H-1098.3

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**SECOND SUBSTITUTE HOUSE BILL 1460**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Gregerson, Taylor, Simmons, J. Johnson, Lekanoff, Santos, Slatter, Dolan, Peterson, Callan, Ormsby, Morgan, Bateman, Bergquist, Ramel, Thai, Valdez, Pollet, Lovick, Macri, Chopp, Hackney, Ortiz-Self, Riccelli, Kloba, and Harris-Talley)

AN ACT Relating to closing the digital divide by establishing excise taxes on telecommunications services to fund the expansion of the universal service programs in Washington; amending RCW 43.330.530, 43.330.532, 43.330.534, and 43.330.412; adding new sections to chapter 43.330 RCW; and creating a new section.

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

**Sec.**  RCW 43.330.530 and 2019 c 365 s 2 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW 43.330.532 through 43.330.538 unless the context clearly requires otherwise.

(1) "Advanced telecommunications capability" means, without regard to any transmission media or technology, high-speed, switched, broadband telecommunications capability that enables users to originate and receive high quality voice, data, graphics, and video telecommunications using any technology. "Advanced telecommunications capability" does not include access to a technology that delivers transmission speeds below the minimum download and upload speeds provided in the definition of broadband in this section.

(2) "Aging individual" means an individual 60 years of age or older.

(3) "Board" means the public works board established in RCW 43.155.030.

((~~(2)~~)) (4) "Broadband" or "broadband service" means any service providing advanced telecommunications capability and internet access with transmission speeds that, at a minimum, provide ((~~twenty-five~~)) 25 megabits per second download and three megabits per second upload.

((~~(3)~~)) (5) "Broadband adoption" means the process by which an individual obtains daily access to the internet:

(a) At a speed, quality, and capacity necessary for the individual to accomplish common tasks, such that the access qualifies as an advanced telecommunications capability;

(b) Providing individuals with the digital skills necessary to participate online; and

(c) On a device connected to the internet and other advanced telecommunications services via a secure and convenient network.

(6) "Broadband infrastructure" means networks of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services to end users.

((~~(4)~~)) (7) "Department" means the department of commerce.

((~~(5)~~)) (8) "Digital equity" means the condition in which individuals and communities in Washington have the information technology capacity that is needed for full participation in society and the economy.

(9) "Digital inclusion" means the activities that are necessary to ensure that all individuals in Washington have access to, and the use of, affordable information and communication technologies including, but not limited to reliable broadband internet service, internet-enabled devices that meet the needs of the user, and applications and online content designed to enable and encourage self-sufficiency, participation, and collaboration. "Digital inclusion" also includes obtaining access to digital literacy training, the provision of quality technical support, and obtaining basic awareness of measures to ensure online privacy and cybersecurity.

(10) "Digital literacy" means the skills associated with using technology to enable users to use information and communications technologies to find, evaluate, organize, create, and communicate information.

(11) "Last mile infrastructure" means broadband infrastructure that serves as the final connection from a broadband service provider's network to the end-use customer's on-premises telecommunications equipment.

((~~(6)~~)) (12) "Local government" includes cities, towns, counties, municipal corporations, public port districts, public utility districts, quasi-municipal corporations, special purpose districts, and multiparty entities comprised of public entity members.

((~~(7)~~)) (13) "Low-income" means a household, the federal taxable income of which is not more than 200 percent of an amount equal to the poverty level, as determined by using criteria of poverty established by the United States bureau of the census, for the most recently completed taxable year.

(14) "Middle mile infrastructure" means broadband infrastructure that links a broadband service provider's core network infrastructure to last mile infrastructure.

((~~(8)~~)) (15) "Office" means the governor's statewide broadband office established in RCW 43.330.532.

((~~(9)~~)) (16) "Tribe" means any federally recognized Indian tribe whose traditional lands and territories included parts of Washington.

((~~(10)~~)) (17) "Underserved population" means:

(a) Individuals who live in low-income households;

(b) Aging individuals;

(c) Incarcerated individuals;

(d) Veterans;

(e) Individuals with disabilities;

(f) Individuals with a language barrier, including individuals who are English learners or who have low levels of literacy;

(g) Individuals who are members of a racial or ethnic minority group; and

(h) Individuals who primarily reside in a rural area.

