

FEB 18 2005

COMMERCE, REGULATION & LABOR

HOUSE FILE 340  
BY TYMESON and LENSING

(COMPANION TO SF 133  
BY DVORSKY)

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

**A BILL FOR**

1 An Act authorizing the sale of Iowa communications network  
2 capacity under specified circumstances, affecting the  
3 operation of the network, and making appropriations.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21

HF 340

1 Section 1. Section 8D.2, subsection 5, paragraph a, Code  
2 2005, is amended to read as follows:

3 a. "Public agency" means a state agency, a city, a county,  
4 an institution under the control of the board of regents, the  
5 judicial branch as provided in section 8D.13, subsection 17, a  
6 school corporation, a city library, a library service area as  
7 provided in chapter 256, a county library as provided in  
8 chapter 336, or a judicial district department of correctional  
9 services established in section 905.2, to the extent provided  
10 in section 8D.13, subsection 15, an agency of the federal  
11 government, or a United States post office which receives a  
12 federal grant for pilot and demonstration projects.

13 Sec. 2. Section 8D.3, subsection 3, paragraph d, Code  
14 2005, is amended to read as follows:

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

23 Sec. 3. Section 8D.3, subsection 3, paragraph f, Code  
24 2005, is amended by striking the paragraph.

25 Sec. 4. Section 8D.3, subsection 3, paragraph i, Code  
26 2005, is amended to read as follows:

27 i. Evaluate existing and projected rates for use of the  
28 system ~~and-ensure-that-rates-are-sufficient-to-pay-for-the~~  
29 ~~operation-of-the-system-excluding,~~ which shall exclude the  
30 cost of construction and lease costs for Parts I, II, and III.  
31 The commission shall establish all hourly rates to be charged  
32 to all authorized users for the use of the network. A fee  
33 established by the commission to be charged to a hospital  
34 licensed pursuant to chapter 135B, a physician clinic, or the  
35 federal government shall be at an appropriate rate so that, at

1 a minimum, there is no state subsidy related to the costs of  
2 the connection or use of the network related to such user.

3 Sec. 5. Section 8D.3, Code 2005, is amended by adding the  
4 following new subsection:

5 NEW SUBSECTION. 4. SALE OF SERVICES. Notwithstanding  
6 chapter 23A, the commission may sell advanced  
7 telecommunications services to private and public  
8 telecommunications providers.

9 Sec. 6. Section 8D.6, subsection 1, Code 2005, is amended  
10 by striking the subsection.

11 Sec. 7. Section 8D.6, subsection 2, Code 2005, is amended  
12 to read as follows:

13 2. The commission may establish ~~other~~ and abolish advisory  
14 committees as necessary representing authorized users of the  
15 network and providing other expertise needed to assist the  
16 commission in accomplishing its duties.

17 Sec. 8. Section 8D.11, subsection 2, Code 2005, is amended  
18 to read as follows:

19 2. The commission also shall not provide or resell  
20 communications services to entities other than public and  
21 private agencies except as authorized in this chapter. The  
22 public or private agency shall not provide communication  
23 services of the network to another entity unless otherwise  
24 authorized pursuant to this chapter. The commission may  
25 arrange for joint use of available services and facilities,  
26 and may enter into leases and agreements with private and  
27 public agencies with respect to the Iowa communications  
28 network, and public agencies are authorized to enter into  
29 leases and agreements with respect to the network for their  
30 use and operation. Rentals and other amounts due under the  
31 agreements or leases entered into pursuant to this section by  
32 a state agency are payable from funds annually appropriated by  
33 the general assembly or from other funds legally available.  
34 Other public agencies may pay the rental costs and other  
35 amounts due under an agreement or lease from their annual

1 budgeted funds or other funds legally available or to become  
2 available.

