

CHAPTER 8D

IOWA COMMUNICATIONS NETWORK

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8D.1 Purpose.

It is the intent of the general assembly that communications of state government be coordinated to effect maximum practical consolidation and joint use of communications services.

[C71, 73, §8A.1; C75, 77, 79, 81, §18.132]
83 Acts, ch 126, §3; 94 Acts, ch 1184, §29
C95, §8D.1

8D.2 Definitions.

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

1. “*Commission*” means the Iowa telecommunications and technology commission established in section 8D.3.

2. “*Director*” means the executive director appointed pursuant to section 8D.4.

3. “*Network*” means the Iowa or state communications network.

4. “*Private agency*” means an accredited nonpublic school, a nonprofit 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 8D.13, subsection 15.

5. a. “*Public agency*” means a state agency, an institution under the control of the board of regents, the judicial branch as provided in section 8D.13, subsection 16, a school corporation, a city library, a library service area as provided in chapter 256, 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 8D.13, subsection 14, an agency of the federal government, or a United States post office which receives a federal grant for pilot and demonstration projects.

b. For the purposes of this chapter, “*public agency*” also includes any homeland security or defense facility or disaster response agency established by the administrator of the homeland security and emergency management division of the department of public defense or the governor or any facility connected with a security or defense system or disaster response as required by the administrator of the homeland security and emergency management division of the department of public defense or the governor.

6. “*State communications*” refers to the transmission of voice, data, video, the written word or other visual signals by electronic means but does not include radio and television facilities and other educational telecommunications systems and services including narrowcast and broadcast systems under the public broadcasting division of the department of education, department of transportation distributed data processing and mobile radio network, or law enforcement communications systems.

[C71, 73, §8A.2; C75, 77, 79, 81, §18.133]

83 Acts, ch 126, §4, 5; 86 Acts, ch 1245, §308, 2049; 87 Acts, ch 211, §1; 89 Acts, ch 319, §31; 93 Acts, ch 48, §8; 94 Acts, ch 1184, §3, 4, 29

C95, §8D.2

98 Acts, ch 1047, §4; 2001 Acts, ch 158, §1; 2002 Acts, ch 1065, §1; 2003 Acts, ch 44, §2; 2003 Acts, ch 179, §157; 2005 Acts, ch 179, §51

8D.3 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 management, development, and operation of the network shall not be subject to the jurisdiction or control of any other state agency. However, the commission is subject to the general operations practices and procedures which are generally applicable to other state agencies.

a. 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.

b. 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.

c. The commission shall provide for the centralized, coordinated use and control of the network.

2. *Members.* The commission is composed of five 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.

a. The governor shall appoint a member as the chairperson of the commission from the five members appointed by the governor, subject to confirmation by the senate.

b. 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.

c. The salary of the members of the commission shall be twelve thousand dollars per year, except that the salary of the chairperson shall be seventeen 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. 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.

d. 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 nonvoting, ex officio member of the commission.

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 administrative 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. Include in the commission's annual report related to the network the actual income and expenses for the network for the preceding fiscal year and estimates for income and expenses for the network for the two-year fiscal period that includes the fiscal year during which the report is submitted. The report shall include the amount of any general fund appropriations to be requested, any recommendations of the commission related to changes in the system, and other items as deemed appropriate by the commission. The report shall also include a list of contracts in excess of one million dollars entered into by the commission during the preceding fiscal year, including any contract entered into pursuant to section 8D.11 or 8D.13 or any other authority of the commission.

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 excluding the cost of construction and lease costs for Parts I, II, and III. The commission shall establish all hourly rates to be charged to all authorized users for the use of the network and shall consider all costs of the network in establishing the rates. 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.

k. Provide necessary telecommunications cabling to provide state communications.

94 Acts, ch 1184, §5; 95 Acts, ch 210, §1; 96 Acts, ch 1200, §1; 99 Acts, ch 207, §8; 2000 Acts, ch 1141, §12, 19; 2003 Acts, ch 145, §286; 2005 Acts, ch 178, §39; 2006 Acts, ch 1126, §1; 2007 Acts, ch 116, §1; 2008 Acts, ch 1031, §78

[P] Confirmation, see §2.32

8D.4 Executive director appointed.

The commission, in consultation with the director of the department of administrative services, 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.

94 Acts, ch 1184, §6; 2003 Acts, ch 145, §126

[P] Confirmation, see §2.32

8D.5 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.