(18) "Unserved areas" means areas of Washington in which households and businesses lack access to broadband service, as defined by the office, except that the state's definition for broadband service may not be actual speeds less than twenty-five megabits per second download and three megabits per second upload.

**Sec.**  RCW 43.330.532 and 2019 c 365 s 3 are each amended to read as follows:

(1) The governor's statewide broadband office is established. The director of the office must be appointed by the governor. The office may employ staff necessary to carry out the office's duties as prescribed by chapter 365, Laws of 2019, subject to the availability of amounts appropriated for this specific purpose.

(2) The purpose of the office is to encourage, foster, develop, and improve affordable, quality broadband within the state in order to:

(a) Drive job creation, promote innovation, improve economic vitality, and expand markets for Washington businesses;

(b) Serve the ongoing and growing needs of Washington's education systems, health care systems, public safety systems, industries and business, governmental operations, and citizens; and

(c) Improve broadband accessibility and adoption for unserved and underserved communities and populations.

**Sec.**  RCW 43.330.534 and 2019 c 365 s 4 are each amended to read as follows:

(1) The office has the power and duty to:

(a) Serve as the central broadband planning body for the state of Washington;

(b) Coordinate with local governments, tribes, public and private entities, nonprofit organizations, and consumer-owned and investor-owned utilities to develop strategies and plans promoting deployment of broadband infrastructure and greater broadband access, while protecting proprietary information;

(c) Review existing broadband initiatives, policies, and public and private investments;

(d) Develop, recommend, and implement a statewide plan to encourage cost-effective broadband access and to make recommendations for increased usage, particularly in rural and other unserved areas;

(e) Update the state's broadband goals and definitions for broadband service in unserved areas as technology advances, except that the state's definition for broadband service may not be actual speeds less than twenty-five megabits per second download and three megabits per second upload; and

(f) Encourage public-private partnerships to increase deployment and adoption of broadband services and applications.

(2) When developing plans or strategies for broadband deployment, the office must consider:

(a) Partnerships between communities, tribes, nonprofit organizations, local governments, consumer-owned and investor-owned utilities, and public and private entities;

(b) Funding opportunities that provide for the coordination of public, private, state, and federal funds for the purposes of making broadband infrastructure or broadband services available to rural and unserved areas of the state;

(c) Barriers to the deployment, adoption, and utilization of broadband service, including affordability of service; and

(d) Requiring minimum broadband service of twenty-five megabits per second download and three megabits per second upload speed, that is scalable to faster service.

(3) The office may assist applicants for the grant and loan programs created in RCW 43.155.160 and 43.330.412 with seeking federal funding or matching grants and other grant opportunities for deploying or increasing adoption of broadband services.

(4) The office may take all appropriate steps to seek and apply for federal funds for which the office is eligible, and other grants, and accept donations, and must deposit these funds in the statewide broadband account created in RCW 43.155.165.

(5) In carrying out its purpose, the office may collaborate with the utilities and transportation commission, the office of the chief information officer, the department of commerce, the community economic revitalization board, the public works board, the state librarian, and all other relevant state agencies.

**Sec.**  RCW 43.330.412 and 2011 1st sp.s. c 43 s 607 are each amended to read as follows:

The ((~~community technology~~)) digital equity opportunity program is created to ((~~support the efforts of community technology programs~~)) advance broadband adoption and digital equity and inclusion throughout the state. The ((~~community technology~~)) digital equity opportunity program must be administered by the department. The department may contract for services in order to carry out the department's obligations under this section.

(1) In implementing the ((~~community technology~~)) digital equity opportunity program the director must, to the extent funds are appropriated for this purpose:

(a) Provide organizational and capacity building support to community technology programs throughout the state((~~, and identify and facilitate the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. No~~)) and additional support for the purpose of:

(i) Evaluating the impact and efficacy of activities supported by grants awarded under the covered programs; and

(ii) Developing, cataloging, disseminating, and promoting the exchange of best practices, with respect to and independent of the covered programs, in order to achieve digital equity. After July 1, 2023, no more than ((~~fifteen~~)) 15 percent of funds received by the director for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to ((~~provide training~~)) advance digital equity and digital inclusion by providing:

(i) Training and skill-building opportunities; ((~~access~~))

(ii) Access to hardware and software; ((~~internet~~))

(iii) Internet connectivity; ((~~digital~~))

(iv) Digital media literacy training; ((~~assistance~~))

(v) Assistance in the adoption of information and communication technologies ((~~in~~)) for low-income and underserved ((~~areas~~)) populations of the state; and ((~~development~~))

(vi) Development of locally relevant content and delivery of vital services through technology.

