

MINUTES
(Subject to approval by the Committee)
Broadband Access Study Committee
Tuesday, February 09, 2016
4:00 P.M.
WW17
Boise, Idaho

Co-Chair Luke Malek called the meeting to order at 4:08 p.m. Co-Chair Malek requested a silent roll call. Members present were: Co-Chairs Representative Luke Malek and Senator Dean Mortimer, Senators Shawn Keough, Bart Davis, Bob Nonini, and Dan Schmidt; Representatives Lance Clow, Rick D. Youngblood, Greg Chaney, and John Rusche. Legislative Services Office (LSO) staff members present were: Brooke Brouman, Paul Headlee, and Shelley Sheridan.

Others in attendance: Nate Bondelid, Tek-Hut Inc.; Keven Denton, Seth Deniston, Ryan Gravette, and Will Goodman, Idaho Education Technology Association; Ann Joslin, Idaho Commission for Libraries; Jeff Burges and Lucas Linnemeyer, DataSite Colocation; Greg Zickau and Bob Geddes, Department of Administration; Heidi Rogers and Eric Chambers, Northwest Council for Computer Education; Christopher Campbell, State Department of Education; Garry Lough, Education Networks of America; Megan Ronk, Department of Commerce; Carlie Foster and Jason Kreizenbeck, Lobby Idaho; Ron Williams, Idaho Cable Telecommunications Association; Jeremy Chou, Givens Pursley; Matt Klinger, Fiberpipe Data Centers; Jonathan Parker, Holland and Hart.

NOTE: Copies of most presentations, handouts, reference materials, and public testimony can be found at: [Idaho State Legislature - 2015 Interim Committees - Broadband Access Study Committee](#) and are also on file at the Legislative Services Office.

Co-Chair Malek noted that a few members were not yet present as they were still in other committee meetings. He stated the committee will review draft legislation then proceed to public comment.

Co-Chair Malek referenced draft legislation [DRSBB083](#) addressing the Education Opportunity Resource Act. He noted it was drafted by Brooke Brouman with input provided by Co-Chairs Malek and Mortimer. Co-Chair Malek stated DRSBB083 creates the end-user committee and removes the legal authority so the committee could make sure resources were there for school districts and that end users would have input. Representative Rusche was pleased that the Education Opportunity Resource Committee did not include legislators and included people doing the work. Senator Schmidt asked if the phrase "in good faith" included school districts that apply for but do not follow appropriate competitive bidding processes. Co-Chair Malek stated that "in good faith" has not been defined and that it would be up to the Broadband Committee or the Education Opportunity Resource Committee. Representative Rusche asked for clarification of the difference between Idaho Code Sections 33-5604(2)(a) and (c). Co-Chair Malek responded that the sections distinguish when E-rate funding is and is not available. Representative Clow asked if a term other than "school districts" should be used to cover the Idaho Digital Learning Academy, the Department of Juvenile Corrections education programs, the School for the Deaf and Blind, and public libraries. Co-Chair Malek responded that the Commission for Libraries recommends replacing "school districts" with "E-rate eligible entities." Senator Davis suggested striking "in good faith" in subsection (2)(c) for congruency. Representative Clow recommended striking subsection (2)(a). Co-Chair Malek clarified that the intent was to maintain the state's E-rate eligibility and asked whether the language was too broad. Senator Schmidt added that the intent was also to make it incumbent on districts to go through the E-rate process. Senator Davis recommended keeping subsection (2)(a), switching the order of subsections (b) and (c), and rewording subsection (b) to state that if there is no E-rate funding, the state will provide a method of reimbursement. He stated that subsection (c) would clarify the distribution of funds and recommended striking "in good faith" in subsection (c).

Senator Davis noted that some committees cannot meet quarterly and suggested changing the requirement in Idaho Code Section 33-5603(3). Representative Clow suggested adding language to provide flexibility for the committee's meeting schedule. Ms. Brouman suggested language such as "no less than twice per year," "as needed," or "subject to the call of the chair." Senator Schmidt recommended the committee meet quarterly until 2018, then annually at a minimum.

Co-Chair Malek stated he anticipated more work to be done on the draft legislation. Representative Clow asked if rule writing for the listed entities fell under the Education Opportunity Resource Committee's purview. Co-Chair Malek responded that revisions are needed to that section.