94 Acts, ch 1184, §7

8D.6 Advisory committees.

The commission may establish and abolish advisory committees as necessary representing authorized users of the network and providing other expertise needed to assist the commission in performing its duties.

94 Acts, ch 1184, §8; 2006 Acts, ch 1126, §2, 3

8D.7 Telecommunications advisory committee. Repealed by 2006 Acts, ch 1126, § 5.

8D.8 Scheduling for authorized users.

Except as provided in section 8D.5, 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 8D.3, subsection 3, paragraph "c".

94 Acts, ch 1184, §10

8D.9 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, library service area, county library, judicial branch, 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 May 18, 1994, 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 May 18, 1994, 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 costs 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.

3. A facility that is considered a public agency pursuant to section 8D.2, subsection 5, paragraph "b", shall be authorized to access the Iowa communications network strictly for homeland security communication purposes and disaster communication purposes. Any utilization of the network that is not related to communications concerning homeland security or a disaster, as defined in section 29C.2, is expressly prohibited. Access under this subsection shall be available only if a state of disaster emergency is proclaimed by the governor pursuant to section 29C.6 or a homeland security or disaster event occurs requiring connection of disparate communications systems between public agencies to provide for a multiagency or multijurisdictional response. Access shall continue only for the period of time the homeland security or disaster event exists. For purposes of this subsection, disaster communication purposes includes training and exercising for a disaster if public notice of the training and exercising session is posted on the website of the homeland security

and emergency management division of the department of public defense. A scheduled and noticed training and exercising session shall not exceed five days. Interpretation and application of the provisions of this subsection shall be strictly construed.

4. A community college receiving federal funding to conduct first responder training and testing regarding homeland security first responder communication and technology-related research and development projects shall be authorized to utilize the network for testing purposes.

94 Acts, ch 1184, §11; 98 Acts, ch 1047, §5; 2001 Acts, ch 158, §2; 2003 Acts, ch 44, §3; 2004 Acts, ch 1175, §194; 2005 Acts, ch 179, §52

8D.10 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.

94 Acts, ch 1184, §12

8D.11 Powers — facilities — leases.

1. a. The commission may purchase, lease, and improve property, equipment, and services for telecommunications for public and private agencies and may dispose of property and equipment when not necessary for its purposes. The commission may enter into a contract for the purchase, lease, or improvement of property, equipment, or services for telecommunications pursuant to this subsection in an amount not greater than the contract limitation amount without prior authorization by a constitutional majority of each house of the general assembly, approval by the legislative council if the general assembly is not in session, or the approval of the executive council as provided pursuant to paragraph "b". A contract entered into under this subsection for an amount exceeding the contract limitation amount shall require prior authorization or approval by the general assembly, the legislative council, or the executive council as provided in this subsection. The commission shall not issue any bonding or other long-term financing arrangements as defined in section 12.30, subsection 1, paragraph "b". Real or personal property to be purchased by the commission through the use of a financing agreement shall be done in accordance with the provisions of section 12.28, provided, however, that the commission may purchase property, equipment, or services for telecommunications pursuant to a financing agreement in an amount not greater than the contract limitation amount without prior authorization by a constitutional majority of each house of the general assembly, approval by the legislative council if the general assembly is not in session, or the approval of the executive council as provided pursuant to paragraph "b". A contract entered into under this subsection for an amount exceeding the contract limitation amount shall require prior authorization or approval by the general assembly, the legislative council, or the executive council as provided in this subsection.

b. Approval by the executive council as provided under paragraph "a" shall only be permitted if the contract for which the commission is seeking approval is necessary as the result of circumstances constituting a natural disaster or a threat to homeland security.

c. For purposes of this subsection, "*contract limitation amount*" means two million dollars. However, beginning July 1, 2008, and on each succeeding July 1, the director shall adjust the contract limitation amount to be applicable for the twelve-month period commencing on September 1 of the year in which the adjustment is made. The new contract limitation amount shall be published annually as a notice in the Iowa administrative bulletin prior to September 1. The adjusted contract limitation amount shall be calculated by applying the percentage change in the consumer price index for all urban consumers for the most recent available twelve-month period published in the federal register by the United States department of labor, bureau of labor statistics, to the existing contract limitation amount as an increase or decrease, rounded to the nearest dollar. The calculation and publication of the contract limitation amount by the director are exempt from the provisions of chapter 17A.

