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FISCAL IMPACT STATEMENT

LS 7765

BILL NUMBER: SB 381

NOTE PREPARED: Apr 11, 2005

BILL AMENDED: Apr 7, 2005

SUBJECT: Technology and Telecommunications.

FIRST AUTHOR: Sen. Ford

FIRST SPONSOR: Rep. Cherry

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) The bill contains the following provisions:

Indiana Broadband Development Program: The bill establishes the Indiana broadband development program to be administered by the Indiana development finance authority and do the following: (1) encourage the development of affordable broadband services and networks in underserved areas in Indiana; and (2) coordinate the financing of broadband infrastructure development and otherwise facilitates the establishment of broadband service in underserved areas in Indiana.

Indiana Statewide Broadband System: The bill establishes the statewide broadband system. It also establishes the Statewide Broadband Account within the Higher Education Statewide Telecommunications Fund.

Telecommunications Regulatory Reform: The bill specifies that a person or an entity that transmits communications over Internet Protocol enabled services is not a public utility subject to the regulation of the utility regulatory commission (IURC). It prohibits the IURC from exercising jurisdiction over: (1) advanced and broadband services; and (2) information services. It also prohibits, after June 30, 2007, the IURC from exercising jurisdiction over any nonbasic telecommunications service.

The bill requires an incumbent local exchange carrier to continue to offer a flat monthly rate with unlimited local calling for basic telecommunications services. It prohibits, after June 30, 2010, the IURC from exercising jurisdiction over: pricing, terms, and conditions for basic telecommunications service. The bill also provides that IURC may not exercise jurisdiction over basic telecommunications services in an exchange area if IURC determines that a competitive situation exists in the exchange area.

The bill requires the IURC to establish reasonable pricing for unbundled network elements, the resale of telecommunications services, and interconnection in accordance with the federal Telecommunications Act of 1996. It requires the IURC to biennially identify and eliminate telecommunications regulations no longer necessary due to advances in technology and competition. It also specifies that duties to provide dual party relay services for the hearing and speech impaired apply to providers of advanced, broadband, and other Internet services.

This bill allows the IURC to retain jurisdiction over the provision of 211 services. It requires IURC to submit to the regulatory flexibility committee (the "committee") a report that includes an analysis of various issues concerning the telecommunications industry, including the status of competition in the industry and the availability of various telecommunication services in Indiana. It requires the IURC to submit its report to the committee not later than November 15, 2006. The bill requires the IURC to include in the report any recommendations for proposed legislation concerning the issues in the report. The bill also requires the IURC to retain jurisdiction over the rates that may be charged by an incumbent local exchange carrier to a pay phone service provider.

Effective Date: Upon Passage; July 1, 2005.

Explanation of State Expenditures: *Indiana Broadband Development Program:* The bill establishes the Indiana Broadband Development Program and requires the Indiana Development Finance Authority (IDFA) to administer the Program. IDFA may use any of its powers to assist in accomplishing the purpose of the Program, which is to assist in the development of broadband internet access in under-served areas. The bill defines under-served areas as those that do not have a provider of broadband service at the time of an inquiry and do not have anyone intending to provide broadband service within three months of an inquiry.

Because the bill qualifies broadband development projects as industrial development projects, the Authority may use its current bonding authority for making loans to broadband developers and operators serving or proposing to serve under-served areas.

(Revised) *Indiana Statewide Broadband System:* The coordinating body is to consist of the following seven members: the State Chief Information Officer of the new Office of Technology, an appointee of the Governor to represent the telecommunications industry, and one representative each from the Indiana Higher Education Telecommunications System (IHETS), State Budget Agency, and Purdue, Indiana and Ball State Universities. The body is created to determine the feasibility of implementing a statewide broadband network.

Expenses of the coordinating body are to be paid from the fees deposited in the dedicated Statewide Broadband Account established in this bill (see *Explanation of State Revenues*). Included expenses are those associated with establishing, operating, maintaining and upgrading the broadband system. The bill requires the coordinating body to be dissolved on July 17, 2007.

Background: An effort to accomplish the establishment of such a system is currently being led by the Indiana Higher Education Telecommunications System (IHETS). Through the development of the I-Light 2 network and coordination with the Indiana Telecommunication Network (ITN), the agency currently has plans to expand wireless access throughout the state.

