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**SUBSTITUTE SENATE BILL 5917**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Economic Development, Trade & Innovation (originally sponsored by Senators Kohl-Welles, Kauffman, Oemig, Rockefeller, Kastama, Marr, Hatfield, Pflug, Keiser, Ranker, Hewitt, Pridemore, Honeyford, Schoesler, and Delvin)

READ FIRST TIME 02/24/09.

1       AN ACT Relating to developing a statewide map of high-speed  
2 internet availability and adoption; amending RCW 43.105.020 and  
3 43.105.350; adding new sections to chapter 43.105 RCW; creating new  
4 sections; providing an effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       NEW SECTION.   **Sec. 1.** (1) The legislature finds and declares the  
7 following:

8       (a) The deployment and adoption of high-speed internet services and  
9 information technology has resulted in enhanced economic development  
10 and public safety for the state's communities, improved health care and  
11 educational opportunities, stimulated business and job growth,  
12 increased the amount of valuable information available to residents,  
13 businesses, and institutions, and served to provide a better quality of  
14 life for the state's residents.

15       (b) Continued progress in the deployment and adoption of  
16 affordable, reliable high-speed internet services and other advanced  
17 telecommunications services will benefit all citizens and businesses  
18 within the state.

1 (2) Therefore, it is the legislature's intent to conduct a  
2 statewide assessment of the availability, location, service levels, and  
3 other characteristics of high-speed internet services and other  
4 advanced telecommunications services in the state.

5 **Sec. 2.** RCW 43.105.020 and 2003 c 18 s 2 are each amended to read  
6 as follows:

7 ~~((As used in this chapter, unless the context indicates otherwise,~~  
8 ~~the following definitions shall apply:)) The definitions in this  
9 section apply throughout this chapter unless the context clearly  
10 requires otherwise.~~

11 (1) "Department" means the department of information services((+)).

12 (2) "Board" means the information services board(+).

13 (3) "Committee" means the state interoperability executive  
14 committee(+).

15 (4) "Local governments" includes all municipal and quasi municipal  
16 corporations and political subdivisions, and all agencies of such  
17 corporations and subdivisions authorized to contract separately(+).

18 (5) "Director" means the director of the department(+).

19 (6) "Purchased services" means services provided by a vendor to  
20 accomplish routine, continuing, and necessary functions. This term  
21 includes, but is not limited to, services acquired for equipment  
22 maintenance and repair, operation of a physical plant, security,  
23 computer hardware and software installation and maintenance,  
24 telecommunications installation and maintenance, data entry, keypunch  
25 services, programming services, and computer time-sharing(+).

26 (7) "Backbone network" means the shared high-density portions of  
27 the state's telecommunications transmission facilities. It includes  
28 specially conditioned high-speed communications carrier lines,  
29 multiplexors, switches associated with such communications lines, and  
30 any equipment and software components necessary for management and  
31 control of the backbone network(+).

32 (8) "Telecommunications" means the transmission of information by  
33 wire, radio, optical cable, electromagnetic, or other means(+).

34 (9) "Information" includes, but is not limited to, data, text,  
35 voice, and video(+).

36 (10) "Information processing" means the electronic capture,

1 collection, storage, manipulation, transmission, retrieval, and  
2 presentation of information in the form of data, text, voice, or image  
3 and includes telecommunications and office automation functions((+)).

4 (11) "Information services" means data processing,  
5 telecommunications, office automation, and computerized information  
6 systems((+)).

7 (12) "Equipment" means the machines, devices, and transmission  
8 facilities used in information processing, such as computers, word  
9 processors, terminals, telephones, wireless communications system  
10 facilities, cables, and any physical facility necessary for the  
11 operation of such equipment((+)).

12 (13) "Information technology portfolio" or "portfolio" means a  
13 strategic management process documenting relationships between agency  
14 missions and information technology and telecommunications  
15 investments((+)).

16 (14) "Oversight" means a process of comprehensive risk analysis and  
17 management designed to ensure optimum use of information technology  
18 resources and telecommunications((+)).

19 (15) "Proprietary software" means that software offered for sale or  
20 license((+)).

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

28 (17) "K-20 educational network board" or "K-20 board" means the K-  
29 20 educational network board created in RCW 43.105.800((+)).

30 (18) "K-20 network technical steering committee" or "committee"  
31 means the K-20 network technical steering committee created in RCW  
32 43.105.810((+)).

33 (19) "K-20 network" means the network established in RCW  
34 43.105.820((+)).

35 (20) "Educational sectors" means those institutions of higher  
36 education, school districts, and educational service districts that use  
37 the network for distance education, data transmission, and other uses  
38 permitted by the K-20 board((+)).

1 (21) "Bandwidth" means the transmission capacity of an electronic  
2 communications device or system.

