

CHAPTER 1184

IOWA COMMUNICATIONS NETWORK

S.F. 2089

AN ACT relating to the Iowa communications network by establishing a board, an executive director of the board, and an educational telecommunications advisory council and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 2.32, Code 1993, is amended by adding the following new subsection: **NEW SUBSECTION. 9.** If an appointment subject to senate confirmation is required by statute to be made by an appointing authority other than the governor, the duties assigned under this section to the governor shall be performed by the appointing authority.

Sec. 2. Section 18.3, subsection 5, Code 1993, is amended by striking the subsection.

Sec. 3. Section 18.133, subsections 1, 2, 3, and 4, Code Supplement 1993, are amended to read as follows:

1. "Commission" means the Iowa telecommunications and technology commission established in section 18.133A.

1 IA. "Director" means the executive director of the department of general services or the director's designee appointed pursuant to section 18.133B.

2. "Private agency" means an accredited nonpublic schools and school, a nonprofit institutions institution of higher education eligible for tuition grants, or a hospital licensed pursuant to chapter 135B or a physician clinic to the extent provided in section 18.136, subsection 13B.

3. "Public agency" means a state agency, an institution under the control of the board of regents, the judicial department as provided in section 18.136, subsection 13C, a school corporation, a city library, a regional library as provided in chapter 256, and a county library as provided in chapter 336, or a judicial district department of correctional services established in section 905.2, to the extent provided in section 18.136, subsection 13A, an agency of the federal government, or a United States post office which receives a federal grant for pilot and demonstration projects.

4. "State communications" refers to the transmission of voice, data, video, the written word or other visual signals by electronic means to serve the needs of state agencies but does not include communications activities of the state board of regents, radio and television facilities and other educational telecommunications systems and services including narrowcast and broadcast systems under the division of public broadcasting division of the department of education, department of transportation distributed data processing and mobile radio network, or law enforcement communications systems.

Sec. 4. Section 18.133, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 1B. "Network" means the Iowa or state communications network.

Sec. 5. **NEW SECTION. 18.133A IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION — MEMBERS — DUTIES.**

1. **COMMISSION ESTABLISHED.** A telecommunications and technology commission is established with the sole authority to supervise the management, development, and operation of the network and ensure that all components of the network are technically compatible. The commission shall ensure that the network operates in an efficient and responsible manner consistent with the provisions of this chapter for the purpose of providing the best economic service attainable to the network users consistent with the state's financial capacity. The commission shall ensure that educational users and the use, design, and implementation for educational applications be given the highest priority concerning use of the network. The commission shall provide for the centralized, coordinated use and control of the network.

2. MEMBERS. The commission is composed of three members appointed by the governor and subject to confirmation by the senate. Members of the commission shall not serve in any manner or be employed by an authorized user of the network or by an entity seeking to do or doing business with the network. The governor shall appoint a member as the chairperson of the commission from the three members appointed by the governor, subject to confirmation by the senate. Members of the commission shall serve six-year staggered terms as designated by the governor and appointments to the commission are subject to the requirements of sections 69.16, 69.16A, and 69.19. Vacancies shall be filled by the governor for the duration of the unexpired term. The salary of the members of the commission shall be twenty thousand dollars per year, except that the salary of the chairperson shall be twenty-five thousand dollars per year. Members of the commission shall also be reimbursed for all actual and necessary expenses incurred in the performance of duties as members. Meetings of the commission shall be held at the call of the chairperson of the commission. In addition to the members appointed by the governor, the auditor of state or the auditor's designee shall serve as a non-voting, ex officio member of the commission.

The benefits and salary paid to the members of the commission shall be adjusted annually equal to the average of the annual pay adjustments, expense reimbursements, and related benefits provided under collective bargaining agreements negotiated pursuant to chapter 20.

