

FEB 19 2002  
COMMERCE AND REGULATION

HOUSE FILE 2440  
BY STEVENS, LENSING, and HATCH

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act establishing the Iowa communications network as a state-  
2 owned public utility with an expanded authorized user base.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2440

1 Section 1. Section 8D.1, Code 2001, is amended to read as  
2 follows:

3 8D.1 PURPOSE.

4 It is the intent of the general assembly that fiber optic  
5 communications of-state-government within this state be co-  
6 ordinated and expanded to effect maximum practical  
7 consolidation, and joint use of communications services, and  
8 enhanced economic development efforts. Operation of the Iowa  
9 communications network as a public utility readily available  
10 to the citizens of this state shall maximize the educational  
11 and economic potential of this state's citizens and position  
12 Iowa on the cutting edge of technological development.

13 Sec. 2. Section 8D.2, subsection 3, Code Supplement 2001,  
14 is amended to read as follows:

15 3. "Network" means the Iowa ~~or-state~~ communications  
16 network.

17 Sec. 3. Section 8D.2, Code Supplement 2001, is amended by  
18 adding the following new subsections:

19 NEW SUBSECTION. 4A. "Private authorized user" means any  
20 agency, business, or member of the general public not falling  
21 within the definition of a private agency or public authorized  
22 user contained in subsection 4 or 5.

23 NEW SUBSECTION. 5A. "Public utility" means a public or  
24 private entity which furnishes an extensive range of two-way  
25 communications services to the general public for  
26 compensation.

27 Sec. 4. Section 8D.2, subsection 6, Code Supplement 2001,  
28 is amended to read as follows:

29 6. "State Network communications" refers to the  
30 transmission of voice, data, video, the written word or other  
31 visual signals by electronic means but does not include radio  
32 and television facilities and other educational  
33 telecommunications systems and services including narrowcast  
34 and broadcast systems under the public broadcasting division  
35 of the department of education, department of transportation

1 distributed data processing and mobile radio network, or law  
2 enforcement communications systems.

3 Sec. 5. Section 8D.3, subsection 1, unnumbered paragraph  
4 2, Code 2001, is amended to read as follows:

5 The commission shall ensure that the network operates in an  
6 efficient and responsible manner consistent with the  
7 provisions of this chapter for the purpose of providing the  
8 best economic service attainable to the network users  
9 consistent with the state's network's financial capacity. The  
10 commission shall ensure that educational users and the use,  
11 design, and implementation for educational applications be  
12 given the highest priority concerning use of the network. The  
13 commission shall provide for the centralized, coordinated use  
14 and control of the network.

15 Sec. 6. Section 8D.3, subsection 3, paragraphs a, i, and  
16 k, Code 2001, are amended to read as follows:

17 a. Enter into agreements pursuant to chapter 28E as  
18 necessary and appropriate for the purposes of the commission.  
19 ~~However, the commission shall not enter into an agreement with~~  
20 ~~an unauthorized user or any other person pursuant to chapter~~  
21 ~~28E for the purpose of providing such user or person access to~~  
22 ~~the network.~~

23 i. Evaluate existing and projected rates for use of the  
24 system and ensure that rates are sufficient to pay for the  
25 operation of the system excluding the cost of construction and  
26 lease costs for Parts I, II, and III. The commission shall  
27 establish all hourly rates to be charged to all authorized  
28 users for the use of the network. A fee established by the  
29 commission to be charged to a hospital licensed pursuant to  
30 chapter 135B, a physician clinic, ~~or~~ the federal government,  
31 or a private authorized user shall be at an appropriate rate  
32 so that, at a minimum, there is no state subsidy related to  
33 the costs of the connection or use of the network related to  
34 such user.

35 k. Provide necessary telecommunications cabling to provide

1 state network communications.

2 Sec. 7. Section 8D.11, Code Supplement 2001, is amended to  
3 read as follows:

4 8D.11 POWERS -- FACILITIES -- LEASES.

5 1. The commission may purchase, lease, and improve  
6 property, equipment, and services for telecommunications ~~for~~  
7 ~~public-and-private-agencies~~ and may dispose of property and  
8 equipment when not necessary for its purposes. However, the  
9 commission shall not enter into a contract for the purchase,  
10 lease, or improvement of property, equipment, or services for  
11 telecommunications pursuant to this subsection in an amount  
12 greater than one million dollars without prior authorization  
13 by a constitutional majority of each house of the general  
14 assembly, or approval by the legislative council if the  
15 general assembly is not in session. The commission shall not  
16 issue any bonding or other long-term financing arrangements as  
17 defined in section 12.30, subsection 1, paragraph "b". Real  
18 or personal property to be purchased by the commission through  
19 the use of a financing agreement shall be done in accordance  
20 with the provisions of section 12.28, provided, however, that  
21 the commission shall not purchase property, equipment, or  
22 services for telecommunications pursuant to this subsection in  
23 an amount greater than one million dollars without prior  
24 authorization by a constitutional majority of each house of  
25 the general assembly, or approval by the legislative council  
26 if the general assembly is not in session.