3 Sec. 9. Section 8D.11, subsection 4, Code 2005, is amended  
4 by striking the subsection.

5 Sec. 10. Section 8D.13, subsection 5, unnumbered paragraph  
6 1, Code 2005, is amended to read as follows:

7 The state shall lease all fiberoptic cable facilities or  
8 facilities with DS-3 capacity for Part III connections for  
9 which state funding is provided. The state shall lease all  
10 fiberoptic cable facilities or facilities with DS-3 or DS-1  
11 capacity for the judicial branch, judicial district department  
12 of correctional services, and state agency connections for  
13 which state funding is provided. Such facilities shall be  
14 leased from qualified providers. The state shall not own such  
15 facilities, except for those facilities owned by the state as  
16 of January 1, 1994. Notwithstanding any other provision of  
17 this section to the contrary, the state may acquire a Part III  
18 connection following the termination of a lease with a vendor  
19 if the vendor offers to sell or transfer the Part III  
20 connection to the state and the commission determines it to be  
21 in the best interest of the network to acquire the connection.

22 Sec. 11. Section 8D.13, subsection 11, Code 2005, is  
23 amended to read as follows:

24 11. The fees charged for use of the network ~~and-state~~  
25 ~~communications shall be based-on-the-ongoing-operational-costs~~  
26 ~~of-the-network-and-of-providing-state-communications-only~~ set  
27 by the commission. For the services rendered to state  
28 agencies by the commission, the commission shall prepare a  
29 statement of services rendered and the agencies shall pay in a  
30 manner consistent with procedures established by the  
31 department of administrative services.

32 Sec. 12. Section 8D.13, Code 2005, is amended by adding  
33 the following new subsection:

34 NEW SUBSECTION. 20. Access shall be offered to a city or  
35 county. A city or county shall be responsible for all costs

1 associated with becoming a part of the network. For purposes  
2 of this section, "city" means a municipal corporation not  
3 including a county, township, school district, or any special  
4 purpose district or authority. When used in relation to land  
5 area, "city" includes only the land area within the city  
6 limits.

7 Sec. 13. Section 8D.14, Code 2005, is amended to read as  
8 follows:

9 8D.14 IOWA COMMUNICATIONS NETWORK FUND.

10 There is created in the office of the treasurer of state a  
11 fund to be known as the Iowa communications network fund under  
12 the control of the Iowa telecommunications and technology  
13 commission. There shall be deposited into the Iowa  
14 communications network fund proceeds from bonds issued for  
15 purposes of projects authorized pursuant to section 8D.13,  
16 funds received from leases pursuant to section 8D.11, and  
17 other moneys by law credited to or designated by a person for  
18 deposit into the fund. Interest received by the state as a  
19 result of investing the moneys in the Iowa communications  
20 network fund shall be credited to the Iowa communications  
21 network fund. Amounts deposited in the Iowa communications  
22 network fund are appropriated to the commission.

23 Sec. 14. NEW SECTION. 8D.15 IOWA COMMUNICATIONS NETWORK  
24 EQUIPMENT UPGRADE AND REPLACEMENT FUND.

25 There is created in the office of the treasurer of state a  
26 fund to be known as the Iowa communications network equipment  
27 upgrade and replacement fund under the control of the Iowa  
28 telecommunications and technology commission. The Iowa  
29 communications network equipment upgrade and replacement fund  
30 is composed of fees charged to authorized users for equipment  
31 depreciation, other moneys appropriated to or deposited into  
32 the fund, and interest received by the state as a result of  
33 investing the moneys in the equipment upgrade and replacement  
34 fund. Moneys in the equipment upgrade and replacement fund  
35 shall only be used to replace failed or obsolete network

1 equipment owned by the state and endpoint equipment, and are  
2 appropriated to the commission. The commission may solicit or  
3 accept gifts, including donations and bequests, to be  
4 deposited into the equipment upgrade and replacement fund.

5 Sec. 15. IOWA COMMUNICATIONS NETWORK EQUIPMENT UPGRADE AND  
6 REPLACEMENT FUND -- APPROPRIATION. There is appropriated from  
7 the tax-exempt bond proceeds restricted capital funds account  
8 of the tobacco settlement trust fund to the office of the  
9 treasurer of state for the fiscal year beginning July 1, 2005,  
10 and ending June 30, 2006, the following amount, or so much  
11 thereof as is necessary, to be used for the purpose  
12 designated:

13 ..... \$ 3,000,000

14 The amount appropriated pursuant to this section shall be  
15 utilized for equipment maintenance, repair, and replacement  
16 for the Iowa communications network, notwithstanding section  
17 12E.12, subsection 1, paragraph "b", subparagraph (1), and  
18 shall be deposited into the Iowa communications network  
19 equipment upgrade and replacement fund established in Code  
20 section 8D.15.