3. DUTIES. The commission shall do all of the following:

a. Enter into agreements pursuant to chapter 28E as necessary and appropriate for the purposes of the commission. However, the commission shall not enter into an agreement with an unauthorized user or any other person pursuant to chapter 28E for the purpose of providing such user or person access to the network.

b. Adopt rules pursuant to chapter 17A as deemed appropriate and necessary, and directly related to the implementation and administration of the duties of the commission. The commission, in consultation with the department of general services, shall also adopt and provide for standard communications procedures and policies relating to the use of the network which recognize, at a minimum, the need for reliable communications services.

c. Establish an appeal process for review by the commission of a scheduling conflict decision, including a scheduling conflict involving an educational user, or the establishment of a fee associated with the network upon the request of a person affected by such decision or fee. A determination made by the commission pursuant to this paragraph shall be final.

d. Review and approve for adoption, rules as proposed and submitted by an authorized user group necessary for the authorized user group's access and use of the network. The commission may refuse to approve and adopt a proposed rule, and upon such refusal, shall return the proposed rule to the respective authorized user group proposing the rule with a statement indicating the commission's reason for refusing to approve and adopt the rule.

e. (1) Develop and issue for response all requests for proposals for any construction, installation, repair, maintenance, or equipment and parts necessary for the network. In preparing the request for proposals, the commission shall do all of the following:

(a) Review existing requests for proposals related to the network.

(b) Consider and evaluate all competing technologies which could be used in any construction, installation, repair, or maintenance project.

(c) Allow flexibility for proposals to be submitted in response to a request for proposals issued by the commission such that any qualified provider may submit a bid on a site-by-site basis, or on a merged area or defined geographic area basis, or both, and by permitting proposals to be submitted for use of competing or alternative technologies in each defined area.

(d) Ensure that rural communities have access to comparable services to the services provided in urban areas resulting from any plans to construct, install, repair, or maintain any part of the network.

(2) In determining which proposal to recommend to the general assembly to accept, consider what is in the long-term best interests of the citizens of the state and the network, and utilize, if possible, the provision of services with existing service providers consistent with those

best interests. In determining what is in the long-term best interests of the citizens of the state and the network, the commission, at a minimum, shall consider the cost to taxpayers of the state.

(3) Deliver a written report and all proposals submitted in response to the request for proposals for Part III to the general assembly no later than January 1, 1995. The commission shall not enter into any agreement related to such proposals without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor.

f. Annually prepare a written five-year financial plan for the network which shall be provided to the general assembly and the governor no later than January 15 of each year. The plan shall include estimates for income and expenses for the network for the five-year period and the actual income and expenses for the preceding fiscal year. The plan shall include the amount of general fund appropriations to be requested for the payment of operating expenses and debt service. The plan shall also include any recommendations of the commission related to changes in the system and other items as deemed appropriate by the commission. The recommendations of the commission contained in the plan shall include a detailed plan for the connection of all public schools to the network, including a discussion and evaluation of all potential financing options, an estimate of all costs incurred in providing such connections, and a schedule for completing such connections, including the anticipated final completion date for such connections.

g. Review existing maintenance contracts and past contracts to determine vendor capability to perform the obligations under such contracts. The commission shall report to the general assembly prior to January 1 of each year as to the performance of all vendors under each contract and shall make recommendations concerning continued funding for the contracts.

h. Pursue available opportunities to cooperate and coordinate with the federal government for the use and potential expansion of the network and for the financing of any such expansion.

i. Evaluate existing and projected rates for use of the system and ensure that rates are sufficient to pay for the operation of the system except to the extent such use is subsidized by general fund appropriations as authorized by the general assembly. The commission shall establish all hourly rates to be charged to all authorized users for the use of the network. A fee established by the commission to be charged to a hospital licensed pursuant to chapter 135B, a physician clinic, or the federal government shall be at an appropriate rate so that, at a minimum, there is no state subsidy related to the costs of the connection or use of the network related to such user.

j. Make recommendations to the general assembly, as deemed appropriate by the commission, concerning the operation of the network.

Sec. 6. NEW SECTION. 18.133B EXECUTIVE DIRECTOR APPOINTED.

