

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 381 be amended to read as follows:

- 1 Page 2, delete lines 40 through 42, begin a new paragraph and insert:
- 2 "SECTION 4. IC 5-21.5 IS ADDED TO THE INDIANA CODE AS
- 3 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
- 4 PASSAGE]:
- 5 **ARTICLE 21.5. INDIANA STATEWIDE BROADBAND**
- 6 **SYSTEM**
- 7 **Chapter 1. Definitions**
- 8 **Sec. 1. The definitions in this chapter apply throughout this**
- 9 **article.**
- 10 **Sec. 2. "Authorized user" means:**
- 11 **(1) an authorized user of the intelenet system under**
- 12 **IC 5-21-1-2, including:**
- 13 **(A) political subdivisions;**
- 14 **(B) instrumentalities of state or local government that**
- 15 **provide public safety or emergency management services;**
- 16 **(C) school corporations;**
- 17 **(D) institutions of higher education; and**
- 18 **(E) community networks;**
- 19 **(2) an authorized user of the Indiana Telecommunications**
- 20 **Network administered by the Indiana higher education**
- 21 **telecommunications system under IC 20-12-12;**
- 22 **(3) a local hospital authority or corporation, or other publicly**
- 23 **funded hospital; or**
- 24 **(4) a certified technology park established under IC 36-7-32.**
- 25 **Sec. 3. "Coordinating body" refers to the representatives**

1 designated under IC 5-21.5-2-1 to coordinate the establishment of  
2 a statewide broadband system.

3 Sec. 4. "Holder" means a state agency or other instrumentality  
4 of state government that holds the contract for the state's  
5 indefeasible right of use to I-Light.

6 Sec. 5. "I-Light" refers to the statewide high speed optical fiber  
7 network. The term includes the fiber optic networks known at any  
8 time as I-Light and I-Light 2.

9 Sec. 6. "Indefeasible right of use" means a temporary ownership  
10 right in a fiber optic cable, specified in terms of a certain number  
11 of channels of a given bandwidth.

12 Sec. 7. "Person" means any individual, corporation, limited  
13 liability company, partnership, firm, association, public or private  
14 agency, or other organization.

15 Sec. 8. "System" refers to a statewide broadband system that:

16 (1) makes use of the best available technology, as determined  
17 by the coordinating body, including wireless broadband  
18 technology;

19 (2) allows broadband communications at a speed of at least  
20 twenty (20) megabits per second downstream to a subscriber;  
21 and

22 (3) includes:

23 (A) a statewide system of wireless broadband access points  
24 as described in IC 5-21.5-2-2(b); and

25 (B) a system of Ethernet ports at nodes distributed  
26 throughout the network to allow access to the system by  
27 authorized users and persons other than authorized users,  
28 as described in IC 5-21.5-2-2(c).

29 **Chapter 2. Establishment of the System; General**  
30 **Administration**

31 Sec. 1. (a) The coordinating body to establish a statewide  
32 broadband system consists of seven (7) individuals. The state chief  
33 information officer serves as a member of the coordinating body by  
34 virtue of the office. The governor shall designate one (1) individual  
35 to represent the telecommunications industry. In addition, each of  
36 the following entities shall designate one (1) representative:

37 (1) The coordinating unit established by IC 20-12-12-3.

38 (2) The holder.

39 (3) Purdue University.

40 (4) Indiana University.

41 (5) Ball State University.

42 (b) The holder may assign to the coordinating body an  
43 indefeasible right of use of all or part of the I-Light fiber optic  
44 network.

45 (c) The coordinating body shall cease operation and be dissolved  
46 on July 15, 2007.

1           **Sec. 2. (a) The coordinating body shall determine the feasibility**  
2 **of a statewide broadband system to be made available to**  
3 **authorized users and other persons as provided in section 3 of this**  
4 **chapter.**

5           **(b) In developing the system described by this section, the**  
6 **coordinating body may test and deploy a system of wireless**  
7 **broadband access points throughout Indiana. A wireless system**  
8 **established under this subsection must:**

9               **(1) provide bandwidth transmission of at least five (5)**  
10 **megabits per second at each I-Light node; and**

11               **(2) be designed to permit the accommodation of additional**  
12 **capacity and coverage as the communication needs of the**  
13 **system's users may require.**

14           **(c) In developing the system described by this section, the**  
15 **coordinating body may provide Ethernet ports at each I-Light node**  
16 **to allow access to the system by authorized users and persons other**  
17 **than authorized users, as permitted under section 3 of this chapter.**

18           **Sec. 3. (a) This section applies only if a functioning system is**  
19 **deployed by the coordinating body.**

