

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1723

67th Legislature
2022 Regular Session

Passed by the House March 7, 2022
Yeas 70 Nays 28

**Speaker of the House of
Representatives**

Passed by the Senate March 4, 2022
Yeas 27 Nays 20

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1723** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1723

AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

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

READ FIRST TIME 02/03/22.

1 AN ACT Relating to closing the digital equity divide by
2 increasing the accessibility and affordability of telecommunications
3 services, devices, and training; amending RCW 43.330.530, 43.330.532,
4 43.330.534, and 43.330.412; adding new sections to chapter 43.330
5 RCW; adding a new section to chapter 80.36 RCW; creating new
6 sections; and providing an effective date.

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

8 **PART 1**

9 **INTRODUCTION**

10 NEW SECTION. **Sec. 101.** This act may be known and cited as the
11 digital equity act.

12 NEW SECTION. **Sec. 102.** (1) The legislature finds that:

13 (a) Access to the internet is essential to participating in
14 modern day society including, but not limited to, attending school
15 and work, accessing health care, paying for basic services,
16 connecting with family and friends, civic participation, and economic
17 survival.

18 (b) For too many people in both rural and urban areas, the cost
19 of being online is unaffordable. The legislature recognizes that

1 building the last mile of broadband to the home is prohibitively
2 expensive and that urban areas that are home to people earning low
3 incomes continue to face digital redlining. Across the state there is
4 a lack of affordable plans, barriers to enrolling in appropriate
5 broadband plans, and barriers to fully utilize the opportunities that
6 broadband offers.

7 (c) The COVID-19 pandemic has further highlighted the need for
8 affordable access, devices, and skills to use the internet.

9 (d) The need for more accessible and affordable internet is felt
10 more acutely among specific sectors of the population, especially
11 Washington residents in rural areas, people who are currently earning
12 low incomes, seniors and others who lack the skills necessary to get
13 online, people with first languages other than English, immigrant
14 communities, and people with disabilities.

15 (e) The federal government is allocating considerable sums for
16 investment in digital equity that the state broadband office will
17 help to leverage for residents across Washington. Continued
18 comprehensive efforts, including coordination with tribal partners,
19 are needed to ensure truly equitable access. The legislature
20 recognizes that there will be a need for ongoing development and
21 maintenance of broadband infrastructure. The legislature also
22 recognizes that there is a need for ongoing outreach by community-
23 based partnerships to provide enrollment assistance to lower the cost
24 of internet subscriptions and devices.

25 (2) Therefore, the legislature intends to broaden access to the
26 internet, the appropriate devices, and the skills to operate online
27 safely and effectively so that all people in Washington can fully
28 participate in our society, democracy, and economy by expanding
29 assistance and support programs offered in the state and establishing
30 the governor's statewide broadband office as a central access point
31 to such programs.

32 PART 2

33 STATE DIGITAL EQUITY PLAN

34 NEW SECTION. **Sec. 201.** A new section is added to chapter 43.330
35 RCW to read as follows:

36 (1) The office, in consultation with the digital equity forum,
37 the utilities and transportation commission, and the department of
38 social and health services, must develop a state digital equity plan.

1 (a) The office must seek any available federal funding for
2 purposes of developing and implementing the state digital equity
3 plan.

4 (b) The state digital equity plan must include such elements as
5 the office determines are necessary to leverage federal funding.

6 (2) In developing the plan, the office must identify measurable
7 objectives for documenting and promoting digital equity among
8 underserved communities located in the state.

9 (3) By December 1, 2023, the office must submit a report to the
10 governor and the appropriate committees of the legislature, including
11 the following:

12 (a) The digital equity plan described in subsection (1) of this
13 section and measurable objectives described in subsection (2) of this
14 section;

15 (b) A description of how the office collaborated with the
16 membership of the digital equity forum, state agencies, and key
17 stakeholders to develop the plan including, but not limited to, the
18 following:

19 (i) Community anchor institutions;

20 (ii) Local governments;

21 (iii) Local educational agencies;

22 (iv) Entities that carry out workforce development programs; and

23 (v) Broadband service providers;

24 (c) A description of federal funding available to advance digital
25 equity in the state, including any available information on the
26 extent to which state residents have enrolled in the affordable
27 connectivity program through an approved provider; and

28 (d) Recommendations of additional state law or policy that can be
29 targeted to help improve broadband adoption and affordability for
30 state residents. This may include recommendations of ongoing
31 subsidies that the state can provide to low-income individuals and
32 anchor institutions, as well as identification of revenue sources
33 that other states or jurisdictions have developed to fund such
34 subsidies or discounted rates.

35 (4) For the purpose of this section, "office" means the statewide
36 broadband office established in RCW 43.330.532.

37 **PART 3**

38 **DIGITAL EQUITY OPPORTUNITY PROGRAM**

1 **Sec. 301.** RCW 43.330.530 and 2019 c 365 s 2 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this section and
4 RCW 43.330.532 through 43.330.538, 43.330.412, and sections 305 and
5 306 of this act unless the context clearly requires otherwise.

6 (1) "Board" means the public works board established in RCW
7 43.155.030.

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

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

16 (4) "Department" means the department of commerce.

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

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

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

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

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

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

37 (11)(a) "Advanced telecommunications capability" means, without
38 regard to any transmission media or technology, high-speed, switched,
39 broadband telecommunications capability that enables users to

1 originate and receive high quality voice, data, graphics, and video
2 telecommunications using any technology.