The commission shall appoint an executive director of the commission, subject to confirmation by the senate. Such individual shall not serve as a member of the commission. The executive director shall serve at the pleasure of the commission. The executive director shall be selected primarily for administrative ability and knowledge in the field, without regard to political affiliation. The governor shall establish the salary of the executive director within range nine as established by the general assembly. The salary and support of the executive director shall be paid from funds deposited in the Iowa communications network fund.

Sec. 7. NEW SECTION. 18.133C EDUCATION TELECOMMUNICATIONS COUNCIL ESTABLISHED — REGIONAL COUNCILS ESTABLISHED.

1. An education telecommunications council is established. The council consists of eighteen members and shall include the following: two persons appointed by the state board of regents; two persons appointed by the Iowa association of community college trustees; two persons appointed by the area education agency boards; two persons appointed by the Iowa association of school boards; two persons appointed by the school administrators of Iowa; two persons appointed by the Iowa association of independent colleges and universities; two persons appointed by the Iowa state education association; three persons appointed by the director of the department of education including one person representing libraries and one person

representing the Iowa association of nonpublic school administrators; and one person appointed by the administrator of the public broadcasting division of the department of education. The council shall establish scheduling and site usage policies for educational users of the network, coordinate the activities of the regional telecommunications councils, and develop proposed rules and changes to rules for recommendation to the commission. The council shall also recommend long-range plans for enhancements needed for educational applications. Administrative support and staffing for the council shall be provided by the department of education.

2. A regional telecommunications council is established in each of the merged areas established pursuant to chapter 260C consisting of nine members, including one member each to be appointed by each of the appointing authorities under subsection 1. Additional ex officio, nonvoting members may also be appointed to the regional telecommunications councils. The regional telecommunications councils shall advise the education telecommunications council on the assessment of local educational needs, and the coordination of program activities including scheduling. The community college located in the merged area of a regional telecommunications council shall staff and facilitate the activities of the council. The community college and the council may enter into a chapter 28E agreement for such arrangement.

3. The community college in each of the merged areas shall be responsible for switching of Parts II and III of the network and for facilitating the organization and meetings of the regional telecommunications council.

Sec. 8. NEW SECTION. 18.133D ADVISORY GROUPS ESTABLISHED.

1. The commission shall establish an advisory group to examine the use of the network for telemedicine applications. The advisory group shall consist of representatives of hospitals and other health care facilities as determined by the commission.

2. The commission may establish other advisory committees as necessary representing authorized users of the network.

Sec. 9. NEW SECTION. 18.133E TELECOMMUNICATIONS ADVISORY COMMITTEE.

A telecommunications advisory committee is established to advise the commission on telecommunications matters. The commission shall appoint five members to the advisory committee who shall represent specific telecommunications industries or persons with technical expertise related to the network.

Sec. 10. NEW SECTION. 18.133F SCHEDULING FOR AUTHORIZED USERS.

Except as provided in section 18.133C, an authorized user is responsible for all scheduling of the use of the authorized user's facility. A person who disputes a scheduling decision of such user may petition the commission for a review of such decision pursuant to section 18.133A, subsection 3, paragraph "c".

Sec. 11. NEW SECTION. 18.133G CERTIFICATION OF USE — NETWORK USE BY CERTAIN AUTHORIZED USERS.

1. A private or public agency, other than a state agency, local school district or nonpublic school, city library, regional library, county library, judicial department, judicial district department of correctional services, agency of the federal government, a hospital or physician clinic, or a post office authorized to be offered access pursuant to this chapter as of the effective date of this Act, shall certify to the commission no later than July 1, 1994, that the agency is a part of or intends to become a part of the network. Upon receiving such certification from an agency not a part of the network on the effective date of this Act, the commission shall provide for the connection of such agency as soon as practical. An agency which does not certify to the commission that the agency is a part of or intends to become a part of the network as required by this subsection shall be prohibited from using the network.

2. a. A private or public agency which certifies to the commission pursuant to subsection 1 that the agency is a part of or intends to become a part of the network shall use the network for all video, data, and voice requirements of the agency unless the private or public agency petitions the commission for a waiver and one of the following applies:

(1) The cost to the authorized user for services provided on the network are not competitive with the same services provided by another provider.

