

E2SHB 1701 - S COMM AMD

By Committee on Economic Development, Trade & Innovation

OUT OF ORDER 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 with a low utilization rate.

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

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

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

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

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

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

33 (b) Conduct a detailed survey of all high-speed internet
34 infrastructure owned or leased by state agencies and creating a
35 geographic information system map of all high-speed internet
36 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 (26) "Underserved areas" means: (a) Areas in which high-speed
23 internet download speeds and upload speeds are significantly below the
24 state norm; (b) any census tract that is located in a federally
25 designated empowerment zone, enterprise community, renewal community,
26 or low-income community; (c) an area with a significant population of
27 economically disadvantaged residents; or (d) an area in which a
28 significant population of the residents are not able to adopt broadband
29 because of disability, affordability of computers or software, or a
30 lack of technological literacy.

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

33 The Washington community technology opportunity account is
34 established in the state treasury. The governor or the governor's
35 designee and the director or the director's designee shall deposit into
36 the account federal grants authorized under Division B, Title VI of the
37 American recovery and reinvestment act of 2009, legislative

1 appropriations, and donated funds from private and public sources for
2 purposes related to broadband deployment and adoption, including
3 matching funds required by the act. Donated funds from private and
4 public sources may be deposited into the account. Expenditures from
5 the account may be used only ~~((for))~~ as matching funds for federal and
6 other grants to fund the operation of the community technology
7 opportunity program ~~((as provided in RCW 28B.32.010))~~ under this
8 chapter and to fund other activities authorized in this act. Only the
9 ~~((administrator))~~ director or the ~~((administrator's))~~ director's
10 designee may authorize expenditures from the account.

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

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

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

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

1 (c) Identifying broadband demand opportunities in communities by
2 working cooperatively with local organizations, government agencies,
3 and businesses;

4 (d) Creating, implementing, and administering programs to improve
5 computer ownership, technology literacy, digital media literacy, and
6 high-speed internet access for populations not currently served or
7 underserved in the state. This may include programs to provide low-
8 income families, community-based nonprofit organizations, nonprofit
9 entities, and public entities that work in partnership with nonprofit
10 entities to provide increased access to computers and broadband, with
11 reduced cost internet access;

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

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

16 (g) Establishing technology literacy and digital inclusion programs
17 and establishing low-cost hardware, software, and internet purchasing
18 programs that may include allowing participation by community
19 technology programs in state purchasing programs; and

20 (h) Developing last-mile technology loan programs targeting small
21 businesses or businesses located in unserved and underserved areas.

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

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

35 (a) An analysis of how support from public and private sector
36 partnerships, the philanthropic community, and other not-for-profit
37 organizations in the community, along with strong relationships with

1 the state board for community and technical colleges, the higher
2 education coordinating board, and higher education institutions, could
3 establish a variety of high-speed internet access alternatives for
4 citizens;

5 (b) Proposed strategies for continued broadband deployment and
6 adoption efforts, as well as further development of advanced
7 telecommunications applications;

8 (c) Recommendations on methods for maximizing the state's research
9 and development capacity at universities and in the private sector for
10 developing advanced telecommunications applications and services, and
11 recommendations on incentives to stimulate the demand for and
12 development of these applications and services;

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

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

19 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.04 RCW
20 to read as follows:

21 (1) For the purposes of this section, "telecommunications company"
22 has the same meaning as defined in RCW 80.04.010.

23 (2) A telecommunications company shall be allowed a credit against
24 taxes due under this chapter in an amount equal to fifty percent of
25 contributions made in any fiscal year directly to the Washington
26 community technology opportunity account created in RCW 28B.32.030 (as
27 recodified by this act). The credit shall be taken in a form and
28 manner as required by the department. The telecommunications company
29 must make the contribution before claiming a credit authorized under
30 this section. The credit under this section shall not exceed two
31 hundred thousand dollars per fiscal year per telecommunications
32 company. The credit may not exceed the tax that would otherwise be due
33 under this chapter. Refunds shall not be granted in the place of
34 credits.

35 (3) Except as provided under subsection (4) of this section, a tax
36 credit claimed under this section may not be carried over to another
37 year.

1 (4) Any amount of tax credit otherwise allowable under this section
2 not claimed by a telecommunications company in any calendar year may be
3 carried over and claimed against the tax liability for the next
4 succeeding calendar year. Any credit remaining unused in the next
5 succeeding calendar year may be carried forward and claimed against the
6 tax liability for the second succeeding calendar year; and any credit
7 not used in that second succeeding calendar year may be carried over
8 and claimed against the tax liability for the third succeeding calendar
9 year, but may not be carried over for any calendar year thereafter.

10 (5) Credits are available on a first in-time basis. The department
11 shall disallow any credits, or portion thereof, that would cause the
12 total amount of credits claimed under this section during any calendar
13 year to exceed five hundred thousand dollars. The department shall
14 provide written notice to any telecommunications company that has
15 claimed tax credits in excess of the five hundred thousand dollar
16 limitation in this subsection. The notice must indicate the amount of
17 tax due and provide that the tax be paid within thirty days from the
18 date of such a notice. The department shall not assess penalties and
19 interest as provided in chapter 82.32 RCW on the amount due in the
20 initial notice if the amount due is paid by the due date specified in
21 the notice, or any extension thereof.

22 (6) To claim a credit under this section, a telecommunications
23 company must electronically file with the department all returns,
24 forms, and any other information required by the department, in an
25 electronic format as provided or approved by the department. Any
26 return, form, or information required to be filed in an electronic
27 format under this section is not filed until received by the department
28 in an electronic format. As used in this subsection, "returns" has the
29 same meaning as "return" in RCW 82.32.050.

30 (7) No application is necessary for the tax credit. The
31 telecommunications company must keep records necessary for the
32 department to verify eligibility under this section.

33 (8) The department may not allow any credit under this section
34 before July 1, 2009.

35 (9) The right to earn tax credits under this section expires June
36 30, 2018.

1 NEW SECTION. **Sec. 18.** 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. 19.** (1) If contributions to the Washington
6 community technology opportunity account created in RCW 28B.32.030 (as
7 recodified by this act) are not made by June 30, 2010, section 11 of
8 this act is null and void.

9 (2) The office of the state treasurer must provide the code
10 reviser's office with written notice by July 15, 2010, regarding the
11 status of contributions referenced under subsection (1) of this
12 section."

E2SHB 1701 - S COMM AMD

By Committee on Economic Development, Trade & Innovation

OUT OF ORDER 04/16/2009

13 On page 1, line 2 of the title, after "activities;" strike the
14 remainder of the title and insert "amending RCW 28B.32.010, 43.105.020,
15 and 28B.32.030; adding new sections to chapter 43.105 RCW; adding a new
16 section to chapter 82.04 RCW; adding a new section to chapter 82.29A
17 RCW; creating new sections; recodifying RCW 28B.32.010, 28B.32.030,
18 28B.32.900, and 28B.32.901; repealing RCW 28B.32.020 and 43.105.350;
19 providing an effective date; and declaring an emergency."

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