21 Sec. 16. Section 8D.7, Code 2005, is repealed.

22 EXPLANATION

23 This bill authorizes the sale of Iowa communications  
24 network (ICN) capacity under specified circumstances, and  
25 provides for other changes relating to the operation of the  
26 network.

27 The bill adds a city or county to the list of entities  
28 which shall be considered a public agency for purposes of  
29 access to the ICN, and provides that a city or county shall be  
30 responsible for all costs associated with becoming a part of  
31 the network. The bill provides that a "city" shall mean a  
32 municipal corporation not including a county, township, school  
33 district, or any special purpose district or authority, and  
34 that when used in relation to land area, a city includes only  
35 the land area within the city limits.

1 The bill provides for a terminology change regarding  
2 references to "authorized user groups" in Code section 8D.3,  
3 subsection 3, deleting the word "group" from such references.  
4 The bill provides for deletion of the responsibility of  
5 ensuring that rates for use of the system are sufficient to  
6 pay for the operation of the system, when the Iowa  
7 telecommunications and technology commission evaluates rates.

8 The bill provides that notwithstanding the provisions of  
9 Code chapter 23A, relating to noncompetition by government,  
10 the commission may sell advanced telecommunications services  
11 to private and public telecommunications providers. The bill  
12 contains conforming changes consistent with this new capacity.

13 The bill deletes a provision establishing an advisory group  
14 by the commission to examine the use of the network for  
15 telemedicine applications, authorizes the commission to  
16 abolish advisory committees as necessary, and provides that  
17 advisory groups may be comprised of individuals with expertise  
18 needed by the commission to accomplish its duties. The bill  
19 also abolishes the telecommunications advisory committee  
20 established in Code section 8D.7 to advise the commission on  
21 telecommunications matters and deletes a requirement in Code  
22 section 8D.3, subsection 3, requiring the annual submission by  
23 the commission of a five-year financial plan.

24 The bill provides that the state may acquire a Part III  
25 connection following the termination of a lease with a vendor  
26 if the vendor offers to sell or transfer the Part III  
27 connection to the state and the commission determines it to be  
28 in the best interest of the network to acquire the connection.  
29 The bill also provides that fees charged for use of the  
30 network shall be established at a rate set by the commission,  
31 deleting a provision that the fees be based on the ongoing  
32 operational costs of the network and of providing state  
33 communications.

34 The bill provides, with reference to the existing Iowa  
35 communications network fund, that interest received by the

1 state as a result of investing the moneys in the fund shall be  
2 credited to the fund, and that amounts deposited in the fund  
3 are appropriated to the commission. The bill also creates a  
4 new Iowa communications network equipment upgrade and  
5 replacement fund. The bill places the new fund under the  
6 control of the commission, with the fund to be composed of  
7 fees charged to authorized users for equipment depreciation,  
8 other moneys appropriated to or deposited into the fund, and  
9 interest received by the state as a result of investing the  
10 moneys in the fund. The bill provides that moneys in the fund  
11 shall only be used to replace failed or obsolete network  
12 equipment owned by the state and endpoint equipment, and that  
13 the moneys are appropriated to the commission. The bill  
14 authorizes the commission to solicit or accept gifts,  
15 including donations and bequests, to be deposited into the  
16 fund. The bill appropriates for deposit into the fund \$3  
17 million from the tax-exempt bond proceeds restricted capital  
18 funds account of the tobacco settlement trust fund to the  
19 office of the treasurer of state for the fiscal year beginning  
20 July 1, 2005, and ending June 30, 2006. The bill restricts  
21 the use of the appropriation for equipment maintenance and  
22 repair.

23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35