20           **(b) The system shall be made available first to authorized users.**  
21 **However, if the coordinating body determines at any time that the**  
22 **system has sufficient capacity to serve other users, the coordinating**  
23 **body shall permit any person to access the system, subject to**  
24 **subsections (c), (d), and (e). A person eligible to access the system**  
25 **under this section includes a commercial:**

26               **(1) telecommunications provider; or**

27               **(2) Internet service provider;**

28 **that meets any qualifications or criteria for access established by**  
29 **the coordinating body under subsection (d).**

30           **(c) If the coordinating body acts under subsection (b) to permit**  
31 **one (1) or more persons to access capacity on the system that is not**  
32 **needed to meet the broadband needs of authorized users, and it**  
33 **becomes necessary to allocate the available capacity among those**  
34 **persons, the coordinating body shall consider the following for each**  
35 **new person seeking access:**

36               **(1) Whether the person's allocated capacity on the system will**  
37 **be used by the person to provide broadband service to users:**

38                   **(A) at a competitive rate; and**

39                   **(B) within a reasonable period after the person acquires**  
40 **access to the system;**

41 **as determined by the coordinating body.**

42               **(2) The extent to which the person's allocated capacity on the**  
43 **system will be used to provide broadband service to**  
44 **underserved areas of Indiana.**

45               **(3) The extent to which allowing the person to access the**  
46 **system will contribute to the broadband service choices**

- 1           **available to Indiana residents and businesses.**
- 2           **(d) The coordinating body may establish standards or other**  
3 **requirements for access to the system by a person other than an**  
4 **authorized user. However, any standards or requirements**  
5 **established under this subsection must be applied on a uniform and**  
6 **competitively neutral basis.**
- 7           **(e) The coordinating body shall provide access to the system**  
8 **under subsection (b) or (c) at a cost that does not exceed the**  
9 **coordinating body's costs to establish, operate, maintain, and**  
10 **administer the system, including any costs of upgrading the system**  
11 **to incorporate the best available technology, as determined by the**  
12 **coordinating body.**
- 13           **(f) An authorized user may not sell, lease, or license the**  
14 **authorized user's right to use the system described in this chapter."**
- 15           Delete pages 3 through 17.
- 16           Page 18, delete lines 1 through 2.
- 17           Page 23, delete lines 4 through 42, begin a new paragraph and insert:
- 18           "SECTION 6. IC 20-12-12-6 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A special  
20 and distinct fund is hereby created to be known as the higher education  
21 statewide telecommunications fund. Expenditures from the fund may  
22 be made only for the following:
- 23           (1) Payments by the universities for the use of a  
24 telecommunications system or the lease, purchase, rental, or  
25 production of a videotape program as provided in this chapter.
- 26           (2) Studies regarding the possibilities of extending the use of the  
27 telecommunications system described in section 1(a) of this  
28 chapter to other colleges and universities in Indiana and of  
29 extending the use of the system for post-high school and other  
30 educational uses.
- 31           (3) The expenses of coordinating, planning, and supervising the  
32 use of the telecommunications system, and the videotape program.
- 33           (4) Equipment for the originating and receiving of instructional  
34 communication and educational information by means of the  
35 telecommunications system and the videotape program.
- 36           **(b) The statewide broadband account is established within the**  
37 **fund to pay the costs of the coordinating body established under**  
38 **IC 5-21.5-2-1 to establish, operate, maintain, and administer a**  
39 **statewide broadband system under IC 5-21.5. Costs under this**  
40 **subdivision include any costs of upgrading the system to**  
41 **incorporate the best available technology, as determined by the**  
42 **coordinating body. The account consists of fees or charges collected**  
43 **by the coordinating body for providing access to the system by**  
44 **authorized users or other persons, to the extent permitted under**  
45 **IC 5-21.5-2-3(e). Money in the account is continuously**  
46 **appropriated for the purposes of this subsection. Money in the**  
47 **account at the end of a state fiscal year does not revert to the fund.**

- 1           ~~(b)~~ (c) The ~~state~~ auditor of state shall pay, as needed, from the fund  
2 **and the account established under subsection (b)** amounts to the  
3 trustees of Indiana University as agent for the universities **and the**  
4 **coordinating body established under IC 5-21.5-2.** The trustees of  
5 Indiana University as the agent shall apply the funds to the payment of  
6 items as payment becomes due from the higher education statewide  
7 telecommunications fund **or the account established under**  
8 **subsection (b).**"
- 9           Page 24, delete lines 1 through 17.  
10          Renumber all SECTIONS consecutively.  
            (Reference is to ESB 381 as printed April 5, 2005.)

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Representative Austin