(2) The authorized user is under contract with another provider for such services, provided the contract was entered into prior to April 1, 1994. The agency shall use the network for video, data, and voice requirements which are not provided pursuant to such contract.

(3) The authorized user has entered into an agreement with the commission to become part of the network prior to June 1, 1994, which does not provide for use of the network for all video, data, and voice requirements of the agency. The commission may enter into an agreement described in this subparagraph upon a determination that the use of the network for all video, data, and voice requirements of the agency would not be in the best interests of the agency.

b. A private or public agency shall petition the commission for a waiver of the requirement to use the network as provided in paragraph "a", if the agency determines that paragraph "a", subparagraph (1) or (2) applies. The commission shall establish by rule a review process for determining, upon application of an authorized user, whether paragraph "a", subparagraph (1) or (2), applies. An authorized user found by the commission to be under contract for such services as provided in paragraph "a", subparagraph (2), shall not enter into another contract upon the expiration of such contract, but shall utilize the network for such services as provided in this section unless paragraph "a", subparagraph (1), applies.

Sec. 12. NEW SECTION. 18.133H REPORT OF SAVINGS BY STATE AGENCIES.

A state agency which is a part of the network shall annually provide a written report to the general assembly certifying the identified savings associated with the state agency's use of the network. The report shall be delivered on or before January 15 for the previous fiscal year of the state agency.

Sec. 13. Section 18.134, subsection 1, Code Supplement 1993, is amended to read as follows:

1. ~~The department of general services commission may purchase, lease-purchase, lease, and improve property, equipment, and services for telecommunications for public and private agencies, including the broadcast and narrowcast systems, and may dispose of property and equipment when not necessary for its purposes. However, the department of general services commission shall not enter into a contract for the purchase, lease-purchase, lease, or improvement of property, equipment, or services for telecommunications pursuant to this subsection in an amount greater than five hundred thousand dollars without prior authorization by a constitutional majority of each house of the general assembly, or approval by the legislative council if the general assembly is not in session. The commission shall not issue any bonding or other long-term financing arrangements as defined in section 12.30, subsection 1, paragraph "b". The commission also shall not provide or resell communications services to entities other than public and private agencies. The public or private agency shall not provide communication services of the network to another entity at a cost greater than that charged to the agency pursuant to section 18.136, subsections 11 and 12 unless otherwise authorized pursuant to this chapter. The department commission may arrange for joint use of available services and facilities, and may enter into leases and agreements with private and public agencies with respect to a state the Iowa communications system network, and public agencies are authorized to enter into leases and agreements with respect to the system network for their use and operation. Rentals and other amounts due under the agreements or leases entered into pursuant to this section by a state agency are payable from funds annually appropriated by the general assembly or from other funds legally available. Other public agencies may pay the rental costs and other amounts due under an agreement or lease from their annual budgeted funds or other funds legally available or to become available. This section comprises a complete and independent authorization and procedure for a public agency, with the approval of the department commission, to enter into a lease or agreement and related security enhancement arrangements and this section is not a qualification of any other powers which a public agency may possess and the authorizations and powers granted under this section are not subject to the~~

terms, requirements, or limitations of any other provisions of law. All moneys received by the ~~department~~ commission from agreements and leases entered into pursuant to this section with private and public agencies shall be deposited in the state Iowa communications network fund.

It is the intent of the general assembly that rental and other costs due under agreements and leases entered into pursuant to this section by state agencies be replaced by supplemental appropriations to the state agencies.

Sec. 14. NEW SECTION. 18.134A DISPOSITION OF NETWORK – APPROVAL OF GENERAL ASSEMBLY AND GOVERNOR.

Notwithstanding any provision to the contrary, the commission or the department of general services shall not sell, lease, or otherwise dispose of the network without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor.

