

E2SHB 1701 - S AMD

By Senators Kohl-Welles, Kastama, Zarelli

ADOPTED 04/16/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that the
4 deployment and adoption of high-speed internet services and technology
5 advancements enhance economic development and public safety for the
6 state's communities. Such deployment also offers improved health care,
7 access to consumer and legal services, increased educational and civic
8 participation opportunities, and a better quality of life for the
9 state's residents. The legislature further finds that improvements in
10 the deployment and adoption of high-speed internet services and the
11 strategic inclusion of technology advancements and technology education
12 are critical to ensuring that Washington remains competitive and
13 continues to provide a skilled workforce, attract businesses, and
14 stimulate job growth.

15 (2) The legislature intends to support strategic partnerships of
16 public, private, nonprofit, and community-based sectors in the
17 continued growth and development of high-speed internet services and
18 information technology. The legislature further intends to ensure that
19 all Washington citizens, businesses, schools, and organizations are
20 able to obtain and utilize broadband fully, regardless of location,
21 economic status, literacy level, age, disability, structure, or size.
22 In addition, the legislature intends that a statewide assessment of the
23 availability, location, service levels, and other characteristics of
24 high-speed internet services and other advanced telecommunications
25 services in the state be conducted.

26 (3) In recognition of the importance of broadband deployment and
27 adoption to the economy, health, safety, and welfare of the people of
28 Washington, it is the purpose of this act to make high-speed internet
29 service more readily available throughout the state, especially in
30 areas and for populations with a low utilization rate.

1 NEW SECTION. **Sec. 2.** (1) The broadband mapping account is
2 established in the custody of the state treasurer. The department
3 shall deposit into the account such funds received from legislative
4 appropriation, federal grants authorized under the federal broadband
5 data improvement act, P.L. 110-385, Title I, and donated funds from
6 private and public sources. Expenditures from the account may be used
7 only for the purposes of sections 3 through 5 of this act. Only the
8 director of the department or the director's designee may authorize
9 expenditures from the account. The account is subject to the allotment
10 procedures under chapter 43.88 RCW, but an appropriation is not
11 required for expenditures.

12 (2) The department of information services is the single eligible
13 entity in the state for purposes of the federal broadband data
14 improvement act, P.L. 110-385, Title I.

15 (3) Funding received by the department under the federal broadband
16 data improvement act, P.L. 110-385, Title I, must be used in accordance
17 with the requirements of that act and, subject to those requirements,
18 may be distributed by the department on a competitive basis to other
19 entities in the state to achieve the purposes of that act.

20 (4) The department of information services shall consult with the
21 department of community, trade, and economic development or its
22 successor agency, the office of financial management, and the utilities
23 and transportation commission in coordinating broadband mapping
24 activities. In carrying out any broadband mapping activities, the
25 provisions of P.L. 110-385, Title I, regarding trade secrets,
26 commercial or financial information, and privileged or confidential
27 information submitted by the federal communications commission or a
28 broadband provider are deemed to encompass the consulted agencies.

29 NEW SECTION. **Sec. 3.** (1) Subject to the availability of federal
30 or state funding, the department may:

31 (a) Develop an interactive web site to allow residents to self-
32 report whether high-speed internet is available at their home or
33 residence and at what speed; and

34 (b) Conduct a detailed survey of all high-speed internet
35 infrastructure owned or leased by state agencies and creating a
36 geographic information system map of all high-speed internet
37 infrastructure owned or leased by the state.

1 (2) State agencies responding to a survey request from the
2 department under subsection (1)(b) of this section shall respond in a
3 reasonable and timely manner, not to exceed one hundred twenty days.
4 The department shall request of state agencies, at a minimum:

5 (a) The total bandwidth of high-speed internet infrastructure owned
6 or leased;

7 (b) The cost of maintaining that high-speed internet
8 infrastructure, if owned, or the price paid for the high-speed internet
9 infrastructure, if leased; and

10 (c) The leasing entity, if applicable.

11 (3) The department may adopt rules as necessary to carry out the
12 provisions of this section.

13 (4) For purposes of this section, "state agency" includes every
14 state office, department, division, bureau, board, commission, or other
15 state agency.