2. 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 unless otherwise authorized pursuant to this chapter. The 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 the Iowa communications network, and public agencies are authorized to enter into leases and agreements with respect to the 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.

3. This section comprises a complete and independent authorization and procedure for a public agency, with the approval of the commission, to enter into a lease or agreement 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, except that the commission must comply with the provisions of section 12.28 when entering into financing agreements for the purchase of real or personal property. All moneys received by the commission from agreements and leases entered into pursuant to this section with private and public agencies shall be deposited in the Iowa communications network fund.

4. A political subdivision receiving communications services from the state as of April 1, 1986, may continue to do so but communications services shall not be provided or resold to additional political subdivisions other than a school corporation, a city library, a library service area as provided in chapter 256, and a county library as provided in chapter 336. The rates charged to the political subdivision shall be the same as the rates charged to state agencies.

86 Acts, ch 1245, §309

C87, §18.134

87 Acts, ch 233, §131; 89 Acts, ch 319, §32; 93 Acts, ch 48, §9; 94 Acts, ch 1184, §13, 29

C95, §8D.11

96 Acts, ch 1177, §1; 2001 Acts, ch 158, §3; 2007 Acts, ch 116, §2

8D.11A Proprietary interests.

The commission may charge a negotiated fee, to recover a share of the costs related to the research and development, initial production, and derivative products of its proprietary software and hardware, telecommunications architecture design, and proprietary technology applications developed to support authorized users, to private vendors and to other political entities and subdivisions, including but not limited to states, territories, protectorates, and foreign countries. The commission may enter into nondisclosure agreements to protect the state of Iowa's proprietary interests. The provisions of chapter 23A relating to noncompetition by state agencies and political subdivisions with private enterprise shall not apply to commission activities authorized under this section.

2001 Acts, ch 22, §1

8D.12 Disposition of network — approval of general assembly and governor.

Notwithstanding any provision to the contrary, the commission or the department of administrative 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.

94 Acts, ch 1184, §14; 2003 Acts, ch 145, §286

8D.13 Iowa communications network.

1. Moneys in the Iowa communications network fund are appropriated to the Iowa telecommunications and technology commission for purposes of providing financing for the procurement, operation, and maintenance of the Iowa communications network with sufficient capacity to serve the video, data, and voice requirements of the educational

telecommunications system consisting of Part I, Part II, and Part III, and other public and private agencies.

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

a. “*Part I*” 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*” means the communications connections between the regional switching centers and the secondary switching centers.

c. “*Part III*” means the communications connection between the secondary switching centers and the agencies defined in section 8D.2, subsections 4 and 5, excluding state agencies, institutions under the control of the board of regents, nonprofit institutions of higher education eligible for tuition grants, and the judicial branch, 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 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, shall be provided by the state. The financing for the procurement and maintenance costs for Part III shall be provided by the state. 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 network. The basis for the amount of state financing is one hundred percent of a single interactive audio and interactive video connection for Part III, and such data and voice capacity as is necessary. 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 network. Construction of Part III, 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 as determined by the commission and consistent with the purpose of this chapter.

4. The commission shall develop the requests for proposals that are needed for the Iowa communications network with sufficient capacity to serve the video, data, and voice requirements of state agencies and for educational telecommunications applications. The commission shall develop a request for proposals for each of the systems that will make up the network. The commission may develop a request for proposals for each definitive component of the network or the 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 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 network. The master contract may provide for electronic classrooms, satellite equipment, receiving equipment, studio and production equipment, and other associated equipment as required.

5. a. The state shall lease all fiberoptic cable facilities or facilities with sufficient capacity as determined by the commission for Part III connections, for the judicial branch, judicial district departments of correctional services, and state agency connections for which state funding is provided. In determining the capacity to be provided, the commission shall consult with the authorized users associated with the Part III connections, the judicial branch, the judicial district departments of correctional services, and state agencies associated with 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.

b. 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.

6. It is the intent of the general assembly that during the implementation of Parts I and II of the system, the department of administrative services shall employ a consultant to report to it on the impact of changing technology on the potential cost and capabilities of the system. It is also the intent of the general assembly that the department of education shall study new techniques in distant teaching. These reports shall be made available to the general assembly.

7. The commission shall be responsible for the network design and shall be responsible for the implementation of each component of the network as it is incorporated into the network. 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 commission shall be responsible for all management, operations, control switching, diagnostics, and maintenance functions of network operations 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.