Sec. 15. Section 18.136, subsections 1, 2, 3, 4, 6, 7, 8, 9, 10, 12, and 14, Code Supplement 1993, are amended to read as follows:

1. Moneys in the state Iowa communications network fund are appropriated to the ~~Iowa public broadcasting board~~ Iowa telecommunications and technology commission for purposes of providing financing for the procurement, operation, and maintenance of a state the Iowa communications network with sufficient capacity to serve the video, data, and voice requirements of state agencies and the educational telecommunications system consisting of Part I, Part II, and Part III, and other public and private agencies. The state communications network consists of Part I, Part II, and Part III of the system.

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

a. “Part I of the system” means the communications connections between central switching and institutions under the control of the board of regents, nonprofit institutions of higher education eligible for tuition grants, and the regional switching centers for the remainder of the network.

b. “Part II of the system” means the communications connections between the regional switching centers and the secondary switching centers.

c. “Part III of the system” means the communications connection between the secondary switching centers and the agencies defined in section 18.133, subsections 2 and 3, excluding state agencies, institutions under the control of the board of regents, nonprofit institutions of higher education eligible for tuition grants, and the judicial department, judicial district departments of correctional services, hospitals and physician clinics, agencies of the federal government, and post offices.

3. The financing for the procurement costs for the entirety of Part I of the system except for the communications connections between central switching and institutions under the control of the board of regents, and nonprofit institutions of higher education eligible for tuition grants, and for the video, data, and voice capacity for state agencies and for Part II and Part III of the system, shall be provided by the state. The financing for the procurement costs for Part II of the system shall be provided from the state. The financing for the procurement and maintenance costs for Part III of the system shall be provided eighty percent from by the state and twenty percent from the local school boards of the areas which receive transmissions from the system. A local school board, governing authority of a nonpublic school, or an area education agency board may elect to provide one hundred percent of the financing for the procurement and maintenance costs for Part III to become part of the system network. The local school boards may meet all or part of the match requirements of Part III of the system through a cooperative arrangement with community colleges. The basis for the amount of state match financing is eighty one hundred percent of a single interactive audio and one-way interactive video connection for Part III of the system, and such data and voice capacity as is necessary. The local school boards and community colleges may meet the match requirements for Part III of the system from funds they have already spent for their systems, from funds available in the school budget, or from funds received from other nonstate sources. In the case of existing

systems, in order to upgrade facilities to the specifications of the state communications network, the local school boards and community colleges, in lieu of a cash match, may meet the match requirements from funds they have already spent for their systems provided that the state match does not exceed the lesser of eighty percent of the total cost of the upgraded system or eighty percent of the replacement cost of the system. The communications equipment funds used as a match by a community college shall be calculated based on verified expenditures for capital, equipment, hardware, and software for long-distance learning technologies, including both audio and visual transmission. The communications equipment used as a match shall not subsequently be used as a match by another educational entity or for another part of the system. A local school board may request the school budget review committee to adjust the allowable growth for the school district so that the resulting increase in budget could be used for the match. If a school board, governing authority of a nonpublic school, or area education agency board elects to provide one hundred percent of the financing for the leasing costs for Part III, the school district or area education agency may become part of the network as soon as the network can reasonably connect the district or agency. A local school board, governing authority of a nonpublic school, or an area education agency board may also elect not to become part of the system network. Such election shall be made on an annual basis. State matching funds shall not be provided for Part III of the system until Part I and Part II of the system have been completed. Construction of Part III of the system, related to a school board, governing authority of a nonpublic school, or area education agency board which provides one hundred percent of the financing for the leasing costs for Part III, may proceed before Part I and Part II of the system have been completed as determined by the commission and consistent with the purpose of this chapter.

4. The department of general services commission shall develop the requests for proposals that are needed for a state the Iowa communications network with sufficient capacity to serve the video, data, and voice requirements of state agencies and the for educational telecommunications applications required by the Iowa public broadcasting board. The department commission shall develop a request for proposals for each of the systems that will make up the network. The department commission may develop a request for proposals for each definitive component of Part I, Part II, and Part III of the system the network or the department commission may provide in the request for proposals for each such system that separate contracts may be entered into for each definitive component covered by the request for proposals. The requests for proposals may be for the purchase, lease-purchase, or lease of the component parts of the system network consistent with the provisions of this chapter, may require maintenance costs to be identified, and the resulting contract may provide for maintenance for parts of the system network. The master contract may provide for electronic classrooms, satellite equipment, receiving equipment, studio and production equipment, and other associated equipment as required.