16 NEW SECTION. **Sec. 4.** (1) The department is authorized, through a
17 competitive bidding process, to procure on behalf of the state a
18 geographic information system map detailing high-speed internet
19 infrastructure, service availability, and adoption. This geographic
20 information system map may include adoption information, availability
21 information, type of high-speed internet deployment technology, and
22 available speed tiers for high-speed internet based on any publicly
23 available data.

24 (2) The department may procure this map either by:

25 (a) Contracting for and purchasing a completed map from a third
26 party; or

27 (b) Working directly with the federal communications commission to
28 accept publicly available data.

29 (3) The department shall establish an accountability and oversight
30 structure to ensure that there is transparency in the bidding and
31 contracting process and full financial and technical accountability for
32 any information or actions taken by a third-party contractor creating
33 this map.

34 (4) In contracting for purchase of the map in subsection (2)(a) of
35 this section, the department may take no action, nor impose any
36 condition on the third party, that causes any record submitted by a
37 public or private broadband service provider to the third party to meet

1 the standard of a public record as defined in RCW 42.56.010. This
2 prohibition does not apply to any records delivered to the department
3 by the third party as a component of the completed map. For the
4 purpose of RCW 42.56.010(2), the purchase by the department of a
5 completed map may not be deemed use or ownership by the department of
6 the underlying information used by the third party to complete the map.

7 (5) Data or information that is publicly available as of the
8 effective date of this section will not cease to be publicly available
9 due to any provision of this act.

10 NEW SECTION. **Sec. 5.** (1) The department, in coordination with the
11 department of community, trade, and economic development and the
12 utilities and transportation commission, and such advisors as the
13 department chooses, may prepare regular reports that identify the
14 following:

15 (a) The geographic areas of greatest priority for the deployment of
16 advanced telecommunications infrastructure in the state;

17 (b) A detailed explanation of how any amount of funding received
18 from the federal government for the purposes of broadband mapping,
19 deployment, and adoption will be or have been used; and

20 (c) A determination of how nonfederal sources may be utilized to
21 achieve the purposes of broadband mapping, deployment, and adoption
22 activities in the state.

23 (2) To the greatest extent possible, the initial report should be
24 based upon the information identified in the geographic system maps
25 developed under the requirements of this chapter.

26 (3) The initial report should be delivered to the appropriate
27 committees of the legislature as soon as feasible, but no later than
28 January 18, 2010.

29 (4) Future reports based upon the requirements of subsection (1) of
30 this section should be delivered to the appropriate committees of the
31 legislature by January 15th of each year.

32 **Sec. 6.** RCW 28B.32.010 and 2008 c 262 s 6 are each amended to read
33 as follows:

34 The community technology opportunity program is created to support
35 the efforts of community technology programs throughout the state. The
36 community technology opportunity program must be administered by the

1 ((Washington State University extension, in consultation with the))
2 department of information services. The ((Washington State University
3 extension)) department may contract for services in order to carry out
4 the ((extension's)) department's obligations under this section.

5 (1) In implementing the community technology opportunity program
6 the administrator must, to the extent funds are appropriated for this
7 purpose:

8 (a) Provide organizational and capacity building support to
9 community technology programs throughout the state, and identify and
10 facilitate the availability of other public and private sources of
11 funds to enhance the purposes of the program and the work of community
12 technology programs. No more than fifteen percent of funds received by
13 the administrator for the program may be expended on these functions;

14 (b) Establish a competitive grant program and provide grants to
15 community technology programs to provide training and skill-building
16 opportunities; access to hardware and software; internet connectivity;
17 digital media literacy; assistance in the adoption of information and
18 communication technologies in low-income and underserved areas of the
19 state; and development of locally relevant content and delivery of
20 vital services through technology.

