

# Senate Amendment 5615

## Amendment Text

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1 1 Amend [Senate File 2147](#), as passed by the Senate, as  
1 2 follows:  
1 3 #1. By striking everything after the enacting  
1 4 clause and inserting the following:  
1 5 "Section 1. Section [8D.3](#), subsection 2, Code  
1 6 Supplement 1995, is amended to read as follows:  
1 7 2. MEMBERS. The commission is composed of

~~three~~

1 8 ~~six members, of which five members are~~ appointed by  
1 9 the governor and subject to confirmation by the  
1 10 senate. Members of the commission shall not serve in  
1 11 any manner or be employed by an authorized user of the  
1 12 network or by an entity seeking to do or doing  
1 13 business with the network. ~~One member of the~~  
1 14 ~~commission to be appointed by the governor, however,~~  
1 15 ~~shall be knowledgeable in the area of~~  
1 16 ~~telecommunications technology.~~ The governor shall  
1 17 appoint a member as the chairperson of the commission  
1 18 from the

~~three~~

- ~~five~~ members appointed by the governor,  
1 19 subject to confirmation by the senate. Members of the  
1 20 commission shall serve six-year staggered terms as  
1 21 designated by the governor and appointments to the  
1 22 commission are subject to the requirements of sections  
1 23 69.16, 69.16A, and 69.19. Vacancies shall be filled  
1 24 by the governor for the duration of the unexpired  
1 25 term. The salary of the ~~five~~ members of the  
1 26 commission ~~appointed by the governor~~ shall be twenty  
1 27 thousand dollars per year, except that the salary of  
1 28 the chairperson shall be twenty-five thousand dollars  
1 29 per year. Members of the commission shall also be  
1 30 reimbursed for all actual and necessary expenses  
1 31 incurred in the performance of duties as members.  
1 32 Meetings of the commission shall be held at the call  
1 33 of the chairperson of the commission. In addition to  
1 34 the ~~five~~ members appointed by the governor, the  
1 35 auditor of state or the auditor's designee shall serve  
1 36 as a nonvoting

~~, ex officio~~

- member of the commission.  
1 37 The benefits and salary paid to the members of the  
1 38 commission shall be adjusted annually equal to the  
1 39 average of the annual pay adjustments, expense  
1 40 reimbursements, and related benefits provided under  
1 41 collective bargaining agreements negotiated pursuant  
1 42 to chapter 20.  
1 43 Sec. 2. Section [8D.11](#), subsection 1, Code 1995, is  
1 44 amended to read as follows:  
1 45 1. The commission may purchase, lease-purchase,  
1 46 lease, and improve property

- and equipment

~~, and~~

1 47

~~services~~

- for telecommunications for public and private  
1 48 agencies and may dispose of property and equipment  
1 49 when not necessary for its purposes. However, the  
1 50 commission shall not enter into a contract for the  
2 1 purchase, lease-purchase, lease, or improvement of  
2 2 property

~~, or~~  
- or equipment

~~, or services~~

- for  
2 3 telecommunications pursuant to this subsection in an  
2 4 amount greater than

~~five hundred thousand~~

- one million

2 5 dollars without prior authorization by a  
2 6 constitutional majority of each house of the general  
2 7 assembly, or approval by the legislative council if  
2 8 the general assembly is not in session. The lease-  
2 9 purchase agreement may contain provisions, including  
2 10 interest, term, and obligations to make payments on  
2 11 the lease-purchase agreements, beyond the budget year  
2 12 in which the lease-purchase agreement is entered. For  
2 13 the purpose of funding its obligation to furnish  
2 14 moneys under a lease-purchase agreement entered into  
2 15 pursuant to this section, the treasurer of state, with  
2 16 the assistance of the Iowa telecommunications and  
2 17 technology commission or the treasurer of state's duly  
2 18 authorized agent or representative, may enter into a  
2 19 master lease agreement to borrow moneys to be used to  
2 20 purchase property or equipment for telecommunications  
2 21 services for public or private agencies. The  
2 22 obligations may be in such form, for such term,  
2 23 bearing such interest, and containing such provisions  
2 24 as the Iowa telecommunications and technology  
2 25 commission, in consultation with the treasurer of  
2 26 state, deems necessary or appropriate. The commission  
2 27 shall not issue any bonding or other long-term  
2 28 financing arrangements as defined in section 12.30,  
2 29 subsection 1, paragraph "b".

