distance~~
 23 ~~learning technologies, including both audio and visual~~
 24 ~~transmission. The communications equipment used as a~~
 25 ~~match shall not subsequently be used as a match by~~
 26 ~~another educational entity or for another part of the~~
 27 ~~system. A local school board may request the school~~
 28 ~~budget review committee to adjust the allowable growth~~
 29 ~~for the school district so that the resulting increase~~
 30 ~~in budget could be used for the match. A local school~~
 31 board shall determine the type of classroom facility
 32 to be provided and the type of facility or equipment
 33 to be used in providing the connection to the school
 34 or the classroom. If a local school board elects to
 35 provide one hundred percent of the financing for the
 36 lease costs for Part III, the school district may
 37 become part of the system as soon as the network can
 38 reasonably connect it. A local school board may also
 39 elect that the school district not to become part of
 40 the system. Such election shall be made on an annual
 41 basis. State matching funds shall not be provided for
 42 Part III of the system until Part I and Part II of the
 43 system have been completed. Leasing of Part".

44 14. Page 8, line 12, by inserting after the word
 45 "proceed." the following: "The board is authorized to
 46 regulate and review the terms of any lease entered
 47 into related to Part III of the system."

48 15. Page 8, line 13, by striking the word "board"
 49 and inserting the following: "district".

50 16. Page 8, by inserting after line 16 the

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1 following:

2 "Nothing in this section shall preclude a school
3 corporation from using or upgrading existing
4 facilities for use in the corporation's own district
5 or region for Part III of the system which meet the
6 specifications of the state communications network and
7 provide interactive audio and interactive video and
8 such data and voice capacity as is necessary."

9 17. Page 8, line 19, by striking the words "local
10 school board" and inserting the following: "school
11 corporation".

12 18. Page 8, line 20, by inserting after the word
13 "library" the following: "located within the
14 company's service territory".

15 19. Page 8, line 22, by striking the word
16 "district" and inserting the following:
17 "corporation".

18 20. Page 8, line 27, by striking the word
19 "district" and inserting the following:
20 "corporation".

21 21. Page 8, line 28, by striking the words "but
22 not limited to".

23 22. Page 8, line 29, by inserting after the word
24 "for" the following: "maintenance,".

25 23. Page 8, line 31, by striking the word
26 "district" and inserting the following:
27 "corporation".

28 24. Page 8, line 34, by striking the word
29 "district" and inserting the following:
30 "corporation".

31 25. Page 9, line 5, by striking the words "local
32 school board" and inserting the following: "school
33 corporation".

34 26. Page 9, line 6, by inserting after the word
35 "library" the following: "located within the
36 company's service territory".

37 27. Page 9, line 11, by striking the word
38 "placing".

39 28. Page 9, line 13, by striking the words "but
40 not limited to costs for" and inserting the following:
41 "costs for maintenance,".

42 29. Page 9, line 15, by striking the words "the
43 school district" and inserting the following: "such
44 authorized user".

45 30. Page 9, line 18, by inserting before the word
46 "If" the following: "A certified local exchange
47 telephone company with fewer than fifteen thousand
48 access lines shall have ninety days, from the date an
49 authorized user has requested that the local exchange
50 telephone company provide through a lease the required

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1 facilities related to Part III of the network, to
2 notify such user as to whether the local exchange
3 telephone company elects to provide the required
4 facilities."

5 31. Page 9, line 23, by inserting after the word
6 "facilities." the following: "The board shall
7 determine the form and content of the request for
8 proposals and shall determine which proposal will be
9 accepted for providing the required facilities."

10 32. Page 9, line 35, by striking the word
11 "district" and inserting the following: "corporation
12 or public library".

13 33. Page 10, line 3, by striking the word
14 "district" and inserting the following: "corporation
15 or public library".

16 34. Page 10, by striking lines 6 through 8 and
17 inserting the following:

18 "An authorized user may request a review of the
19 periodic lease rate by the Iowa communications network
20 board for compliance with reasonable norms established
21 by rule of the board. Rates consistent with the
22 norms".

23 35. Page 10, line 11, by striking the word
24 "utilities" and inserting the following: "Iowa
25 communications network".

26 36. Page 10, line 12, by inserting after the word
27 "norms" the following: "after review of such proposed
28 rates by the Iowa utilities board".

29 37. Page 10, by inserting after line 12 the
30 following:

31 "For purposes of this section, "new facilities" for
32 purposes of determining the capital cost to be
33 amortized in establishing the lease rate are those
34 facilities which are procured, installed, or
35 constructed to provide Part III of the system to a
36 user on or after the date such user certifies to the
37 board, in a manner as determined by the board, that
38 the user is ready to be connected to the network."

39 38. Page 11, by inserting after line 12, the
40 following:

41 "11. The fees charged for use of the network by an
42 authorized user for educational telecommunications
43 shall be based on the ongoing operational and
44 maintenance costs of the network only."

45 39. Page 11, line 30, by striking the word
46 "Access" and inserting the following: "a. Access".

47 40. Page 11, by striking line 33 and inserting
48 the following: "office. An agency of the federal
49 government shall contribute, at a minimum, an amount".

50 41. Page 12, by striking lines 1 through 8 and

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1 inserting the following: "communications network
2 board. Access to the network shall be provided
3 pursuant to a lease unless such lease would be
4 prohibited by any of the following:

- 5 (1) Federal law.
- 6 (2) Rule or regulation of the federal agency.
- 7 (3) Policy of the federal agency.
- 8 (4) Lack of funding which prevents an ongoing

9 lease arrangement from being entered into.
10 If the Iowa communications network board determines
11 that a lease is prohibited as provided in this
12 paragraph, the board may still permit an agency of the
13 federal government access to the network upon a
14 showing by the federal agency to the board that
15 sufficient federal funding is available to pay for the
16 costs of connection to the network."

17 42. Page 12, by striking lines 9 through 26 and
18 inserting the following:

19 "b. Access shall be offered to hospitals licensed
20 pursuant to chapter 135B. A hospital shall
21 contribute, at a minimum, an amount consistent with
22 its share of use for the part of the system in which
23 the hospital participates as determined by the Iowa
24 communications network board. Access to Parts I and
25 II of the network shall be offered to hospitals
26 licensed pursuant to chapter 135B for education and
27 distance learning applications; continuing medical
28 education applications; diagnostic, clinical, and
29 consultative services which require the use of
30 interactive video, the transmission of high quality
31 images, or the combination of text, video, visual, or
32 graphic information; the transmission of payments and
33 claims information to and from the medicaid program
34 established under Title XVIII of the federal Social
35 Security Act and the medical assistance (medicare)
36 program established pursuant to chapter 249A, the
37 health data commission or its successor agency, the
38 Iowa department of public health, and the community
39 health management information system, where such
40 information transmission assists in satisfying an
41 information-gathering duty assigned by statute; and
42 the transmission of government payments and claims
43 information to hospitals. This paragraph is repealed
44 effective June 30, 2003."

45 43. By striking page 12, line 30, through page
46 13, line 1, and inserting the following:

47 "NEW SUBSECTION. 13C. Notwithstanding the
48 provisions of subsection 4 regarding the lease of all
49 component parts for Part III of the system, an
50 authorized user may purchase a wireless system

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1 utilizing a portion of the electromagnetic spectrum
2 allocated by the federal communications commission.
3 An authorized user eligible to receive state funding
4 for the provision of the component parts for Part III
5 of the system, as provided in subsection 3, may also
6 utilize such wireless system. If such authorized user
7 determines to use such wireless system, the user shall
8 inform the board of the decision to utilize such
9 wireless system and the board shall develop a request
10 for proposals for providing such system. The wireless
11 system may be provided under a lease, lease-purchase
12 agreement, or a purchase of the wireless
13 communications system."

14 44. Page 13, line 30, by inserting after the word
15 "needs." the following: "The rules shall not abridge
16 or modify agreements between an educator and an
17 educational institution related to any copyright,
18 patent, invention, software, instruction,
19 instructional programming, or other intellectual
20 property interest."

21 45. Page 14, by inserting after line 2, the
22 following:

23 "Sec. ____ . NEW SECTION. 256.36A MEDIA AND
24 EDUCATIONAL SERVICES FUND.

25 A media and educational services fund is
26 established in the treasurer's office under the
27 control of the department of education. Moneys
28 deposited in the fund shall be used for the
29 development of staff development programs for use on
30 the state communications network, and for the
31 development of programs to assist teachers in the use
32 of, and teaching on, the state communications
33 network."

34 46. Page 14, by inserting after line 2 the
35 following:

36 "Sec. ____ . Section 273.3, Code 1993, is amended by
37 adding the following new subsection:

38 NEW SUBSECTION. 20. Be authorized to purchase
39 equipment as provided in section 279.48.

40 Sec. ____ . NEW SECTION. 279.48 EQUIPMENT
41 PURCHASE.

42 The board of directors of a school corporation may
43 purchase equipment, and may enter into a contract and
44 issue a note to pay for the equipment. The note must
45 mature within five years and bear interest at a rate
46 to be determined by the board of directors in the
47 manner provided in section 74A.3, subsection 1. The
48 board of directors, by resolution, shall provide for
49 the form of the contract and note. Principal and
50 interest on the note must be payable from budgeted

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1 receipts in the current budget for each year of a
2 period of up to five years.

3 Sec. ____ . Section 298.3, subsection 3, Code 1993,
4 is amended to read as follows:

5 3. The purchase of buildings and the purchase of a
6 ~~single-unit-of~~ equipment or a technology system
7 exceeding five thousand dollars in value."

8 47. Page 16, line 5, by inserting after the word
9 "companies" the following: "with less than five
10 hundred thousand access lines".

11 48. Page 20, by inserting after line 17 the
12 following:

13 "Sec. 102. NEW SECTION. 476.30 FINDINGS --
14 STATEMENT OF POLICY.

15 The general assembly finds, in addition to other
16 standards for the provision of communications services
17 established in this chapter, all of the following:

18 1. Communications services should be available to
19 all citizens of this state at just, reasonable, and
20 affordable rates.

21 2. Competition should be permitted to function as
22 a substitute for certain aspects of regulation in
23 determining the variety, quality, and pricing of
24 communications services, when it is consistent with
25 the protection of consumers of communications services
26 and the furtherance of other relevant public interests
27 and goals.

28 3. The utilities board should be authorized to
29 respond with sufficient flexibility to the rapidly
30 changing nature of the communications industry.

31 4. Development of, and prudent investment in,
32 advanced communications networks which foster economic
33 development in this state should be encouraged.

34 Sec. 103. NEW SECTION. 476.30A ALTERNATIVE FORMS
35 OF REGULATION.

36 1. Notwithstanding contrary provisions of this
37 chapter, the board may adopt rules for utilities
38 furnishing communications services which authorize and
39 establish alternative forms of regulation other than
40 rate-of-return regulation. Alternative forms of
41 regulation, if approved by the board, may include
42 earnings sharing, revenue sharing, rate moratoria,
43 network modernization, incentive plans, or a
44 combination of these. Participation in an alternative
45 form of regulation is optional and at the election of
46 the utility.

47 2. A rate-regulated public utility furnishing
48 communications services may submit and the board may,
49 after notice and opportunity for hearing, approve or
50 modify a plan for an alternative form of regulation

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1 specific to that utility. The plan may be applied to
2 any pending proceeding involving the utility. The
3 hearing on the plan may be conducted separately or as
4 part of any pending proceeding involving the utility.
5 If the board modifies the proposed plan, participation
6 in the modified plan for alternative regulation shall
7 be optional and at the election of the utility.

8 3. Before a rate-regulated public utility
9 furnishing communications services can operate under a
10 plan for alternative regulation, the consumer advocate
11 may file a petition under section 476.3, subsection 2.
12 The consumer advocate shall indicate whether a
13 complaint will be filed no later than sixty days after
14 the utility requests permission to operate under a
15 plan for alternative regulation under subsection 2.
16 If the consumer advocate indicates an intent to file a
17 petition, the consumer advocate shall have an
18 additional ninety days to file such petition. A
19 refund or rate adjustment to the customers of such
20 utility which results from a petition filed by the
21 consumer advocate, shall not be affected as a result
22 of the implementation or existence of a plan for
23 alternative regulation.

24 4. A utility participating in an alternative form
25 of regulation must participate for at least two years.
26 However, a plan for alternative regulation shall not
27 be approved or implemented for a period longer than
28 five years without being renewed. At the expiration
29 of the time period for a plan for alternative
30 regulation, the consumer advocate and the utility
31 participating under the plan shall have a reasonable
32 opportunity to request a rate adjustment pursuant to
33 section 476.3, subsection 2, and section 476.6.

34 5. The board, in considering a plan for an
35 alternative form of regulation for a utility, shall
36 evaluate the effect of the proposed plan in
37 relationship to all of the following:

- 38 a. Effecting just and reasonable rates.
- 39 b. Provision of high quality, universally
40 available communications services.
- 41 c. Encouragement of investment in the
42 communications infrastructure, efficiency
43 improvements, and technological innovation.
- 44 d. The introduction of new communications products
45 and services.

46 e. Regulatory efficiency including reduction of
47 regulatory costs and delays.

48 6. Any utility plan for alternative regulation
49 shall, at a minimum, include all of the following:

- 50 a. A provision that at least fifty percent of the

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1 dollar amounts identified for sharing between the
2 utility and the utility's customers shall be returned
3 to the utility's customers.

4 b. The terms upon which changes in prices for
5 essential communications services may be approved by
6 the board.

7 c. Flexibility in establishing and changing
8 prices, terms, and conditions for nonessential
9 communications services.

10 d. Applicability of the board's service quality
11 standards.

12 e. Reporting of service offerings, prices, and
13 price changes to the board.

14 f. The term of the plan and the time for board
15 review of the plan before the plan terminates.

16 g. The manner in which changes in revenues,
17 expenses, and investment due to exogenous factors
18 beyond the control of the utility may be reflected in
19 rates.

20 7. The utilities board shall study the effective-
21 ness of any plans for alternative regulation which are
22 approved. A study shall include a description of the
23 plan, identification of the local exchange utility or
24 utilities participating under the plan, and an
25 analysis of the effects of the plan, including, but
26 not limited to, the extent to which the plan has
27 generated savings as a result of inducing additional
28 efficiencies by the utility. The results of a study
29 conducted pursuant to this subsection shall be
30 reported to the general assembly by January 15 after
31 the first full year that the plan is in effect.

32 Sec. 104. NEW SECTION. 476.30B PROHIBITED ACTS.

33 A utility electing to participate and submitting an
34 alternative regulation plan pursuant to section
35 476.30A shall not do any of the following:

36 1. Discriminate against another provider of
37 communications services by refusing or delaying access
38 to the participating utility's local exchange network.

39 2. Degrade the quality of access or service
40 provided to another provider of communications
41 services.

42 Sec. 105. NEW SECTION. 476.30C DEFINITIONS.

43 As used in sections 476.30 through 476.30B, unless
44 the context otherwise requires:

45 1. "Essential communications service" means that
46 communications service or equipment necessary for a
47 residential or business end-user to pursue, at a
48 minimum, voice communications on the public network in
49 a manner consistent with community expectations and
50 the public interest as determined by the board.

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1 Essential communications services include, at a
2 minimum, basic local telephone service, switched
3 access, 911 and E911 services, and relay service for
4 communications-impaired persons. The board is
5 authorized to classify by rule other communications
6 services as essential communications services
7 consistent with this definition.

8 2. "Nonessential communications services" means
9 all communications services subject to the board's
10 jurisdiction not deemed either by statute or by rule
11 as essential communications services.

12 3. "Rate-regulated public utility furnishing
13 communications services" or "utility participating in
14 an alternative form of regulation" means a rate-
15 regulated local exchange telephone company with five
16 hundred thousand or more access lines.

17 Sec. 106. Section 476.3, subsection 2, Code 1993,
18 is amended by adding the following new unnumbered
19 paragraph:

20 NEW UNNUMBERED PARAGRAPH. Notwithstanding the
21 provisions of this subsection authorizing the consumer
22 advocate to file a petition with the board alleging
23 that a utility's rates are excessive, the consumer
24 advocate shall not file a petition which alleges that
25 a local exchange utility's rates are excessive while
26 the local exchange utility is participating in an
27 approved plan of alternative regulation approved by
28 the board pursuant to section 476.30A."

29 49. Page 20, by inserting after line 17 the
30 following:

31 "Sec. _____. Section 476.71, Code 1993, is amended
32 to read as follows:

33 476.71 PURPOSE.

34 It is the intent of the general assembly that a
35 public utility should not directly or indirectly
36 include in regulated rates or charges, or rates or
37 charges in effect pursuant to section 476.1E, any
38 costs or expenses of an affiliate engaged in any
39 business other than that of utility business unless
40 the affiliate provides goods or services to the public
41 utility. The costs that are included should be
42 reasonably necessary and appropriate for utility
43 business. It is also the intent of the general
44 assembly that a public utility should only provide
45 nonutility services in a manner that minimizes the
46 possibility of cross-subsidization or unfair
47 competitive advantage.

48 Sec. _____. Section 476.72, Code 1993, is amended to
49 read as follows:

50 476.72 DEFINITIONS.

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1 As used in this division, unless the context
2 otherwise requires:

3 1. "Affiliate" means a party that directly, or
4 indirectly through one or more intermediaries,
5 controls, is controlled by, or is under common control
6 with a rate-regulated public utility.

7 2. "Control" means the possession, direct or
8 indirect, of the power to direct or cause the
9 direction of the management and policies of an
10 enterprise through ownership, by contract or
11 otherwise.

12 3. "Nonutility service" includes the sale, lease,
13 or other conveyance of commercial and residential gas
14 or electric appliances, interior lighting systems and
15 fixtures, or heating, ventilating, or air conditioning
16 systems and component parts, communications systems
17 and component parts, services, or products sold,
18 leased, or otherwise provided by a telephone company
19 subject to section 476.1E, other than those systems,
20 parts, services, or products regulated under section
21 476.1E, or the servicing, repair, or maintenance of
22 such equipment.

23 4. "Public utility" includes only gas or electric
24 rate-regulated public utilities and rate-regulated
25 telephone utilities providing ~~local-exchange~~
26 telecommunication service subject to section 476.1E.

27 5. "Utility business" means the generation or
28 transmission of electricity or furnishing of gas or
29 furnishing electricity or furnishing rate-regulated
30 communications services to the public for
31 compensation.

32 Sec. ____ . Section 476.78, Code 1993, is amended to
33 read as follows:

34 476.78 CROSS-SUBSIDIZATION PROHIBITED.

35 A rate-regulated gas or electric public utility or
36 a rate-regulated telephone company subject to section
37 476.1E shall not directly or indirectly include any
38 costs or expenses attributable to providing nonutility
39 service in regulated rates or charges.

40 Sec. ____ . Section 476.79, Code 1993, is amended to
41 read as follows:

42 476.79 PROVISION OF NONUTILITY SERVICE.

43 1. A rate-regulated gas or electric public utility
44 or a rate-regulated telephone company subject to
45 section 476.1E, providing any nonutility service to
46 its customers shall keep and render to the board
47 separate records of the nonutility service. The board
48 may provide for the examination and inspection of the
49 books, accounts, papers, and records of the nonutility
50 service, as may be necessary, to enforce any

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1 provisions of this chapter.

2 2. The board shall adopt rules which specify the
3 manner and form of the accounts relating to providing
4 nonutility services which the rate-regulated gas or
5 electric utility or a rate-regulated telephone company
6 subject to section 476.1E shall maintain.

7 Sec. ____ . Section 476.80, Code 1993, is amended to
8 read as follows:

9 476.80 ADDITIONAL REQUIREMENTS.

10 A rate-regulated gas or electric public utility or
11 a rate-regulated telephone company subject to section
12 476.1E which engages in a systematic marketing effort
13 as defined by the board, other than on an incidental
14 or casual basis, to promote the availability of
15 nonutility service from the public utility shall make
16 available at reasonable compensation on a
17 nondiscriminatory basis to all persons engaged
18 primarily in providing the same competitive nonutility
19 services in that area all of the following services to
20 the same extent utilized by the public utility in
21 connection with its nonutility services:

22 1. Access to and use of the public utility's
23 customer lists.

24 2. Access to and use of the public utility's
25 billing and collection system.

26 3. Access to and use of the public utility's
27 mailing system.

28 Sec. ____ . Section 476.81, Code 1993, is amended to
29 read as follows:

30 476.81 AUDIT REQUIRED.

31 The board may periodically retain a nationally or
32 regionally recognized independent auditing firm to
33 conduct an audit of the nonutility services provided
34 by a rate-regulated gas or electric public utility or
35 a rate-regulated telephone company subject to section
36 476.1E subject to the provisions of section 476.80. A
37 nonutility service audit shall not be conducted more
38 frequently than every three years, unless ordered by
39 the board for good cause. The cost of the audit shall
40 be paid by the public utility to the independent
41 auditing firm and shall be included in its regulated
42 rates and charges, unless otherwise ordered by the
43 board for good cause after providing the public
44 utility the opportunity for a hearing on the board's
45 decision.

46 Sec. ____ . Section 476.83, Code 1993, is amended to
47 read as follows:

48 476.83 COMPLAINTS.

49 Any person may file a written complaint with the
50 board requesting the board to determine compliance by

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1 a rate-regulated gas or electric utility or a rate-
2 regulated telephone company subject to section 476.1E
3 with the provisions of section 476.78, 476.79, or
4 476.80 or any validly adopted rules to implement those
5 sections. If the board determines there is any
6 reasonable ground to investigate the complaint, the
7 board shall promptly initiate formal complaint
8 proceedings. The formal proceeding may be initiated
9 at any time by the board on its own motion."

10 50. Page 21, by inserting after line 11 the
11 following:

12 "Sec. 101.

13 1. A rate-regulated telephone company subject to
14 section 476.1E is subject to a rate review hearing
15 prior to the effective date of this Act. Such review
16 shall not be pursuant to section 476.6, but shall be a
17 review of the reasonableness of the rates which will
18 be the effective rates as provided in section 476.1E,
19 subsection 9.

20 2. A rate-regulated telephone company subject to
21 section 476.1E shall be subject to a rate review
22 proceeding under section 476.6. Such proceeding shall
23 commence after July 1, 1995, and before September 1,
24 1995. The review of the rate-regulated telephone
25 company's rates shall be completed prior to July 1,
26 1996."

27 51. Page 21, line 12, by striking the word "This"
28 and inserting the following: "Sections 1 through 14,
29 16, and 18 through 20 of this".

30 52. Page 21, line 13, by striking the word "is"
31 and inserting the following: "are".

32 53. Page 21, line 13, by inserting after the word
33 "enactment." the following: "Sections 102 through 106
34 of this Act are effective July 1, 1993."

35 54. Page 21, by inserting after line 13 the fol-
36 lowing:

37 "Section 15 of this Act, which enacts new section
38 476.1E, and section 17 are effective December 1, 1993.

39 Sec. _____. Section 101, being deemed of immediate
40 importance, is effective upon enactment.

41 Sec. _____. Section 476.1E, sections 476.30 through
42 476.30C, Code 1993, and section 476.3, subsection 2,
43 new unnumbered paragraph, as enacted during the 1993
44 regular session, are repealed effective December 1,
45 1996."

46 55. By renumbering as necessary.

By COMMITTEE ON COMMUNICATIONS
AND INFORMATION POLICY
RICHARD VARN, Chairperson

SENATE FILE 417

S-3713

1 Amend the amendment, S-3689, to Senate File 417 as
2 follows:
3 1. Page 7, by inserting after line 10 the
4 following:
5 "____. Page 19, line 24, by striking the word
6 "similar" and inserting the following: "competitively
7 appropriate".
8 _____. Page 19, by inserting after line 31 the
9 following:
10 "Sec. _____. NEW SECTION. 476.1F PROHIBITED ACTS.
11 A rate-regulated telephone company subject to
12 section 476.1E shall not do any of the following:
13 1. Discriminate against a competing provider of
14 communications services in the price of, or by
15 refusing or delaying access to, essential network
16 service.
17 2. Degrade the quality of access or service or
18 offer inferior dialing arrangements or connections to
19 a competing provider of communications services.
20 3. - Bundle essential network service in a manner
21 requiring a competing provider of communications
22 services to purchase functions unnecessary to the
23 competing provider's service offering.
24 4. Fail to include, for purposes of establishing a
25 price floor for a local exchange telephone utility
26 service, all pricing components it charges a competing
27 provider of communications services for essential
28 network service.
29 5. Fail to disclose in a timely manner, upon
30 request and pursuant to protective agreements
31 concerning proprietary information, all information
32 reasonably necessary for the network interface
33 equipment or network interface services that will meet
34 the specifications of the utility's local exchange
35 network.
36 6. Subsidize a nonessential network service,
37 except for basic local telephone service, 911
38 services, E911 services, and relay service for
39 communications-impaired persons, with revenues from
40 essential network services.
41 Sec. _____. NEW SECTION. 476.1G DEFINITIONS.
42 For purposes of sections 476.1E, 476.1F, this
43 section, and 476.1H, unless the context otherwise
44 requires:
45 1. "Essential network service" means switched
46 access and any function of the certified local
47 exchange telephone utility which is necessary to
48 another provider of communications service or product
49 for the offering of such provider's service or
50 product.

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1 2. "Nonessential network service" means any
2 service that is not an essential network service.

3 Sec. ____ . NEW SECTION. 476.1H PENALTY.

4 A person who is injured or threatened with injury
5 by conduct prohibited under section 476.1F may bring
6 an action in the county where the cause of action
7 arose, where any defendant resides or transacts
8 business, or where an act in furtherance of the
9 conduct prohibited by this chapter occurred. Remedies
10 may be sought as set forth in section 553.12."

11 2. Page 13, by inserting after line 9 the
12 following:

13 "____. Page 21, line 8, by inserting after the
14 word "implemented" the following: "through reductions
15 of at least ten percent of the difference between the
16 intrastate and the federal rate per year"."

17 3. By renumbering as necessary.

By MICHAEL GRONSTAL

S-3713 FILED APRIL 29, 1993

SENATE FILE 417

S-3712

1 Amend Senate File 417 as follows:

2 1. Page 19, line 24, by striking the word
3 "similar" and inserting the following: "competitively
4 appropriate".

5 2. Page 19, by inserting after line 31 the
6 following:

7 "Sec. ____ . NEW SECTION. 476.1F PROHIBITED ACTS.

8 A rate-regulated telephone company subject to
9 section 476.1E shall not do any of the following:

10 1. Discriminate against a competing provider of
11 communications services in the price of, or by
12 refusing or delaying access to, essential network
13 service.

14 2. Degrade the quality of access or service or
15 offer inferior dialing arrangements or connections to
16 a competing provider of communications services.

17 3. Bundle essential network service in a manner
18 requiring a competing provider of communications
19 services to purchase functions unnecessary to the
20 competing provider's service offering.

21 4. Fail to include, for purposes of establishing a
22 price floor for a local exchange telephone utility
23 service, all pricing components it charges a competing
24 provider of communications services for essential
25 network service.

26 5. Fail to disclose in a timely manner, upon
27 request and pursuant to protective agreements
28 concerning proprietary information, all information
29 reasonably necessary for the network interface
30 equipment or network interface services that will meet
31 the specifications of the utility's local exchange
32 network.

33 6. Subsidize a nonessential network service,
34 except for basic local telephone service, 911
35 services, E911 services, and relay service for
36 communications-impaired persons, with revenues from
37 essential network services.

38 Sec. ____ . NEW SECTION. 476.1G DEFINITIONS.

39 For purposes of sections 476.1E, 476.1F, this
40 section, and 476.1H, unless the context otherwise
41 requires:

42 1. "Essential network service" means switched
43 access and any function of the certified local
44 exchange telephone utility which is necessary to
45 another provider of communications service or product
46 for the offering of such provider's service or
47 product.

48 2. "Nonessential network service" means any
49 service that is not an essential network service.

50 Sec. ____ . NEW SECTION. 476.1H PENALTY.

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1 A person who is injured or threatened with injury
2 by conduct prohibited under section 476.1F may bring
3 an action in the county where the cause of action
4 arose, where any defendant resides or transacts
5 business, or where an act in furtherance of the
6 conduct prohibited by this chapter occurred. Remedies
7 may be sought as set forth in section 553.12."

8 3. Page 21, line 8, by inserting after the word
9 "implemented" the following: "through reductions of
10 at least ten percent of the difference between the
11 intrastate and the federal rate per year".

12 4. By renumbering as necessary.

By MICHAEL E. GRONSTAL

S-3712 FILED APRIL 29, 1993

SENATE FILE 417

S-3699

1 Amend the amendment, S-3689, to Senate File 417 as
2 follows:
3 1. Page 7, by inserting after line 10 the
4 following:
5 "_____. Page 19, line 24, by striking the word
6 "similar" and inserting the following: "competitively
7 appropriate"."
8 2. By striking page 9, line 32, through page 10,
9 line 16 and inserting the following:
10 "_____. Page 20, by inserting after line 17 the
11 following:
12 "Sec. _____. NEW SECTION. 476.30B PROHIBITED ACTS.
13 A certified local exchange telephone utility shall
14 not do any of the following:
15 1. Discriminate against a competing provider of
16 communications services in the price of, or by
17 refusing or delaying access to, essential network
18 service.
19 2. Degrade the quality of access or service or
20 offer inferior dialing arrangements or connections to
21 a competing provider of communications services.
22 3. Bundle essential network service in a manner
23 requiring a competing provider of communications
24 services to purchase functions unnecessary to the
25 competing provider's service offering.
26 4. Fail to include, for purposes of establishing a
27 price floor for a local exchange telephone utility
28 service, all pricing components it charges a competing
29 provider of communications services for essential
30 network service.
31 5. Fail to disclose in a timely manner, upon
32 request and pursuant to protective agreements
33 concerning proprietary information, all information
34 reasonably necessary for the network interface
35 equipment or network interface services that will meet
36 the specifications of the utility's local exchange
37 network.
38 6. Subsidize a nonessential network service,
39 except for basic local telephone service, 911
40 services, E911 services, and relay service for
41 communications-impaired persons, with revenues from
42 essential network services.
43 Sec. _____. NEW SECTION. 476.30C DEFINITIONS.
44 For purposes of sections 476.30, 476.30A, and
45 476.30B, unless the context otherwise requires:
46 1. "Essential network service" means switched
47 access and any function of the certified local
48 exchange telephone utility which is necessary to
49 another provider of communications service or product
50 for the offering of such provider's service or
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1 product.

2 2. "Nonessential network service" means any
3 service that is not an essential network service.4 Sec. ____ . NEW SECTION. 476.30D PENALTY.5 A person who is injured or threatened with injury
6 by conduct prohibited under section 476.30B may bring
7 an action in the county where the cause of action
8 arose, where any defendant resides or transacts
9 business, or where an act in furtherance of the
10 conduct prohibited by this chapter occurred. Remedies
11 may be sought as set forth in section 553.12."12 3. Page 13, by inserting after line 9 the
13 following:14 " ____ . Page 21, line 8, by inserting after the
15 word "implemented" the following: "through reductions
16 of at least ten percent of the difference between the
17 intrastate and the federal rate per year"."

18 4. By renumbering as necessary.

