

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WITHDRAWN	Noes _____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, between lines 39 and 40, 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 Page 8, line 20, delete "February 8," and insert "**July 1, 2005**".
- 16 Page 8, delete line 21.
- 17 Page 10, line 22, delete "any basic".
- 18 Page 10, line 23, delete "telecommunications service, including".
- 19 Page 10, line 24, delete "providing the" and insert "**basic**
20 **telecommunications**".
- 21 Page 10, line 26, delete "basic".
- 22 Page 10, delete lines 27 through 29.
- 23 Page 10, line 30, delete "non-affiliated providers." and insert
24 "**broadband services are available to at least fifty percent (50%) of**
25 **the households located in the exchange area.**".
- 26 Page 10, line 32, delete "In determining whether at least three (3)
27 non-affiliated".
- 28 Page 10, delete lines 33 through 42.
- 29 Page 11, delete lines 1 through 19.
- 30 Page 11, line 20, delete "(d)" and insert "(c)".
- 31 Page 11, line 22, delete "at least three (3) basic telecommunications
32 service".
- 33 Page 11, line 23, delete "providers or other voice communications
34 service providers" and insert "**broadband services**".
- 35 Page 11, line 24, delete "the customers" and insert "**at least fifty**
36 **percent (50%) of the households located**".
- 37 Page 11, line 25, delete "(e)" and insert "**(d)**".
- 38 Page 11, line 25, delete "(d)," and insert "**(c),**".
- 39 Page 11, line 33, delete "(f)" and insert "**(e)**".
- 40 Page 11, line 35, delete "(e)." and insert "**(d).**".
- 41 Page 11, line 40, delete "(g)" and insert "**(f)**".
- 42 Page 15, delete lines 16 through 17.
- 43 Page 15, line 18, delete "U.S.C. 251 et seq.,".
- 44 Page 15, line 24, delete "exceed, or are otherwise inconsistent with,"
45 and insert "**exceed the commission's authority delegated under**".
- 46 Page 15, line 38, delete "." and insert "**consistent with this article.**".
- 47 Page 21, line 12, after "area." insert "**This section does not**

1 **empower the authority to require providers of broadband service**
 2 **to disclose confidential and proprietary business plans and other**
 3 **confidential information without adequate protection of the**
 4 **information."**

5 Page 23, between lines 3 and 4, begin a new paragraph and insert:
 6 "SECTION 33. IC 20-12-12-6 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A special
 8 and distinct fund is hereby created to be known as the higher education
 9 statewide telecommunications fund. Expenditures from the fund may
 10 be made only for the following:

11 (1) Payments by the universities for the use of a
 12 telecommunications system or the lease, purchase, rental, or
 13 production of a videotape program as provided in this chapter.

14 (2) Studies regarding the possibilities of extending the use of the
 15 telecommunications system described in section 1(a) of this
 16 chapter to other colleges and universities in Indiana and of
 17 extending the use of the system for post-high school and other
 18 educational uses.

19 (3) The expenses of coordinating, planning, and supervising the
 20 use of the telecommunications system, and the videotape program.

21 (4) Equipment for the originating and receiving of instructional
 22 communication and educational information by means of the
 23 telecommunications system and the videotape program.

24 **(b) The statewide broadband account is established within the**
 25 **fund to pay the costs of the coordinating body established under**
 26 **IC 5-21.5-2 to establish, operate, maintain, and administer a**
 27 **statewide broadband system under IC 5-21.5. Costs under this**
 28 **subsection include any costs of upgrading the system to incorporate**
 29 **the best available technology, as determined by the coordinating**
 30 **body. The account consists of fees or charges collected by the**
 31 **coordinating body for providing access to the system by authorized**
 32 **users or other persons, to the extent permitted under**
 33 **IC 5-21.5-2-3(e). Money in the account is continuously**
 34 **appropriated for the purposes of this subsection. Money in the**
 35 **account at the end of a state fiscal year does not revert to the fund.**

36 ~~(b)~~ (c) The state auditor of state shall pay, as needed, from the fund
 37 **and the account established under subsection (b)** amounts to the
 38 trustees of Indiana University as agent for the universities **and the**
 39 **coordinating body established under IC 5-21.5-2.** The trustees of
 40 Indiana University as the agent shall apply the funds to the payment of
 41 items as payment becomes due from the higher education statewide
 42 telecommunications fund **or the account established under**
 43 **subsection (b)."**

44 Page 24, between lines 5 and 6, begin a new paragraph and insert:

45 **"(c) The report prepared under this SECTION must include a**
 46 **map identifying the location of the infrastructure used to provide**
 47 **the services described in subsection (b)(3)."**

- 1 Page 24, line 6, delete "(c)" and insert "**(d)**".
- 2 Page 24, line 11, delete "(d)" and insert "**(e)**".
- 3 Page 25, line 3, delete "(d)" and insert "**(f)**".
- 4 Renumber all SECTIONS consecutively.
(Reference is to ESB 381 as printed April 5, 2005.)

Representative Murphy