2 30 PARAGRAPH DIVIDED. The commission also shall not  
2 31 provide or resell communications services to entities  
2 32 other than public and private agencies. The public or  
2 33 private agency shall not provide communication  
2 34 services of the network to another entity unless  
2 35 otherwise authorized pursuant to this chapter. The  
2 36 commission may arrange for joint use of available  
2 37 services and facilities, and may enter into leases and  
2 38 agreements with private and public agencies with  
2 39 respect to the Iowa communications network, and public  
2 40 agencies are authorized to enter into leases and  
2 41 agreements with respect to the network for their use  
2 42 and operation. Rentals and other amounts due under  
2 43 the agreements or leases entered into pursuant to this  
2 44 section by a state agency are payable from funds  
2 45 annually appropriated by the general assembly or from  
2 46 other funds legally available. Other public agencies  
2 47 may pay the rental costs and other amounts due under

2 48 an agreement or lease from their annual budgeted funds  
2 49 or other funds legally available or to become  
2 50 available. This section comprises a complete and  
3 1 independent authorization and procedure for a public  
3 2 agency, with the approval of the commission, to enter  
3 3 into a lease or agreement and related security  
3 4 enhancement arrangements and this section is not a  
3 5 qualification of any other powers which a public  
3 6 agency may possess and the authorizations and powers  
3 7 granted under this section are not subject to the  
3 8 terms, requirements, or limitations of any other  
3 9 provisions of law. All moneys received by the  
3 10 commission from agreements and leases entered into  
3 11 pursuant to this section with private and public  
3 12 agencies shall be deposited in the Iowa communications  
3 13 network fund.

3 14 Sec. 3. Section [8D.13](#), Code Supplement 1995, is  
3 15 amended by adding the following new subsections:  
3 16 NEW SUBSECTION. 12A. Access to the network shall  
3 17 not be permitted by an originating site or any  
3 18 receiving site associated with an interactive video  
3 19 application of the network unless at least one of the  
3 20 entities participating in the interactive video  
3 21 application is an authorized user of the network. For  
3 22 purposes of this subsection, a public or private  
3 23 agency authorized to access the network is not deemed  
3 24 to be an authorized user for purposes of the  
3 25 interactive video application or use if the public or  
3 26 private agency only provides its facility for use as  
3 27 the originating site or as a receiving site. Program  
3 28 content for video traffic is the responsibility of the  
3 29 requesting authorized user. For purposes of this  
3 30 subsection, "requesting authorized user" means the  
3 31 authorized user initiating the network scheduling  
3 32 request regardless of the specific site from which the  
3 33 event originates. Scheduling on the network is  
3 34 limited to authorized users only. Scheduling by a  
3 35 requesting authorized user constitutes certification  
3 36 by such user that the traffic is part of the mission  
3 37 of that authorized user. The commission and its  
3 38 advisory committees, as defined in this chapter, shall  
3 39 establish policy statements for each authorized user  
3 40 group which define authorized uses of the network that  
3 41 are consistent with the mission of the authorized user  
3 42 group.

3 43 NEW SUBSECTION. 17A. Access to the network shall  
3 44 be offered to the department of public safety and the  
3 45 department of public defense for the purpose of  
3 46 establishing and operating a network to be used  
3 47 exclusively for shared data providing law enforcement,  
3 48 emergency management, disaster service, emergency  
3 49 warning, and other emergency information dissemination  
3 50 services to federal, state, and local law enforcement  
4 1 agencies as provided in section 80.9, and local  
4 2 emergency management offices established under the  
4 3 authority of sections 29C.9 and 29C.10.

4 4 Sec. 4. NEW SECTION. 8D.20 CIVIL PENALTIES  
4 5 ESTABLISHED BY COMMISSION FOR UNAUTHORIZED USE.  
4 6 1. The commission shall establish, by rule, a  
4 7 schedule or range of civil penalties which may be  
4 8 administratively assessed for the unauthorized use of  
4 9 the network. The schedule shall provide procedures  
4 10 and criteria for the administrative assessment of  
4 11 penalties of not more than ten thousand dollars for a  
4 12 violation of chapter 8D or rules adopted under chapter  
4 13 8D related to the unauthorized use of the network.  
4 14 The penalties shall be applicable to both authorized

4 15 and unauthorized users. In adopting a schedule or  
4 16 range of penalties and in proposing or assessing a  
4 17 penalty, the commission shall consider among other  
4 18 relevant factors the gravity of the violation and the  
4 19 degree of culpability of the violator.