27 2. ~~The-commission-also-shall-not-provide-or-resell~~  
28 ~~communications-services-to-entities-other-than-public-and~~  
29 ~~private-agencies---The-public-or-private-agency~~ An authorized  
30 user shall not provide communication services of the network  
31 to another individual or entity unless ~~otherwise-authorized~~  
32 ~~pursuant-to-this-chapter~~ the authorized user has applied for  
33 and been granted permission to do so by the commission. The  
34 commission may arrange for joint use of available services and  
35 facilities, and may enter into leases and agreements with

1 ~~private-and-public-agencies~~ authorized users with respect to  
2 the Iowa communications network, and public agencies are  
3 authorized to enter into leases and agreements with respect to  
4 the network for their use and operation. Rentals and other  
5 amounts due under the agreements or leases entered into  
6 pursuant to this section by a state agency are payable from  
7 funds annually appropriated by the general assembly or from  
8 other funds legally available. Other public agencies may pay  
9 the rental costs and other amounts due under an agreement or  
10 lease from their annual budgeted funds or other funds legally  
11 available or to become available.

12 3. This section comprises a complete and independent  
13 authorization and procedure for a public agency, with the  
14 approval of the commission, to enter into a lease or agreement  
15 and this section is not a qualification of any other powers  
16 which a public agency may possess and the authorizations and  
17 powers granted under this section are not subject to the  
18 terms, requirements, or limitations of any other provisions of  
19 law, except that the commission must comply with the  
20 provisions of section 12.28 when entering into financing  
21 agreements for the purchase of real or personal property. All  
22 moneys received by the commission from agreements and leases  
23 entered into pursuant to this section with ~~private-and-public~~  
24 agencies authorized users shall be deposited in the Iowa  
25 communications network fund.

26 4. ~~A-political-subdivision-receiving-communications~~  
27 ~~services-from-the-state-as-of-April-17-19867-may-continue-to~~  
28 ~~do-so-but-communications-services-shall-not-be-provided-or~~  
29 ~~resold-to-additional-political-subdivisions-other-than-a~~  
30 ~~school-corporation7-a-city-library7-a-library-service-area-as~~  
31 ~~provided-in-chapter-2567-and-a-county-library-as-provided-in~~  
32 ~~chapter-3367~~ The rates charged to the political subdivision  
33 subdivisions shall be the same as the rates charged to state  
34 agencies.

35 Sec. 8. Section 8D.13, subsection 1, Code Supplement 2001,

1 is amended to read as follows:

2 1. Moneys in the Iowa communications network fund are  
3 appropriated to the Iowa telecommunications and technology  
4 commission for purposes of providing financing for the  
5 procurement, operation, and maintenance of the Iowa  
6 communications network with sufficient capacity to serve the  
7 video, data, and voice requirements of the ~~educational~~  
8 telecommunications system consisting of Part I, Part II, and  
9 Part III, and other public and private agencies and entities.

10 Sec. 9. Section 8D.13, subsection 11, Code Supplement  
11 2001, is amended to read as follows:

12 11. The fees charged for use of the network and state  
13 network communications shall be based on the ongoing  
14 operational costs of the network and of providing state  
15 network communications only. For the services rendered to  
16 state-agencies authorized users by the commission, the  
17 commission shall prepare a statement of services rendered and  
18 the agencies authorized users shall pay in a manner consistent  
19 with procedures established by the department of revenue and  
20 finance.

21 Sec. 10. Section 8D.13, Code Supplement 2001, is amended  
22 by adding the following new subsection:

23 NEW SUBSECTION. 20. Access to the network shall be  
24 offered to private authorized users defined in section 8D.2,  
25 subsection 4A, who have applied to and been approved by the  
26 commission for authorized user status. A private authorized  
27 user shall be responsible for all costs associated with  
28 becoming a part of the network. Application forms, approval  
29 criteria, and user fees shall be established by the  
30 commission. The commission shall additionally establish  
31 criteria determining which individuals or entities shall not  
32 be eligible to apply for authorized user status, and  
33 circumstances upon which a previously authorized user shall  
34 lose authorized user status.

35 Sec. 11. Section 23A.2, subsection 10, Code Supplement

1 2001, is amended by adding the following new paragraph:

2 NEW PARAGRAPH. p. The operation of the Iowa  
3 communications network pursuant to chapter 8D.

4 EXPLANATION

5 This bill provides for the operation of the Iowa  
6 communications network (ICN) as a public utility with an  
7 authorized user base expanded to include the general public.

8 The bill provides that the ICN may be accessed by private  
9 authorized users. The bill defines a "private authorized  
10 user" as any agency, business, or member of the general public  
11 not falling within the definitions of public and private  
12 agencies contained in Code section 8D.2, subsections 4 and 5.  
13 The bill defines a "public utility" as a public or private  
14 entity which furnishes an extensive range of two-way  
15 communications services to the general public for  
16 compensation.

17 The bill provides for changes to Code chapter 8D consistent  
18 with the expanded scope of the ICN. The bill substitutes  
19 "network" for "state" where appropriate in describing the  
20 operation of the ICN, and adds private authorized users to  
21 provisions previously applicable to public and private agency  
22 authorization.

23 The bill provides that access to the network shall be  
24 offered to private authorized users who have applied to and  
25 been approved by the Iowa telecommunications and technology  
26 commission for authorized user status. The bill provides that  
27 a private authorized user shall be responsible for all costs  
28 associated with becoming a part of the network, and that  
29 application forms, approval and disapproval criteria, and user  
30 fees shall be established by the commission.

31 The bill adds the operation of the Iowa communications  
32 network to the list of exceptions contained in Code chapter  
33 23A regarding noncompetition of state agencies with private  
34 enterprise.

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