6. Prior to the awarding of a contract under this section, the department shall notify the legislative council and the department of management of the department's intent to award a contract and of the cost to the state. The department of management and the legislative council shall determine if the anticipated financial resources of the state are adequate to fund the expenditure during the fiscal years covered by the contract, and if so, the department of management shall certify the determination to the department. Upon certification, the department may enter into the contract.

7. The department of general services commission shall be responsible for the network system design and shall be responsible for the implementation of each component of the network as it is incorporated into the network system. The final design selected shall optimize the routing for all users in order to assure maximum utilization by all agencies of the state. Efficiencies achieved in the implementation of the network shall be used to fund further implementation and enhancement of the network, and shall be considered part of the operational cost of the network. The department commission shall be responsible for all management, operations, control switching, diagnostics, and maintenance functions of Part I and Part II of the system

network operations, except as designated in subsection 8 as provided in this chapter. The performance of these duties is intended to provide optimal utilization of the facilities, and the assurance that future growth requirements will be provided for, and that sufficient network capacity will be available to meet the needs of all users. The telecommunications information management council, created by executive order of the governor, shall provide general oversight for these functions.

8. The Iowa public broadcasting board retains sole authority over the educational telecommunications applications of Part I of the system, and its authority shall include management and operational control, programming, budget, personnel, scheduling, and program switching of educational material carried by Part I of the system. The Iowa public broadcasting board, through its narrowcast system advisory committee, retains coordination authority over the educational telecommunications applications of Part II and Part III of the system. Community colleges are responsible for scheduling and switching of educational materials carried by Part II and Part III of the system within their respective areas. Such responsibility may be accomplished by a chapter 28E agreement with the department of general services.

The narrowcast system advisory committee education telecommunications council shall review all requests for grants for educational telecommunications applications, if they are a part of the state Iowa communications network, to ensure that the educational telecommunications application is consistent with the telecommunications plan. If the narrowcast system advisory committee finds that a grant request is inconsistent with the telecommunications plan, the grant request shall not be allowed. All other grant requests shall be reviewed as determined by the commission. If the education telecommunications council finds that a grant request is inconsistent with the telecommunications plan, the grant request shall not be allowed.

9. The procurement and maintenance of electronic equipment including, but not limited to, master receiver antenna systems, studio and production equipment, and broadcast system components shall be provided for under department of general services' the commission's contracts. The Iowa public broadcasting board and other educational entities within the state have the option to use their existing or replacement resources and agreements in the operation and maintenance of these systems.

10. In addition to the other evaluation criteria specified in the request for proposals issued pursuant to this section, the department of general services commission, in evaluating proposals, shall base up to two percent of the total possible points on the public benefit that can be derived from a given proposal due to the increased private telecommunications capacity available to Iowa citizens located in rural Iowa. For purposes of this subsection, an area of the state is considered rural if it is not part of a federally designated standard metropolitan statistical area.

12. The Iowa public broadcasting board, in consultation with its narrowcast system advisory committee, shall determine the fee to be charged per course or credit hour by the originating institution, and the fees shall be substantially the same for comparable courses. The commission, on its own or as recommended by an advisory committee of the commission and approved by the commission, shall permit a fee to be charged by a receiving site to the originating site. The fee charged shall be for the purpose of recovering the operating costs of a receiving site. The fee charged shall be reduced by an amount received by the receiving site pursuant to a state appropriation for such costs, or federal assistance received for such costs. Fees established under this subsection shall be paid by the originating site directly to the receiving site. For purposes of this section, "operating costs" include the costs associated with the management or coordination, operations, utilities, classroom, equipment, maintenance, and other costs directly related to providing the receiving site.