4 20 Penalties may be administratively assessed only  
4 21 after an opportunity for a contested case hearing  
4 22 which may be combined with a hearing on the merits of  
4 23 the alleged violation. Violations not fitting within  
4 24 the schedule, or violations which the commission  
4 25 determines should be referred to the attorney general  
4 26 for legal action shall not be governed by the schedule  
4 27 established under this subsection.

4 28 2. A penalty shall be paid within thirty days of  
4 29 the date the order assessing the penalty becomes  
4 30 final. When a person against whom a civil penalty is  
4 31 assessed under this section seeks timely judicial  
4 32 review of an order imposing the penalty as provided  
4 33 under chapter 17A, the order is not final for the  
4 34 purposes of this section until all judicial review  
4 35 processes are completed. Additional judicial review  
4 36 shall not be sought after the order becomes final. A  
4 37 person who fails to timely pay a civil penalty  
4 38 assessed by a final order of the commission shall pay,  
4 39 in addition, interest at the rate of one and one-half  
4 40 percent of the unpaid balance of the assessed penalty  
4 41 for each month or part of a month that the penalty  
4 42 remains unpaid. The attorney general shall institute,  
4 43 at the request of the commission, summary proceedings  
4 44 to recover the penalty and any accrued interest.

4 45 3. All civil penalties assessed by the commission  
4 46 and interest on the penalties shall be deposited in  
4 47 the general fund of the state.

4 48 4. This section does not require the commission to  
4 49 pursue an administrative remedy before seeking a  
4 50 remedy in the courts of this state.

5 1 5. The civil penalties established in this section  
5 2 are in addition to any criminal penalty which may  
5 3 apply.

5 4 Sec. 5. Section [68B.35](#), subsection 2, paragraph e,  
5 5 Code 1995, is amended to read as follows:

5 6 e. Members of the banking board, the ethics and  
5 7 campaign disclosure board, the credit union review  
5 8 board, the economic development board, the employment  
5 9 appeal board, the environmental protection commission,  
5 10 the health facilities council, the Iowa business  
5 11 investment corporation board of directors, the Iowa  
5 12 finance authority, the Iowa seed capital corporation,  
5 13 the Iowa public employees' retirement system  
5 14 investment board, the lottery board, the natural  
5 15 resource commission, the board of parole, the  
5 16 petroleum underground storage tank fund board, the  
5 17 public employment relations board, the state racing  
5 18 and gaming commission, the state board of regents, the  
5 19 tax review board, the transportation commission, the  
5 20 office of consumer advocate, the utilities board, the  
5 21 Iowa telecommunications and technology commission, and  
5 22 any full-time members of other boards and commissions  
5 23 as defined under section 7E.4 who receive an annual  
5 24 salary for their service on the board or commission.

5 25 Sec. 6. INTERIM STUDY. The legislative council is  
5 26 requested to establish an interim study for the  
5 27 purpose of determining the appropriate uses of the  
5 28 Iowa communications network. The committee appointed  
5 29 to complete this study shall consult with the  
5 30 commission and other appropriate individuals in  
5 31 conducting this study.

5 32 Sec. 7. APPOINTMENT OF NEW MEMBERS.

5 33 1. One new member to be appointed pursuant to  
5 34 section 8D.3, subsection 2, as amended by this Act  
5 35 shall be appointed for an initial term of four years.

5 36 2. One new member to be appointed pursuant to  
5 37 section 8D.3, subsection 2, as amended by this Act  
5 38 shall be appointed for an initial term of two years.

5 39 #2. Title page, line 2, by inserting after the  
5 40 word "commission" the following: ", providing for  
5 41 matters related to the authority and duties of the  
5 42 commission, and providing for civil penalties".

5 43 [SF 2147H](#)

5 44 mj/pk/25