21 (2) Grant applicants must:

22 (a) Provide evidence that the applicant is a nonprofit entity or a
23 public entity that is working in partnership with a nonprofit entity;

24 (b) Define the geographic area or population to be served;

25 (c) Include in the application the results of a needs assessment
26 addressing, in the geographic area or among the population to be
27 served: The impact of inadequacies in technology access or knowledge,
28 barriers faced, and services needed;

29 (d) Explain in detail the strategy for addressing the needs
30 identified and an implementation plan including objectives, tasks, and
31 benchmarks for the applicant and the role that other organizations will
32 play in assisting the applicant's efforts;

33 (e) Provide evidence of matching funds and resources, which are
34 equivalent to at least one-quarter of the grant amount committed to the
35 applicant's strategy;

36 (f) Provide evidence that funds applied for, if received, will be
37 used to provide effective delivery of community technology services in

1 alignment with the goals of this program and to increase the
2 applicant's level of effort beyond the current level; and

3 (g) Comply with such other requirements as the administrator
4 establishes.

5 (3) The administrator may use no more than ten percent of funds
6 received for the community technology opportunity program to cover
7 administrative expenses.

8 (4) The administrator must establish expected program outcomes for
9 each grant recipient and must require grant recipients to provide an
10 annual accounting of program outcomes.

11 **Sec. 7.** RCW 43.105.020 and 2003 c 18 s 2 are each amended to read
12 as follows:

13 ~~((As used in this chapter, unless the context indicates otherwise,~~
14 ~~the following definitions shall apply:)) The definitions in this
15 section apply throughout this chapter unless the context clearly
16 required otherwise.~~

17 (1) "Department" means the department of information services;

18 (2) "Board" means the information services board;

19 (3) "Committee" means the state interoperability executive
20 committee;

21 (4) "Local governments" includes all municipal and quasi municipal
22 corporations and political subdivisions, and all agencies of such
23 corporations and subdivisions authorized to contract separately;

24 (5) "Director" means the director of the department;

25 (6) "Purchased services" means services provided by a vendor to
26 accomplish routine, continuing, and necessary functions. This term
27 includes, but is not limited to, services acquired for equipment
28 maintenance and repair, operation of a physical plant, security,
29 computer hardware and software installation and maintenance,
30 telecommunications installation and maintenance, data entry, keypunch
31 services, programming services, and computer time-sharing;

32 (7) "Backbone network" means the shared high-density portions of
33 the state's telecommunications transmission facilities. It includes
34 specially conditioned high-speed communications carrier lines,
35 multiplexors, switches associated with such communications lines, and
36 any equipment and software components necessary for management and
37 control of the backbone network;

1 (8) "Telecommunications" means the transmission of information by
2 wire, radio, optical cable, electromagnetic, or other means;

3 (9) "Information" includes, but is not limited to, data, text,
4 voice, and video;

5 (10) "Information processing" means the electronic capture,
6 collection, storage, manipulation, transmission, retrieval, and
7 presentation of information in the form of data, text, voice, or image
8 and includes telecommunications and office automation functions;

9 (11) "Information services" means data processing,
10 telecommunications, office automation, and computerized information
11 systems;

12 (12) "Equipment" means the machines, devices, and transmission
13 facilities used in information processing, such as computers, word
14 processors, terminals, telephones, wireless communications system
15 facilities, cables, and any physical facility necessary for the
16 operation of such equipment;

17 (13) "Information technology portfolio" or "portfolio" means a
18 strategic management process documenting relationships between agency
19 missions and information technology and telecommunications investments;

20 (14) "Oversight" means a process of comprehensive risk analysis and
21 management designed to ensure optimum use of information technology
22 resources and telecommunications;

23 (15) "Proprietary software" means that software offered for sale or
24 license;

25 (16) "Video telecommunications" means the electronic
26 interconnection of two or more sites for the purpose of transmitting
27 and/or receiving visual and associated audio information. Video
28 telecommunications shall not include existing public television
29 broadcast stations as currently designated by the department of
30 community, trade, and economic development under chapter 43.330 RCW;

31 (17) "K-20 educational network board" or "K-20 board" means the K-
32 20 educational network board created in RCW 43.105.800;

33 (18) "K-20 network technical steering committee" or "committee"
34 means the K-20 network technical steering committee created in RCW
35 43.105.810;

36 (19) "K-20 network" means the network established in RCW
37 43.105.820;