(2) Grant applicants must:

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

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

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

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

(e) Provide evidence of matching funds and resources, which are equivalent to at least ((~~one-quarter~~)) 10 percent of the grant amount committed to the applicant's strategy;

(f) Provide evidence that funds applied for, if received, will be used to provide effective delivery of community technology services in alignment with the goals of this program and to increase the applicant's level of effort beyond the current level; and

(g) Comply with such other requirements as the director establishes.

(3) The director may use no more than ((~~ten~~)) 10 percent of funds received for the ((~~community technology~~)) digital equity opportunity program to cover administrative expenses.

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

(5) No grant under the digital equity opportunity program created under this section may be awarded based on a formula or criteria that give preference to urban areas over rural areas, including the use of criteria that afford increased weight the greater the density of population.

NEW SECTION. **Sec.**  A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to the availability of funds appropriated for this purpose, the department shall establish a digital equity planning grant program.

(2) This program shall provide grants to local governments, institutions of higher education, or other entities who have entered into an agreement with a local government, to fund the development of a digital equity plan for a discrete geographic region of the state. Priority must be given for grant applications accompanied by express support from community or neighborhood-based nonprofit organizations, public development authorities, federally recognized Indian tribes in the state, or other community partners and partners from the categories of institutions outlined in RCW 43.330.421. Only the director or the director's designee may authorize expenditures.

(3) An applicant must submit an application to the department in order to be eligible for funding under this section.

(4) The department must evaluate and rank applications using objective criteria such as the number of underserved population served and subjective criteria such as the degree of support and engagement evidenced by the community who will be served.

(5) No planning grant under this section may be awarded based on a formula or criteria that give preference to urban areas over rural areas, including the use of criteria that afford increased weight the greater the density of population.

(6) The department shall develop criteria for what the digital equity plans must include.

(7) The department may adopt rules to implement this section.

NEW SECTION. **Sec.**  A new section is added to chapter 43.330 RCW to read as follows:

(1) The Washington digital equity forum is established and its purpose is to develop recommendations to advance digital connectivity in Washington state. In developing its recommendations, the forum must:

(a) Develop goals that are consistent with the goals of the governor's statewide broadband office, as provided in RCW 43.330.536;

(b) Strengthen public-private partnerships;

(c) Solicit public input through public hearings or informational sessions;

(d) Work to increase collaboration and communication between local, state, and federal governments and agencies; and

(e) Recommend reforms to current universal service mechanisms.

(2) The directors of the governor's statewide broadband office and the Washington state office of equity are responsible for appointing participating members of the digital equity forum and no appointment may be made unless each director concurs in the appointment. In making appointments, the directors must prioritize appointees representing:

(a) Federally recognized tribes;

(b) State agencies involved in digital equity; and

(c) Underserved and unserved communities, including historically disadvantaged communities.

(3) A majority of the participating members appointed by the directors must appoint an administrative chair for the forum.

(4) In addition to members appointed by the directors, four legislators may serve on the digital equity forum in an ex officio capacity. Legislative participants must be appointed as follows:

(a) The speaker of the house of representatives must appoint one member from each of the two largest caucuses of the house of representatives; and

(b) The president of the senate must appoint one member from each of the two largest caucuses of the senate.

(5) Each member of the digital equity forum shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(6) Staff for the digital equity forum must be provided by the governor's statewide broadband office and the Washington state office of equity. The governor's statewide broadband office and the Washington state office of equity are jointly responsible for transmitting the recommendations of the digital equity forum to the legislature, consistent with RCW 43.01.036, by October 28, 2022, and every even-numbered year thereafter.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

**--- END ---**