8. The education telecommunications council shall review all requests for grants for educational telecommunications applications, if they are a part of the Iowa communications network, to ensure that the educational telecommunications application is consistent with the telecommunications plan. 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 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 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.

11. The fees charged for use of the network and state communications shall be based on the ongoing expenses of the network and of providing state communications. For the services rendered to state agencies by the commission, the commission shall prepare a statement of services rendered and the agencies shall pay in a manner consistent with procedures established by the department of administrative services.

12. 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 originator of the communication provided on the network. 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 originator of the communication directly to the receiving site. In the event that an entity requests a receiving site location in a video classroom facility which is authorized by, but not funded by, the originator of the communication, the requesting entity shall be directly billed by the video classroom facility for operating costs relating to the communication. 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.

13. Access to the network shall be offered on an equal basis to public and private agencies

under subsection 8 if the private agency contributes an amount toward the match requirement comparable to its share of use for the part of the system in which it participates.

14. 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.

15. 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 8D.2, subsection 5. A hospital, physician clinic, an agency of the federal government, or a post office defined as a public agency pursuant to section 8D.2, subsection 5, shall be responsible for all costs associated with becoming a part of the network.

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

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

18. Access to the network shall be offered to the department of public safety and the department of public defense for the purpose of establishing and operating a shared data-only network providing law enforcement, emergency management, disaster service, emergency warning, and other emergency information dissemination services to federal, state, and local law enforcement agencies as provided in sections 80.9 and 80.9B, and local emergency management offices established under the authority of sections 29C.9 and 29C.10.

19. Access shall be offered to the Iowa hospital association only for the purposes of collection, maintenance, and dissemination of health and financial data for hospitals and for hospital education services. The Iowa hospital association shall be responsible for all costs associated with becoming part of the network, as determined by the commission.

89 Acts, ch 319, §33

CS89, §18.136

90 Acts, ch 1266, §35; 90 Acts, ch 1272, §34; 92 Acts, ch 1246, §24; 93 Acts, ch 179, §16; 94 Acts, ch 1184, §15 – 20, 29

C95, §8D.13

95 Acts, ch 20, §1; 96 Acts, ch 1034, §1; 96 Acts, ch 1218, §27; 97 Acts, ch 210, §17; 98 Acts, ch 1047, §6 – 8; 2003 Acts, ch 145, §286; 2004 Acts, ch 1175, §323; 2005 Acts, ch 178, §40; 2008 Acts, ch 1031, §96; 2008 Acts, ch 1188, §26; 2010 Acts, ch 1189, §29; 2010 Acts, ch 1193, §102

[P] See Iowa Acts for provisions relating to appropriations for network costs in a given year

[T] Subsection 5 amended

[T] Subsection 13 stricken and former subsections 14 – 20 renumbered as 13 – 19

8D.14 Iowa communications network fund.

1. There is created in the office of the treasurer of state a fund to be known as the Iowa communications network fund under the control of the Iowa telecommunications and technology commission. There shall be deposited into the Iowa communications network fund proceeds from bonds issued for purposes of projects authorized pursuant to section 8D.13, funds received from leases pursuant to section 8D.11, and other moneys by law credited to or designated by a person for deposit into the fund. Amounts deposited into the fund are appropriated to and for the use of the commission. Notwithstanding section 12C.7, interest earned on amounts deposited in the fund shall be credited to the fund. Notwithstanding section 8.33, moneys deposited into and appropriated from the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

2. The commission shall be required to repay one million dollars of start-up funding from

the Iowa communications network fund to the general fund of the state. For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the commission shall repay two hundred fifty thousand dollars of start-up funding at the end of that fiscal year, and for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the commission shall repay two hundred fifty thousand dollars of start-up funding at the end of that fiscal year. The remaining five hundred thousand dollars shall be repaid in a reasonable period of time thereafter as provided in this subsection. The commission shall conduct a review of the operation of the fund and the extent to which a continued need for funding for cash flow support exists, and shall provide a report summarizing the results of the review to the general assembly by January 1, 2010. The report shall also include a plan regarding repayment of the remaining five hundred thousand dollars in start-up funding in a manner which will not adversely affect network operations, and any other recommendations relating to the fund and the operation of the network deemed appropriate by the commission.

89 Acts, ch 319, §34

CS89, §18.137

90 Acts, ch 1266, §36; 91 Acts, ch 264, §610; 94 Acts, ch 1184, §21, 29

C95, §8D.14

95 Acts, ch 210, §7; 2006 Acts, ch 1126, §4