According to P.L. 224-2003 (the Budget Bill) section 33, IHETS currently receives funding from a \$5 M annual appropriation to the State Budget Agency for each of FY 2004 and FY 2005 from the General Fund

for developing the I-Light network. According to IHETS, it intends to continue developing statewide access to the I-Light 2 network, including wireless coverage statewide. IHETS also plans to use the I-Light network appropriation to acquire additional funding through the federal Rural Development Loan Program which could provide up to \$25 M a year.

IHETS receives its operating money from this fund, which is administered by Indiana University. According to P.L. 224-2003 section 9, IHETS receives through Indiana University an annual appropriation of \$6.7 M from the General Fund for each of FY 2004 and FY 2005.

Telecommunications Regulatory Reform: This bill removes entities that transmit communications over the Internet from the definition of a public utility. It also prohibits the IURC from exercising jurisdiction over any nonbasic telecommunications services and the pricing, terms, and conditions for basic telecommunications service. Removing these responsibilities from the IURC should reduce the agency's administrative burden. Because the Commission's responsibilities encompass all utility types, it is unknown what proportion of the Commission's spending is related to telecommunications.

The bill also requires the IURC to report to the Regulatory Flexibility Committee on its analysis of various issues concerning the telecommunications industry, including the status of competition in the industry and the availability of various telecommunication services in Indiana. The bill requires the IURC to report to the Committee by November 15, 2006 and may be made in conjunction with its annual report to the Committee.

Explanation of State Revenues: (Revised) *Indiana Statewide Broadband System:* This bill establishes the Statewide Broadband Account within the Higher Education Statewide Telecommunication Fund to be used by the coordinating body to establish, operate, maintain, administer, and update the broadband system. The Account is to consist of the fees assessed to other users of the broadband system. Money in the account is continuously appropriated and does not revert to the General Fund and the end of the fiscal year.

Authorized users, as defined by this bill, are public entities and nonprofit organizations that are authorized users of the Indiana Telecommunication Network (ITN). The main focus of the ITN was to provide highspeed telecommunication access to K12 schools, libraries, state agencies, and the higher education system. If the coordinating body deploys a functioning network, the bill requires the body to allow access to other users if: there is sufficient capacity on the broadband network, the service can be offered at a competitive rate and within a reasonable period of time, the capacity is used for an under-served area, and the service will contribute to providing broadband choices available to residents and businesses. The coordinating body may charge other users for the service an amount that will cover the cost to establish, operate, maintain, administer, and update the system.

Telecommunications Regulatory Reform: Public Utility Fund: The operating budgets of the IURC and the Office of the Utility Consumer Counselor (OUCC) are funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the two agencies' budgets, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.10% of their gross intra-state operating revenues to fund the IURC and OUCC. In FY 2004, fees from the utilities and fines generated approximately \$10.6M.

This bill removes entities that transmit communications over the Internet from the definition of a public utility. Therefore, these entities will no longer be required to pay the Public Utility Fee. Revenue to the Public Utility

Fund will not decrease, however. Because the Commission bases its Public Utility Fee on the gross revenue of public utilities, the rate will increase for the remaining public utilities to create a fee that will generate the necessary amount of revenue.

Rates & Charges: Although the Commission will retain its jurisdiction over the provision of 211 services, telecommunications carriers providing basic telecommunications will no longer be subject to the Commission's approval for setting rates and charges for service. Such services are subject to the state Sales Tax. Revenues generated by telecommunications carriers' services may increase or decrease subject to fluctuation in the carriers' rates and charges. State Sales Tax revenue is deposited in the following funds: General Fund, Property Tax Replacement Fund, Public Mass Transportation Fund, Industrial Rail Service Fund, and the Commuter Rail Service Fund.

The IURC is to retain jurisdiction over the rates that may be charged by an incumbent local exchange carrier to a pay phone service provider.

Explanation of Local Expenditures: Municipal utilities are not subject to the Public Utility Fee.

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission, Indiana Development Finance Authority, Indiana Higher Education Telecommunications System, State Budget Agency, Purdue University, Indiana University, Ball State University, Office of Technology.

Local Agencies Affected:

Information Sources: Indiana Utility Regulatory Commission; Dave King, Indiana Higher Education Telecommunications System, www.ihets.org.

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