1 (20) "Educational sectors" means those institutions of higher
2 education, school districts, and educational service districts that use
3 the network for distance education, data transmission, and other uses
4 permitted by the K-20 board;

5 (21) "Administrator" means the community technology opportunity
6 program administrator designated by the department;

7 (22) "Community technology programs" means programs that are
8 engaged in diffusing information and communications technology in local
9 communities, particularly in unserved and underserved areas of the
10 state. These programs may include, but are not limited to, programs
11 that provide education and skill-building opportunities, hardware and
12 software, internet connectivity, digital media literacy, development of
13 locally relevant content, and delivery of vital services through
14 technology;

15 (23) "Broadband" means a high-speed, high capacity transmission
16 medium, using land-based, satellite, wireless, or any other mechanism,
17 that can carry either signals or transmit data, or both, over long
18 distances by using a wide range of frequencies;

19 (24) "Council" means the advisory council on digital inclusion
20 created in section 10 of this act;

21 (25) "High-speed internet" means broadband.

22 **Sec. 8.** RCW 28B.32.030 and 2008 c 262 s 8 are each amended to read
23 as follows:

24 The Washington community technology opportunity account is
25 established in the state treasury. The governor or the governor's
26 designee and the director or the director's designee shall deposit into
27 the account federal grants to the state authorized under Division B,
28 Title VI of the American recovery and reinvestment act of 2009,
29 legislative appropriations, and donated funds from private and public
30 sources for purposes related to broadband deployment and adoption,
31 including matching funds required by the act. Donated funds from
32 private and public sources may be deposited into the account.
33 Expenditures from the account may be used only ((for)) as matching
34 funds for federal and other grants to fund the operation of the
35 community technology opportunity program ((as provided in RCW
36 28B.32.010)) under this chapter and to fund other activities authorized

1 in this act. Only the ((~~administrator~~)) director or the
2 ((~~administrator's~~)) director's designee may authorize expenditures from
3 the account.

4 NEW SECTION. Sec. 9. (1) The governor may take all appropriate
5 steps to carry out the purposes of Division B, Title VI of the American
6 recovery and reinvestment act of 2009, P.L. 111-5, and maximize
7 investment in broadband deployment and adoption in the state of
8 Washington consistent with this act. Such steps may include the
9 designation of a broadband deployment and adoption coordinator; review
10 and prioritization of grant applications by public and private entities
11 as directed by the national telecommunications and information
12 administration, the rural utility services, and the federal
13 communications commission; disbursement of block grant funding; and
14 direction to state agencies to provide staffing as necessary to carry
15 out this section. The authority for overseeing broadband adoption and
16 deployment efforts on behalf of the state is vested in the department.

17 (2) The department may apply for federal funds and other grants or
18 donations, may deposit such funds in the Washington community
19 technology opportunity account created in RCW 28B.32.030 (as recodified
20 by this act), may oversee implementation of federally funded or
21 mandated broadband programs for the state and may adopt rules to
22 administer the programs. These programs may include but are not
23 limited to the following:

24 (a) Engaging in periodic statewide surveys of residents,
25 businesses, and nonprofit organizations concerning their use and
26 adoption of high-speed internet, computer, and related information
27 technology for the purpose of identifying barriers to adoption;

28 (b) Working with communities to identify barriers to the adoption
29 of broadband service and related information technology services by
30 individuals, nonprofit organizations, and businesses;

31 (c) Identifying broadband demand opportunities in communities by
32 working cooperatively with local organizations, government agencies,
33 and businesses;

34 (d) Creating, implementing, and administering programs to improve
35 computer ownership, technology literacy, digital media literacy, and
36 high-speed internet access for populations not currently served or
37 underserved in the state. This may include programs to provide low-

1 income families, community-based nonprofit organizations, nonprofit
2 entities, and public entities that work in partnership with nonprofit
3 entities to provide increased access to computers and broadband, with
4 reduced cost internet access;

5 (e) Administering the community technology opportunity program
6 under chapter 28B.32 RCW (as recodified by this act);

7 (f) Creating additional programs to spur the development of high-
8 speed internet resources in the state;

9 (g) Establishing technology literacy and digital inclusion programs
10 and establishing low-cost hardware, software, and internet purchasing
11 programs that may include allowing participation by community
12 technology programs in state purchasing programs; and

13 (h) Developing technology loan programs targeting small businesses
14 or businesses located in unserved and underserved areas.