3 (22) "Broadband" means a high-speed, high-capacity transmission  
4 medium, using land-based, satellite, wireless, or any other mechanism,  
5 that can carry either signals or transmit data, or both, over long  
6 distances by using a wide range of frequencies with a minimum download  
7 speed greater than or equal to seven hundred sixty-eight kilobits per  
8 second and an upload speed greater than two hundred kilobits per  
9 second.

10 (23) "High-speed internet" means broadband.

11 (24) "High-speed internet strategy work group" means the group  
12 convened by the department as authorized by chapter 262, Laws of 2008.

13 (25) "Public entity" includes, but is not limited to, the  
14 following: State departments and agencies; public schools and school  
15 districts; public universities; counties, cities, and municipalities in  
16 the state; and state and local police agencies.

17 NEW SECTION. Sec. 3. A new section is added to chapter 43.105 RCW  
18 to read as follows:

19 (1) The department shall protect data that is vital to governmental  
20 security interests. Based upon the final recommendations of the high-  
21 speed internet strategy work group, and subject to available funding  
22 and RCW 42.56.210, the department shall accomplish the following  
23 objectives:

24 (a) Based on a determination of cost-effectiveness, create or  
25 purchase a detailed geographic information system map of the high-speed  
26 internet services and other relevant telecommunications and information  
27 technology services owned or leased by public entities in the state.  
28 The map must be updated on a regular basis and must, at a minimum,  
29 detail the following information:

30 (i) The physical location of all high-speed internet infrastructure  
31 owned or leased by public entities;

32 (ii) To the extent that such information would not lead to the  
33 disclosure of competitively sensitive data or proprietary data  
34 belonging to a nongovernmental entity, the type of delivery technology  
35 used;

36 (iii) The existence of unused conduits;

1 (iv) The amount of bandwidth capacity available in the presently  
2 deployed high-speed internet infrastructure;

3 (v) The average amount of bandwidth capacity utilized; and

4 (vi) The extent to which the high-speed internet infrastructure is  
5 active or inactive;

6 (b) Purchase from a nongovernmental, third-party mapping entity a  
7 geographic information system map of the privately owned high-speed  
8 internet infrastructure in the state. The map must be updated on a  
9 regular basis and must be designed so that it is easily integrated with  
10 the map of the public infrastructure in the state as indicated in (c)  
11 of this subsection and, at a minimum, detail the following information:

12 (i) To the extent possible, the physical location of all high-speed  
13 internet infrastructure owned or leased by private entities;

14 (ii) To the extent that such information would not lead to the  
15 disclosure of competitively sensitive data or proprietary data, the  
16 type of delivery technology used;

17 (iii) To the extent possible, the existence of unused conduits;

18 (iv) The amount of bandwidth capacity available in the presently  
19 deployed high-speed internet infrastructure;

20 (v) The average amount of bandwidth capacity utilized;

21 (vi) The extent to which the high-speed internet infrastructure is  
22 active or inactive;

23 (vii) Specific download and upload speeds as reported in the  
24 provider's most recent report to the federal communications commission;

25 (viii) Specific adoption levels as reported in the provider's most  
26 recent report to the federal communications commission; and

27 (ix) Provide detail at the census tract level or at the level  
28 specified by the federal communications commission, whichever is more  
29 comprehensive;

30 (c) Based on a determination of cost-effectiveness, create or  
31 purchase a complete statewide geographic information system inventory  
32 map of both the public and private high-speed internet infrastructure  
33 in the state. Without disclosing competitively sensitive data or  
34 proprietary data, the combined map of both public and privately owned  
35 or leased high-speed internet service must:

36 (i) Aggregate the information from (a) and (b) of this subsection;

37 (ii) Be made available in interactive form, online, to the general  
38 public;

1 (iii) Be able to pan, zoom, and identify available specific high-  
2 speed internet service types and levels;

3 (iv) Be able to display specific adoption rates by delivery  
4 technology and service levels;

5 (v) Meet other criteria as determined by the department, subject to  
6 available funding;

7 (d) Make available to the public quarterly reports on the  
8 department's progress in developing the geographic information system  
9 map;

10 (e) Use the aggregated geographic information system map of all  
11 high-speed internet infrastructure in the state, both public and  
12 privately owned or leased, to identify and regularly update the  
13 geographic gaps in high-speed internet service, including an assessment  
14 of the population demographic located in each of those geographic gaps;

15 (f) Track statewide residential, nonprofit, and business adoption  
16 of high-speed internet, computers, and related information technology,  
17 including an identification of barriers to adoption;

18 (g) Spur the development of high-speed internet resources in the  
19 state, which may include, but is not limited to:

20 (i) Receiving funding in the form of grants or donations from  
21 private or public entities; and

22 (ii) Applying for and receiving funding from the federal  
23 government.