Co-Chair Malek referenced draft legislation [DRSBB129](#), addressing the broadband infrastructure improvement grant. He stated the grant would make matching E-rate funds available for new opportunity and allow deployment of broadband infrastructure. Representative Rusche noted the language is strictly for education and asked if the legislation applied to other entities with broadband infrastructure needs. Co-Chair Malek responded that the legislation applied to E-rate eligible entities. Senator Davis suggested changing "eligible public school districts" to "E-rate eligible entities." Senator Davis asked whether funds were subject to appropriation, and if there were no funds, would there be a duty to appropriate. He suggested the funds come from the general fund and to add language stating that the funds are subject to appropriation and that the state has no duty to make a distribution. Senator Davis asked if the broadband tax credit could be repealed and if those dollars could be diverted. Senator Schmidt suggested that subsection (1) create the fund and that specifying the funding source may not be needed. He added that DRSBB129 was worthwhile and suggested adding a description of E-rate eligible entities.

Co-Chair Malek introduced Megan Ronk, Director, Idaho Department of Commerce. Director Ronk reviewed the department's memo, [Idaho Commerce Input to Broadband Access Study Committee](#). Senator Davis asked Director Ronk to confirm her belief that the broadband investment tax credit was not worth the dollars invested and that money was better off spent elsewhere. Director Ronk confirmed and added that the credit was not being used as an effective tool as the legislature had intended. She encouraged the legislature to continue exploring other opportunities to generate or support private investment. Senator Davis asked where Director Ronk would divert that money. Director Ronk responded that there were a lot of opportunities to impact business and economic development and suggested tax credits for storage and transmission of data; however, she would like to research further. Senator Davis asked if Director Ronk needed time to review the draft legislation in order to give a more thoughtful recommendation as to the repeal of the tax credit or dedication of funds. Director Ronk replied that she would like to make recommendations regarding economic development without delaying or redirecting the committee. She requested the committee continue looking at opportunities to impact economic development while keeping their primary focus on education. Representative Rusche noted his support for expansion outside education and suggested the department consider how the state could be a convener for development of network capacity and to aggregate private purchasers to attract private industry. Representative Rusche added that broadband will be as essential as a telephone for commerce. Director Ronk responded that the department's staff does not have a high degree of expertise but would be happy to collaborate with other entities. Representative Rusche asked what department would have that expertise. Director Ronk responded that, although they do not have technical experts, they could work with those that do. Senator Nonini noted that Director Ronk was also on the board of the STEM Action Center and suggested the committee look into developing broadband and make sure it's provided to all rural schools.

Co-Chair Malek opened the floor for public comment and introduced Ann Joslin, state librarian, Idaho Commission for Libraries. Ms. Joslin reviewed the Commission's memo, [Public Library broadband needs](#). She stated that funding of approximately \$200,000 would satisfy the non-E-rate portion of public library Internet costs. She noted appreciation for having the state librarian or designee on the advisory group. Ms. Joslin stated that the commission does not have much authority over public

libraries with regard to rule making but would be interested in working with the Legislature. Ms. Joslin conveyed that the commission's E-rate coordinator, Jan Wall, relayed that there were not many choices for Internet service providers and that there was a lot of copper and wireless, but not much fiber. She stated the maximum 10% match of state funds plus the 10% increase in the E-rate discount could help push fiber to locations, but installation was too expensive for libraries. Ms. Joslin cited an instance where fiber was laid in front of a library, which was maxed out at 20 megabits and had insufficient broadband; however, the library could not afford to tap into that fiber. She stated that libraries would benefit from the proposed grant fund and is interested in forming a consortium among the public libraries and schools for E-rate application purposes, which would help negotiate lower prices for both build out and costs. Senator Nonini asked if smaller libraries struggle more than larger libraries with E-rate filing. Ms. Joslin responded that to some extent, yes and that staffing in small libraries was extremely limited. Ms. Joslin added that Ms. Wall is recognized nationally for her expertise in the E-rate process and with the new rules under the E-rate modernization. Ms. Joslin stated that the commission does not have the capacity to help with other technical aspects of broadband and that the assistance provided in the draft legislation would be beneficial to public libraries.