14. Notwithstanding chapter 476, the provisions of chapter 476 shall not apply to a public utility in furnishing a telecommunications service or facility to the department of general services commission for the state Iowa communications network or to any authorized user of the Iowa communications network for such authorized user's connection to the network.

Sec. 16. Section 18.136, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. The state shall lease all fiber optic cable facilities or facilities with DS-3 capacity for Part III connections for which state funding is provided. The state shall lease all fiber optic cable facilities or facilities with DS-3 or DS-1 capacity for the judicial department, judicial district department of correctional services, and state agency connections for which state funding is provided. Such facilities shall be leased from qualified providers. The state shall not own such facilities, except for those facilities owned by the state as of January 1, 1994.

The lease provisions of this subsection do not apply to a school district which elects to provide one hundred percent of the financing for the district's connection.

Sec. 17. Section 18.136, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. The auditor of state shall, no less than annually, examine the financial condition and transactions of the commission as provided in chapter 11. A copy of the auditor's report concerning such examination shall be provided to the general assembly.

Sec. 18. Section 18.136, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. Access to the network shall be offered to the judicial district departments of correctional services established in section 905.2, provided that such departments contribute an amount consistent with their share of use for the part of the system in which the departments participate, as determined by the commission.

Sec. 19. Section 18.136, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13B. Access shall be offered to hospitals licensed pursuant to chapter 135B and physician clinics for diagnostic, clinical, consultative, data, and educational services for the purpose of developing a comprehensive, statewide telemedicine network, to an agency of the federal government, and to a post office defined as a public agency pursuant to section 18.133, subsection 3. A hospital, physician clinic, an agency of the federal government, or a post office defined as a public agency pursuant to section 18.133, subsection 3, shall be responsible for all costs associated with becoming a part of the network.

Sec. 20. Section 18.136, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13C. Access shall be offered to the judicial department provided that the department contributes an amount consistent with the department's share of use for the part of the network in which the department participates, as determined by the commission.

Sec. 21. Section 18.137, Code 1993, is amended to read as follows:

18.137 STATE IOWA COMMUNICATIONS NETWORK FUND.

There is created in the office of the treasurer of state a temporary fund to be known as the state Iowa communications network fund under the control of the Iowa telecommunications and technology commission. ~~There is appropriated to the state communications network fund for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the sum of two million one hundred forty-two thousand six hundred twenty-one dollars from the general fund of the state. There is appropriated from the general fund of the state to the state Iowa communications network fund for each fiscal year of the fiscal period beginning July 1, 1991, and ending June 30, 1996, the sum of five million dollars. Notwithstanding section 8.33, unobligated and unencumbered moneys from the appropriation for a fiscal year remaining on June 30 of that fiscal year shall not revert to the general fund of the state but shall remain available for expenditure during the next following fiscal year.~~ There shall also be deposited into the state Iowa communications network fund proceeds from bonds issued for purposes of projects authorized pursuant to section 18.136, matching funds received from the community colleges and

the local school boards, funds received from leases pursuant to section 18.134, and other moneys by law credited to or designated by a person for deposit into the fund. Notwithstanding the requirements of section 18.136, subsection 1, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, thirty-one thousand dollars of moneys in the state communications network fund may be expended for the state's share of the cost for the design of a disaster recovery facility to be built in conjunction with the Iowa communications network facility and emergency operation center. The department of general services may increase its fees for data processing in order to collect an additional amount not exceeding two hundred thousand dollars during the fiscal year beginning July 1, 1991, to pay for the state's share of the cost of construction of the disaster recovery facility.

The Iowa public broadcasting board shall use the net increase in the federal match awarded to the Iowa public broadcasting board as a result of this appropriation in order to meet the needs of the educational telecommunications system. These funds shall be deposited in a separate account within the state communications network fund, and shall be administered by the Iowa public broadcasting board for purposes of the fund.

Sec. 22. Section 256.82, subsection 3, Code Supplement 1993, is amended by striking the subsection and inserting in lieu thereof the following:

3. The board shall appoint an advisory committee on journalistic and editorial integrity which has no more than a simple majority of members of the same gender. The division shall be governed by the national principles of editorial integrity developed by the editorial integrity project.