By MICHAEL GRONSTAL

S-3699 FILED APRIL 29, 1993

SENATE FILE 417

S-3698

1 Amend Senate File 417 as follows:

2 1. Page 19, line 24, by striking the word
3 "similar" and inserting the following: "competitively
4 appropriate".

5 2. Page 20, by inserting after line 17 the
6 following:

7 "Sec. ____ . NEW SECTION. 476.30B PROHIBITED ACTS.

8 A certified local exchange telephone utility shall
9 not do any of the following:

10 1. Discriminate against a competing provider of
11 communications services in the price of, or by
12 refusing or delaying access to, essential network
13 service.

14 2. Degrade the quality of access or service or
15 offer inferior dialing arrangements or connections to
16 a competing provider of communications services.

17 3. Bundle essential network service in a manner
18 requiring a competing provider of communications
19 services to purchase functions unnecessary to the
20 competing provider's service offering.

21 4. Fail to include, for purposes of establishing a
22 price floor for a local exchange telephone utility
23 service, all pricing components it charges a competing
24 provider of communications services for essential
25 network service.

26 5. Fail to disclose in a timely manner, upon
27 request and pursuant to protective agreements
28 concerning proprietary information, all information
29 reasonably necessary for the network interface
30 equipment or network interface services that will meet
31 the specifications of the utility's local exchange
32 network.

33 6. Subsidize a nonessential network service,
34 except for basic local telephone service, 911
35 services, E911 services, and relay service for
36 communications-impaired persons, with revenues from
37 essential network services.

38 Sec. ____ . NEW SECTION. 476.30C DEFINITIONS.

39 For purposes of sections 476.30, 476.30A, and
40 476.30B, unless the context otherwise requires:

41 1. "Essential network service" means switched
42 access and any function of the certified local
43 exchange telephone utility which is necessary to
44 another provider of communications service or product
45 for the offering of such provider's service or
46 product.

47 2. "Nonessential network service" means any
48 service that is not an essential network service.

49 Sec. ____ . NEW SECTION. 476.30D PENALTY.

50 A person who is injured or threatened with injury

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1 by conduct prohibited under section 476.30B may bring
2 an action in the county where the cause of action
3 arose, where any defendant resides or transacts
4 business, or where an act in furtherance of the
5 conduct prohibited by this chapter occurred. Remedies
6 may be sought as set forth in section 553.12."

7 3. Page 21, line 8, by inserting after the word
8 "implemented" the following: "through reductions of
9 at least ten percent of the difference between the
10 intrastate and the federal rate per year".

11 4. By renumbering as necessary.

By MICHAEL E. GRONSTAL

S-3698 FILED APRIL 29, 1993

HUSAK, CH.
DIELEMAN
HEDGE

SSB 169
WAYS & MEANS

SENATE FILE 417
BY (PROPOSED COMMITTEE ON WAYS
AND MEANS BILL BY CHAIR-
PERSON DIELEMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the state communications network by
2 indefinitely suspending all construction and operation
3 activities and providing an effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 18.137A CESSATION OF ACTIVITIES
2 RELATED TO THE IOWA COMMUNICATIONS NETWORK.

3 1. All activities associated with the construction,
4 operation, and maintenance of the state communications network
5 created in sections 18.132 through 18.137 shall indefinitely
6 cease until such time as this section is repealed.

7 2. During this cessation of activities, and prior to
8 resuming such activities, the general assembly shall seek to
9 determine the total financial burden and other relevant
10 impacts of the network associated with continuation and
11 completion of the network as provided in sections 18.132
12 through 18.137. This determination shall include the actual
13 costs associated with the completion of Part I, II, and III of
14 the network, as well as the costs associated with the
15 continuing operation and maintenance of the network.

16 Operation costs considered shall include those related to the
17 physical network and associated transmission equipment, as
18 well as related to the programming and packaging of services
19 and products available through the network. The determination
20 of costs shall also include those costs that will be directly
21 incurred for connection and use of the network.

22 3. The department of general services shall provide all
23 information requested by a member or members of the general
24 assembly related to the network. The department shall provide
25 estimates of costs for those activities where the actual cost
26 is yet unknown. The estimates provided shall also include an
27 explanation of how the estimates were made and justification
28 as to their reasonableness.

29 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
30 immediate importance, takes effect upon enactment.

31 EXPLANATION

32 This bill requires that all activities related to the state
33 communications network created in sections 18.132 through
34 18.137 are to cease until this bill is repealed. The general
35 assembly is to determine the total financial burden and other

1 relevant impacts of the network associated with continuation
2 and completion of the network. The department of general
3 services is directed to provide all information requested by a
4 member or members of the general assembly related to the
5 network. The bill takes effect upon enactment.

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