24 (A) The department is the single eligible entity in the state to  
25 receive a grant under the federal broadband data improvement act, P.L.  
26 110-385.

27 (B) Funding received by the department under the federal broadband  
28 data improvement act, P.L. 110-385, must be used in accordance with the  
29 requirements of that act and, subject to those requirements, may be  
30 distributed by the department on a competitive basis to other entities  
31 in the state to achieve the purposes of that act.

32 (2) Contingent upon available funding, the department may update  
33 the geographic information system map of high-speed internet  
34 infrastructure to include detail at the census block level.

35 (3) State agencies shall respond to any request for information  
36 from the department in a reasonable and timely manner, not to exceed  
37 one hundred twenty days.

1        NEW SECTION.    **Sec. 4.** A new section is added to chapter 43.105 RCW  
2 to read as follows:

3        The broadband development and deployment account is created in the  
4 custody of the state treasurer. All receipts from state, federal, or  
5 private sources for the purposes of accomplishing this act must be  
6 deposited in the account. Expenditures from the account may be used  
7 only for the purposes 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       NEW SECTION.    **Sec. 5.** A new section is added to chapter 43.105 RCW  
12 to read as follows:

13        Except as indicated in section 3(1)(g)(ii)(A) of this act, nothing  
14 in this chapter may be construed to limit the ability of any  
15 municipality, county, other unit of local government, or any  
16 nongovernmental organization to apply for and receive funds or  
17 technical assistance to undertake projects that address the level of  
18 high-speed internet access available to businesses and residents or any  
19 similar high-speed internet deployment project in the state.

20       NEW SECTION.    **Sec. 6.** A new section is added to chapter 43.105 RCW  
21 to read as follows:

22        (1) The department, in coordination with the department of  
23 community, trade, and economic development and the utilities and  
24 transportation commission, shall reconvene the high-speed internet work  
25 group previously established by chapter 262, Laws of 2008. In  
26 consultation with the work group, the department shall prepare regular  
27 reports that identify the following:

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

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

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

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

4 (3) The initial report must be delivered to the appropriate  
5 committees of the legislature as soon as feasible, but no later than  
6 January 18, 2010.

7 (4) Future reports based upon the requirements of subsection (1) of  
8 this section must be delivered to the appropriate committees of the  
9 legislature by January 15th of each year.

10 **Sec. 7.** RCW 43.105.350 and 2008 c 262 s 3 are each amended to read  
11 as follows:

12 (1) For purposes of compliance with section 2, chapter 262, Laws of  
13 2008 or any subsequent high-speed internet deployment and adoption  
14 initiative, the department (~~(of information services)~~), the department  
15 of community, trade, and economic development, the utilities and  
16 transportation commission, and any other government agent or agency  
17 (~~(shall not)~~) engaged in the high-speed internet mapping, deployment,  
18 or adoption activities prescribed in this chapter may gather or request  
19 any information related to high-speed internet infrastructure or  
20 service from providers of telecommunications or high-speed internet  
21 services that is classified by the provider as proprietary or  
22 competitively sensitive, as long as the proprietary or competitively  
23 sensitive components of such information is maintained in a  
24 confidential manner solely by a nongovernmental third-party mapping  
25 entity as described in this chapter and as long as the relevant  
26 aggregated information is made available to the department, government  
27 agent, or agency.

28 (2) Nothing in this section may be construed as limiting the  
29 authority of a state agency or local government to gather or request  
30 information from providers of telecommunications or high-speed internet  
31 services for other purposes pursuant to its statutory authority.

32 NEW SECTION. **Sec. 8.** If funding for the purpose of accomplishing  
33 this act is not provided either through federal or private sources by  
34 June 30, 2011, this act is null and void. The office of financial  
35 management must provide the code reviser's office with written notice



1 by June 30, 2011, concerning the status of funds referenced in this  
2 section.

3 NEW SECTION. **Sec. 9.** The code reviser's office is directed to put  
4 the defined terms in RCW 43.105.020 in alphabetical order.

5 NEW SECTION. **Sec. 10.** If any part of this act is found to be in  
6 conflict with federal requirements that are a prescribed condition to  
7 the allocation of federal funds to the state, the conflicting part of  
8 this act is inoperative solely to the extent of the conflict and with  
9 respect to the agencies directly affected, and this finding does not  
10 affect the operation of the remainder of this act in its application to  
11 the agencies concerned. Rules adopted under this act must meet federal  
12 requirements that are a necessary condition to the receipt of federal  
13 funds by the state.

14 NEW SECTION. **Sec. 11.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 12.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of the  
20 state government and its existing public institutions, and takes effect  
21 July 1, 2009.

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