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

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

Sec. 23. ORGANIZATION OF COMMISSION. Notwithstanding any other provision to the contrary, the Iowa telecommunications and technology commission shall develop a written proposal to be submitted to the governor for the governor's approval relating to the structure and organization of the commission. The commission shall identify existing positions which exist in state departments or agencies directly related to the duties and mission of the commission and shall request in the proposal that those positions be transferred to, and be under the control of, the commission. The request shall be submitted to the governor no later than January 1, 1995, with a copy to be submitted to the house of representatives and the senate at the same time.

Upon approval by the governor, the department of management shall provide for the transfer of funds appropriated for those positions to the commission from the department or agency in which the position was located prior to the transfer. If persons are transferred from employment with a department or agency to employment with the commission, the persons shall not be required to forfeit any accrued seniority or other benefits.

Sec. 24. COMPATIBLE SCHOOL DISTRICT SYSTEMS. Notwithstanding any contrary provisions of this Act, a K-12 school district, on or before July 1, 1994, may certify to the commission in writing that the K-12 school district has a full motion interactive video system which is fully compatible with the network. Upon receipt of such certification and a determination by the commission that the district's system is fully compatible with the network, access to the network shall be permitted as soon as practical. A K-12 school district which provides the certification to the commission as provided in this section may petition the commission for reimbursement of the costs associated with providing the connection incurred by the district.

Sec. 25. COMMISSION EVALUATION. The commission shall evaluate and complete a cost-benefit analysis concerning the use of video conferencing by the area education agencies. The commission shall provide a written report and any recommendations concerning this evaluation to the general assembly by no later than March 15, 1995.

Sec. 26. IOWA UTILITIES BOARD STUDY. The Iowa utilities board shall conduct a study to determine the overall impact of the Iowa communications network on the private telecommunications industry in Iowa. The board shall provide a written report to the general assembly by no later than January 15, 1996, detailing the results of the study.

Sec. 27. TEMPORARY AUTHORITY OF CHIEF EXECUTIVE OFFICER. All duties and responsibilities of the Iowa telecommunications and technology commission shall be performed by the ICN chief executive officer appointed by the governor pursuant to executive order number 46 signed on January 5, 1993, until such time as the initial appointments to the commission have been made and the commission has organized itself.

Sec. 28. INITIAL IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION APPOINTMENTS. The initial members of the Iowa telecommunications and technology commission shall be appointed on or before July 1, 1994, to the following terms:

1. One member shall be appointed for a term of six years.
2. One member shall be appointed for a term of four years.
3. One member shall be appointed for a term of two years.

Sec. 29. CODE EDITOR TRANSFERS. The Code editor shall transfer sections 18.132 through 18.137 to be a new chapter 8D. The Code editor shall correct all internal citations and references consistent with the transfer of Code sections as provided in this section.

Sec. 30. CONTINUATION OF APPLICABILITY OF EXISTING RULES. Rules applicable to the Iowa communications network in effect on the effective date of this Act shall remain effective until the Iowa telecommunications and technology commission modifies or repeals such rules.

Sec. 31. REPEAL. Section 18.135, Code 1993, is repealed.

Sec. 32. EFFECTIVE DATE. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 18, 1994

CHAPTER 1185

PRIZE PROMOTIONS

S.F. 2272

AN ACT relating to prize promotions by creating criminal and civil penalties and creating a private cause of action.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 714.8, Code 1993, is amended by adding the following new subsection: **NEW SUBSECTION. 15.** Obtains or attempts to obtain the transfer of possession, control, or ownership, of the property of another by deception through communications conducted primarily by telephone and involving direct or implied claims that the other person contacted has won or is about to win a prize, or involving direct or implied claims that the other person contacted may be able to recover any losses suffered by such other person in connection with a prize promotion.

Sec. 2. **NEW SECTION. 714B.1 DEFINITIONS.**

As used in this chapter, unless the context otherwise requires: