

SENATE BILL REPORT

E2SHB 1723

As of February 26, 2022

Title: An act relating to closing the digital equity divide by increasing the accessibility and affordability of telecommunications services, devices, and training.

Brief Description: Closing the digital equity divide by increasing the accessibility and affordability of telecommunications services, devices, and training.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Gregerson, Taylor, Ryu, Johnson, J., Berry, Valdez, Goodman, Macri, Peterson, Ramel, Simmons, Wylie, Slatter, Bergquist, Pollet, Ortiz-Self, Dolan, Stonier, Riccelli, Ormsby, Harris-Talley, Hackney, Kloba and Frame).

Brief History: Passed House: 2/12/22, 68-30.

Committee Activity: Environment, Energy & Technology: 2/24/22, 2/24/22 [w/oRec-WM].

Ways & Means: 2/26/22.

Brief Summary of Bill

- Establishes the Washington Broadband Assistance Program to assist low-income persons with the costs of eligible voice and broadband services.
- Establishes the Anchor Institution Digital Equity Program for providing discounted rates for telecommunications services and discounted telecommunications infrastructure costs to qualifying anchor institutions.
- Modifies the Community Technology Opportunity Program by renaming it the Digital Equity Opportunity Program and redefining its purpose to be the advancement of broadband adoption and digital equity.
- Establishes the Digital Equity Planning Grant Program to provide grants to local governments, institutions of higher education, workforce development councils, or other entities to fund the development of a

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digital equity plan for a discrete geographic region of the state.

- Codifies the Digital Equity Forum (Forum) and adds a provision allowing funds to be used to compensate, for any work done in connection with the Forum, additional persons with lived experience navigating barriers to digital connectivity.
- Requires the Statewide Broadband Office to coordinate an outreach effort to hard-to-reach communities and low-income communities across the state to provide information about broadband programs available to consumers of these communities

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That it be referred without recommendation and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Short, Ranking Member; Das, Fortunato, Lias, Lovick, Nguyen, Schoesler, Sheldon, Stanford and Wellman.

Staff: Angela Kleis (786-7469)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Joshua Hinman (786-7281)

Background: Governor's Statewide Broadband Office. Within the Department of Commerce (Commerce), the Governor's Statewide Broadband Office (SBO) was established in 2019 with the purpose to encourage and develop affordable, quality broadband within the state in order to promote innovation, serve the growing needs of Washington's systems, and improve broadband accessibility for unserved communities.

The state's statutory broadband speed goals are the following:

- by 2024, businesses and residences have access to minimum speeds of 25 megabits per second (mbps) download and 3 mbps upload;
- by 2026, communities have access to at least 1 gigabit per second symmetrical service at anchor institutions; and
- by 2028, businesses and residences have access to at least one provider with 150 mbps symmetrical service.

Washington Digital Equity Forum. In a 2021 operating budget proviso, funds were provided for the SBO to cofacilitate the Washington Digital Equity Forum (Forum) with the state Office of Equity. The purpose of the Forum is to develop recommendations to advance digital connectivity in the state. When developing its recommendations, the forum

must:

- develop goals consistent with the state's statutory broadband speed goals;
- strengthen public-private partnerships;
- solicit public input through public hearings and informational sessions;
- work to increase collaboration between local, state, and federal governments and agencies; and
- recommend reforms to current universal service mechanisms.

Forum membership is specified, including legislative members. Each member of the Forum must serve without compensation, but may be reimbursed for travel expenses authorized under current law. The SBO must provide staff support for the Forum and submit recommendations to the Legislature.

Community Technology Opportunity Program. The Community Technology Opportunity Program (CTOP), administered by Commerce, provided organizational and capacity building support to community technology programs throughout the state, and identified and facilitated the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. A portion of the CTOP funds were distributed through a competitive grant program. The grants were used for specified purposes including for training and skill-building opportunities. Among other grant application requirements, applicants were required to provide evidence of matching funds equivalent to at least 25 percent of the grant amount. The account used to fund the CTOP was repealed in 2019.

Federal E-Rate Program. The Federal Communications Commission's E-Rate Program makes telecommunications and information services more affordable for schools and libraries. Eligible schools and libraries may receive discounts on telecommunications, telecommunications services, and Internet access, as well as internal connections, managed internal broadband services and basic maintenance of internal connections.

Summary of Bill: Washington Broadband Assistance Program. The Washington Broadband Assistance Program (WBAP) is established within the Department of Social and Health Services (DSHS) to assist low-income persons with the costs of eligible voice and broadband services.

Subject to appropriations, a telecommunications provider (provider) offering eligible voice and broadband service to the public must provide those services to low-income persons in accordance with the WABP. Providers must:

- inform new customers of the WABP when enrolling them; and
- upon enrolling low-income persons in the WABP, submit to DSHS specified information for verifying eligibility for the WABP.

DSHS must notify providers when annual appropriations have been obligated, verify the eligibility of low-income persons to participate, and, subject to appropriations, reimburse

each provider the balance of the price charged. DSHS may adopt rules to implement the WABP but may not limit low-income households to receiving only one line. DSHS must consult with the Office of Equity regarding methods to administer the WABP and a plan for outreach, eligibility determination assistance, and enrollment navigation assistance.

The Utilities and Transportation Commission (UTC) must annually adopt by rule those services, including prepaid services, that are eligible for inclusion in the WABP. Providers determine rates for eligible services. The UTC must, by rule, determine the amount of reimbursement to providers and adopt guidelines to ensure reduction of barriers to enrollment. When determining the amount of assistance to be provided, the UTC must consider specified criteria.

Anchor Institution Digital Equity Program. The Anchor Institution Digital Equity Program (AIDEP) is established. The SBO must develop, implement, and administer the AIDEP for the purpose of providing discounted rates of telecommunications services and discounted telecommunications infrastructure costs to qualifying anchor institutions. The SBO must coordinate with the Office of the Superintendent of Public Instruction, the State Library, and DSHS in developing and implementing the AIDEP.

Eligible applicants for discounted rates under the AIDEP include, but are not limited to, all customers eligible to receive discounts for telecommunications services under the E-Rate Program.

The discounted rate must be:

- a minimum of a 50 percent discount to program participants for broadband services;
- a minimum of a 25 percent discount to program participants for basic telecommunications services; and
- applied after applying the E-Rate discount.

The SBO may adopt rules to implement the AIDEP and provide partial or full discount of telecommunications infrastructure costs to eligible entities that apply for the discount. The SBO must develop a process to prioritize applications for funding based on the extent to which the application meets the state policy objective of bridging the digital divide and, for broadband service discounts, the extent to which the service provided to the applicant is consistent with the state's statutory broadband speed goals.

Statewide Broadband Office. In addition to current statutory powers and duties, the SBO must coordinate with public housing agencies to develop strategies and plans promoting deployment of broadband infrastructure and greater broadband access, while protecting proprietary information.

The SBO must coordinate an outreach effort to hard-to-reach communities and low-income communities across the state to provide information about broadband programs available to consumers of these communities. Outreach effort requirements are specified such as

providing information to applicable communities about the WABP. The outreach effort must be reviewed by the state Office of Equity annually.

Digital Equity Opportunity Program. The CTOP is renamed the Digital Equity Opportunity Program (DEOP) and its purpose is redefined to advance broadband adoption and digital equity and inclusion throughout the state. The DEOP must provide organizational and capacity building support to digital equity programs and additional support for specified purposes.

The established competitive grant program is modified to provide grants to community technology programs to advance digital equity and digital inclusion by providing specified services and support. The requirement for grant applicants to provide evidence of matching funds equivalent to at least 25 percent of the grant amount is removed.

The Forum must review grant applications and provide input regarding the prioritization of applications in awarding grants among eligible applicants. When awarding grants, the following must be considered:

- the input from the Forum; and
- the extent to which the mix of grants awarded would increase in the number of prekindergarten through 12th grade students gaining access to greater levels of digital inclusion.

Digital Equity Planning Grant Program. Subject to appropriations, Commerce must establish a Digital Equity Planning Grant Program to provide grants to local governments, institutions of higher education, workforce development councils, or other entities to fund the development of digital equity plan for a discrete geographic region of the state. Prioritization criteria are specified. The Forum must review grant applications and provide input on prioritization. Commerce must develop criteria for inclusion in the digital equity plans and may adopt rules.

Washington Digital Equity Forum. The Forum is codified in Washington law. A provision is added specifying funds appropriated to the Forum may be used to compensate, for any work done in connection with the Forum, additional persons who have lived experience navigating barriers to digital connectivity and digital equity. In addition to the SBO, the Office of Equity must provide staff support for the Forum.

Digital Equity Account. The Digital Equity Account is created in the State Treasury. Moneys in the account may be spent of after appropriation. Funds from sources outside the state, from private contributions, federal or other sources may be directed to the specific purposes of the DEOP, WBAP, AIDEP, or the Digital Equity Planning Grant Program. The Legislature may appropriate the moneys in the account for specified purposes.

Miscellaneous. Specified designees from DSHS, the UTC, Commerce, and the SBO may take any actions necessary to ensure this act is implemented by the effective date. A

severability and a null and void clause are included.

EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY :

Reverted to bill as originally referred to committee.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Proposed Striking Amendment (Environment, Energy & Technology): *The committee recommended a different version of the bill than what was heard.* PRO: Reliable access to broadband related services, devices, and training is an issue in rural, suburban, and urban areas of our state. The digital divide is a divide that we can bridge—Washington should be a leader on this issue. The programs rectify ongoing problems that were magnified by the pandemic. All communities need and deserve access to broadband speeds to participate in society.

CON: The WABP should be removed. We are unable to implement the bill by the specified effective date. We support the striking amendment that addresses our concern with conflicts with federal regulations.

OTHER: We support the striking amendment that addresses conflicts with federal regulations; however, we still have concerns about preemption. We are not prepared to implement the AIDEP. Federal funds will be available later this year and we need the flexibility and time to design a plan in alignment with those fund requirements.

Persons Testifying (Environment, Energy & Technology): PRO: Simone Boe, Washington Education Association; Logan Endres, Washington State School Directors' Association (WSSDA); Carolyn Logue, Washington Library Association; Dorene Cornwell; Sharonne Navas, Equity in education coalition; Mikhail Cherniske, Office of Superintendent of Public Instruction; Laura Pierce, Washington Nonprofits.

CON: Babs Roberts, Department of Social and Health Services, Economic Services Administration; Jeff Gombosky, CTIA - The Wireless Association.

OTHER: Molly Jones, Washington Technology Industry Association; Ernie Rasmussen, Washington State Broadband Office; Jason Lewis, Utilities and Transportation Commission.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: This will help support support our anchor institutions, especially libraries, and will assist with outreach efforts, but we need to do more. These programs will go a long way to rectifying problems that have been ongoing for years, which the pandemic has magnified. All communities need access to broadband speeds to participate in society. As we assisted seniors accessing vaccines, we discovered this was very digital-based. This is an infrastructure issue and this bill helps our state move forward to make sure everyone has access to exactly what they need during important times, such as the pandemic. The pandemic augmented discrepancies in access to internet and devices, and this policy helps close the digital divide.

Internet access deeply impacts quality of life. Many lack access to internet at home, even the most basic services. This bill provides assistance to low-income households and students who currently go to community centers to communicate with school, doctors, housing, and jobs. This bill would benefit many individuals across the state, for example, a recent citizen who ended up dropping out of school because he could not access reliable internet to attend class. He was homeless and we provided this student with a laptop and hot spot, but keeping up with classes was difficult. Attendance was impacted due to an unstable internet connection. A stable connection can be life-changing. Lack of internet impacts the future of our youth, as an adequate broadband connection has an ability to impact lives.

Some communities have trouble with school levies funding. We are glad that Commerce and DSHS are willing to work on this. State and telecommunication providers need to collaborate and need to have resources available in multiple languages. This requires funding and will pay for itself over time. Additionally, video relay service (VRS) requires the internet, and the FCC uses taxes to pay for VRS, but not internet. The state needs to provide an easy way for the deaf community to participate in society and to connect deaf persons to resources.

CON: DSHS supports the policy goals, which align with Poverty Reduction Workgroup recommendations. However, DSHS is unable to administer the program in the bill, which require significant changes to current systems. DSHS is willing to research state and federal areas to develop recommendations to effectively reach these populations, but cannot support this bill due to implementation challenges. DSHS requests Part 2 be stricken from the bill. That program is not similar to the public assistance programs DSHS operates and has too many unknowns to resolve prior the effective date. DSHS should not be administering the program and would not be able to update systems and implement the program by July 2023. Multiple changes to multiple systems would be required. We are concerned with implementation and about inconsistent funding on an ongoing basis.

The CTIA has concerns that Part 2 of the bill directly conflicts with federal law.

Commerce believes there is an important core to this bill. Commerce launched the broadband office in 2019, yet it was only this year that Commerce is getting its first grant cycle underway. Commerce has concerns with the underlying bill, as digital equity is not just about getting infrastructure on the ground, but also in a manner that communities can afford.

Parts 2 and 3 of this bill are concerning as they are broadly defined. Federal IJJA provides funds to assist families and these monies go straight to providers. Those at 200 percent federal poverty level can get 30 percent off of their bills, and states do not operate that program.

Commerce understands the value of schools and libraries being connected, yet have questions about how Commerce would scope that benefit depending on funds and revenue availability. This bill could require the state to fund as many as 20,000 facilities, as the bill is broad. With bill changes, Commerce could come back with more narrowly tailored recommendations.

Commerce sees strong pieces in this bill, such as extending the Digital Equity Forum. Education on what resources are already available to the public is key and this Forum is already on the ground. A better option is to give the Forum time to review needs and get an idea of how to leverage funds and then bring recommendations to the Legislature.

Persons Testifying (Ways & Means): PRO: Carolyn Logue, Washington Library Association; Leslie Howle; Dorene Cornwell; David Poland; Logan Endres, Washington State School Directors' Association (WSSDA).

CON: Babs Roberts, Department of Social and Health Services, Economic Services Administration; Jeff Gombosky, CTIA - The Wireless Association; Jasmine Vasavada, Commerce.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.