15 NEW SECTION. **Sec. 10.** (1) Subject to the availability of federal
16 or state funding, the department may reconvene the high-speed internet
17 work group previously established by chapter 262, Laws of 2008. The
18 work group is renamed the advisory council on digital inclusion, and is
19 an advisory group to the department. The council must include, but is
20 not limited to, volunteer representatives from community technology
21 organizations, telecommunications providers, higher education
22 institutions, K-12 education institutions, public health institutions,
23 public housing entities, and local government and other governmental
24 entities that are engaged in community technology activities.

25 (2) The council shall prepare a report by January 15th of each year
26 and submit it to the department, the governor, and the appropriate
27 committees of the legislature. The report must contain:

28 (a) An analysis of how support from public and private sector
29 partnerships, the philanthropic community, and other not-for-profit
30 organizations in the community, along with strong relationships with
31 the state board for community and technical colleges, the higher
32 education coordinating board, and higher education institutions, could
33 establish a variety of high-speed internet access alternatives for
34 citizens;

35 (b) Proposed strategies for continued broadband deployment and
36 adoption efforts, as well as further development of advanced
37 telecommunications applications;

1 (c) Recommendations on methods for maximizing the state's research
2 and development capacity at universities and in the private sector for
3 developing advanced telecommunications applications and services, and
4 recommendations on incentives to stimulate the demand for and
5 development of these applications and services;

6 (d) An identification of barriers that hinder the advancement of
7 technology entrepreneurship in the state; and

8 (e) An evaluation of programs designed to advance digital literacy
9 and computer access that are made available by the federal government,
10 local agencies, telecommunications providers, and business and
11 charitable entities.

12 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
13 conflict with federal requirements that are a prescribed condition to
14 the allocation of federal funds to the state, the conflicting part of
15 this act is inoperative solely to the extent of the conflict and with
16 respect to the agencies directly affected, and this finding does not
17 affect the operation of the remainder of this act in its application to
18 the agencies concerned. Rules adopted under this act must meet federal
19 requirements that are a necessary condition to the receipt of federal
20 funds by the state.

21 NEW SECTION. **Sec. 12.** Sections 2 through 5, 9, and 10 of this act
22 are each added to chapter 43.105 RCW.

23 NEW SECTION. **Sec. 13.** RCW 28B.32.010, 28B.32.030, 28B.32.900, and
24 28B.32.901 are each recodified as sections in chapter 43.105 RCW.

25 NEW SECTION. **Sec. 14.** The following acts or parts of acts are
26 each repealed:

27 (1) RCW 28B.32.020 (Definitions) and 2008 c 262 s 7; and

28 (2) RCW 43.105.350 (Request for information from providers--
29 Limitation) and 2008 c 262 s 3.

30 NEW SECTION. **Sec. 15.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 July 1, 2009.

5 NEW SECTION. **Sec. 17.** If specific funding for the purposes of
6 this act, referencing this act by bill or chapter number, is not
7 provided by June 30, 2009, in the omnibus appropriations act, this act
8 is null and void."

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9 On page 1, line 2 of the title, after "activities;" strike the
10 remainder of the title and insert "amending RCW 28B.32.010, 43.105.020,
11 and 28B.32.030; adding new sections to chapter 43.105 RCW; creating new
12 sections; recodifying RCW 28B.32.010, 28B.32.030, 28B.32.900, and
13 28B.32.901; repealing RCW 28B.32.020 and 43.105.350; providing an
14 effective date; and declaring an emergency."

EFFECT: Removes the provisions for a Business & Occupation tax
credit for firms that contribute to the Washington Community Technology
Opportunity Account (WCTOA). Removes the provisions for deposit into
the WCTOA of leasehold excise taxes paid by telecommunications firms.
Makes technical corrections to references to federal laws and to
clarify that the Broadband Mapping Account is created in the custody of
the State Treasurer rather than in the state treasury. Adds a null and
void clause.

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