Co-Chair Malek introduced Jeff Burges, president and founder of DataSite Colo. Mr. Burges stated he is a private developer beginning a new digital world for Idaho. Mr. Burges stated that DataSite Colo is a data center for multiple tenants, is a large-scale facility that can handle big data, and has major facilities in Florida, Atlanta, and Boise. He stated that the data center industry is the ground zero, low common denominator of the digital world and that every enterprise requires a home for its digital equipment. Mr. Burges stated that DataSite Colo opened the HP Boise facility a year and a half ago, bringing millions of dollars to the community. He stated that Idaho has the trifecta of value to the digital world: low cost and green energy; four-cent-per-kilowatt-hour power; a fantastic transportation system and airport; is the finest community in the country to live, according to USA Today; and has the best environment for free cooling - high desert and low humidity. He added that Idaho has zero natural disaster risks and is the perfect place for data centers. Mr. Burges stated that data centers like Involta, Fiber Pipe, and DataSite Colo bring private capital to put Idaho on the map for data centers. Mr. Burges stated that DataSite Colo spends ten times more capital per square foot than an office building and 100 times more capital per square foot than an industrial building. He stated that DataSite Colo is the manufacturer and warehouse distribution facility of the Internet, and with that availability and the trifecta of value, Idaho will be the greatest new entrant to the digital world. He stated that data centers in Oregon and Washington are currently getting the majority of the northwestern business. Mr. Burges stated that networks come as a result of servers and storage is needed to distribute that information. Mr. Burges stated that \$100 million will be spent on major data centers who will spend nearly \$1 billion over 25 years just turning over equipment. He stated that the only reason business is not in Idaho is due to state sales taxes and recommended the state sales tax be mitigated, eliminated, abated, deferred, or reduced on infrastructure installation in buildings. Mr. Burges added that Oregon has no sales tax and is getting hundreds of millions of dollars of construction, operations, and employment. He stated that Idaho has an amazing opportunity and many of the telecommunications challenges will become easy when 5-6 megawatts are placed in buildings and networks will come.

Co-Chair Malek introduced Jonathan Parker representing Internet Truck Stop. Mr. Parker stated that Internet Truck Stop was founded and based in New Plymouth and is the largest Internet-based freight matching service. He stated that Internet Truck Stop supports incentivizing the private sector to build out infrastructure through a sales tax exemption on storage and transmission of data and a property tax exemption for broadband equipment.

Co-Chair Malek introduced Nate Bondelid, Tek Hut, Inc. Mr. Bondelid asked if use tax could be included in the legislation, which would be advantageous to providers.

Co-Chair Malek introduced Matt Klinger, Fiber Pipe Data Centers. Mr. Klinger agreed with Mr. Burges and emphasized the importance of infrastructure that data centers bring to Idaho. He added that data centers could provide circuits and redundancy in case of outages or for maintenance.

Co-Chair Malek opened the discussion to the committee of the topics raised, including the disruption of the tax credit, sales tax on data, and property tax exemptions for broadband.

Representative Rusche asked for confirmation that there were current exemptions for sales of equipment used in production in some industries, but not for data service. Co-Chair Malek confirmed.

Senator Keough motioned that this committee recommend to the germane standing committees that the broadband tax credit be investigated and reworked to meet Idaho's growing digital businesses today which in turn provides the infrastructure. The motion was seconded by Senator Schmidt and passed by unanimous voice vote.

Representative Clow motioned that this committee request Director Ronk to recommend tax incentives similar to the tax reinvestment plan that might work for new industry in Idaho. The motion was seconded by Representative Youngblood and passed by unanimous voice vote.

Representative Rusche recommending planning, not just developing a tax preference. Representative Rusche motioned that this committee recommend that the capacity of the Department of Commerce to lead the development of broadband industry and services in Idaho. The motion was seconded by Senator Davis and passed by unanimous voice vote. Senator Schmidt asked for clarification if the motion would be a joint resolution by the committee. Representative Rusche clarified that a joint resolution would be wonderful but requested the committee endorse the concept for someone else to write a resolution.

Co-Chair Malek stated that an additional meeting was not needed and that he and Co-Chair Mortimer would work with Ms. Brouman to include comments from the committee in the draft legislation and that the draft legislation would be distributed electronically.

Representative Rusche motioned that this committee intends to circulate the revised draft legislation via E-mail to broadband committee members who will submit comments by the close of the business day on Thursday, February 11, 2016, with the intent to print the RS in the Senate Education Committee on Monday, February 15, 2016. The motion was seconded by Co-Chair Mortimer and passed by unanimous voice vote.

Co-Chair Malek recommended that the committee lift the Department of Administration's one-year contracting period. Senator Davis asked if that should be an action item for the germane committee. Co-Chair Malek responded yes; however, the germane committee wants direction from the broadband committee. Senator Schmidt motioned that this committee recommends to germane committee that there is no further need to place a one-year restriction on the Department of Administration's contracts for broadband services for state agencies. The motion was seconded by Representative Rusche and passed by unanimous voice vote.

Co-Chair Malek stated a final committee report will be finalized, distributed to the committee, and voted on electronically. Senator Nonini motioned that this committee recommends the committee's draft final report be distributed via E-mail for the committee members' review and electronic vote. The motion was seconded by Representative Rusche and passed by unanimous voice vote.

Co-Chair Malek adjourned the meeting at 5:50 p.m.