3 (b) "Advanced telecommunications capability" does not include
4 access to a technology that delivers transmission speeds below the
5 minimum download and upload speeds provided in the definition of
6 broadband in this section.

7 (12) "Aging individual" means an individual 55 years of age or
8 older.

9 (13) "Broadband adoption" means the process by which an
10 individual obtains daily access to the internet:

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

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

16 (c) On a device connected to the internet and other advanced
17 telecommunications services via a secure and convenient network, with
18 associated end-user broadband infrastructure equipment such as wifi
19 mesh router or repeaters to enable the device to adequately use the
20 internet network; and

21 (d) With technical support and digital navigation assistance to
22 enable continuity of service and equipment use and utilization.

23 (14) "Digital equity" means the condition in which individuals
24 and communities in Washington have the information technology
25 capacity that is needed for full participation in society and the
26 economy.

27 (15)(a) "Digital inclusion" means the activities that are
28 necessary to ensure that all individuals in Washington have access
29 to, and the use of, affordable information and communication
30 technologies including, but not limited to:

31 (i) Reliable broadband internet service;

32 (ii) Internet-enabled devices that meet the needs of the user;

33 and

34 (iii) Applications and online content designed to enable and
35 encourage self-sufficiency, participation, and collaboration.

36 (b) "Digital inclusion" also includes obtaining access to digital
37 literacy training, the provision of quality technical support, and
38 obtaining basic awareness of measures to ensure online privacy and
39 cybersecurity.

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

5 (17) "Low-income" means households as defined by the department
6 of social and health services, provided that the definition may not
7 exceed the higher of 80 percent of area median household income or
8 the self-sufficiency standard as determined by the University of
9 Washington's self-sufficiency calculator.

10 (18) "Underserved population" means any of the following:

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

12 (b) Aging individuals;

13 (c) Incarcerated individuals;

14 (d) Veterans;

15 (e) Individuals with disabilities;

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

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

20 (h) Individuals who primarily reside in a rural area;

21 (i) Children and youth in foster care; or

22 (j) Individuals experiencing housing instability.

23 **Sec. 302.** RCW 43.330.532 and 2021 c 258 s 2 are each amended to
24 read as follows:

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

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

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

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

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

3 **Sec. 303.** RCW 43.330.534 and 2021 c 258 s 3 are each amended to
4 read as follows:

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

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

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

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

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

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

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

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

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

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

34 (c) Barriers to the deployment, adoption, and utilization of
35 broadband service, including affordability of service and project
36 coordination logistics; and

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

1 (3) The office may assist applicants for the grant and loan
2 program created in RCW 43.155.160, the digital equity opportunity
3 program created in RCW 43.330.412, and the digital equity planning
4 grant program created in section 305 of this act with seeking federal
5 funding or matching grants and other grant opportunities for
6 deploying or increasing adoption of broadband services.

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

11 (5) The office shall coordinate an outreach effort to hard-to-
12 reach communities and low-income communities across the state to
13 provide information about broadband programs available to consumers
14 of these communities. The outreach effort must include, but is not
15 limited to, providing information to applicable communities about the
16 federal lifeline program and other low-income broadband benefit
17 programs. The outreach effort must be reviewed by the office of
18 equity annually. The office may contract with other public or private
19 entities to conduct outreach to communities as provided under this
20 subsection.

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

27 **Sec. 304.** RCW 43.330.412 and 2011 1st sp.s. c 43 s 607 are each
28 amended to read as follows:

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

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

1 (a) Provide organizational and capacity building support to
2 (~~community technology~~) digital equity programs throughout the
3 state (~~, and identify and facilitate the availability of other public~~
4 ~~and private sources of funds to enhance the purposes of the program~~
5 ~~and the work of community technology programs. No more than fifteen~~)
6 and additional support for the purpose of:

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

9 (ii) Developing, cataloging, disseminating, and promoting the
10 exchange of best practices, with respect to and independent of the
11 covered programs, in order to achieve digital equity. After July 1,
12 2024, no more than 15 percent of funds received by the director for
13 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-~~
16 ~~building opportunities; access to hardware and software; internet~~
17 ~~connectivity; digital media literacy; assistance in the adoption of~~
18 ~~information and communication technologies in low-income and~~
19 ~~underserved areas of the state; and development of locally relevant~~
20 ~~content and delivery of vital services through~~) advance digital
21 equity and digital inclusion by providing:

22 (i) Training and skill-building opportunities;

23 (ii) Access to hardware and software, including online service
24 costs such as application and software;

25 (iii) Internet connectivity;

26 (iv) Digital media literacy and cybersecurity training;

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

29 (vi) Development of locally relevant content and delivery of
30 vital services through technology; and

31 (vii) Technical support;

32 (c) Collaborate with broadband stakeholders, including broadband
33 action teams across the state, in implementing the program as
34 provided under this subsection; and

35 (d) For the purposes of this section, include wireless meshed
36 network technology.

37 (2) Grant applicants must:

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

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

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

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

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

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

17 ~~((g))~~ (f) Comply with such other requirements as the director
18 establishes.

19 (3) The digital equity forum shall review grant applications and
20 provide input to the director regarding the prioritization of
21 applications in awarding grants among eligible applicants under the
22 program.

23 (4) In awarding grants under the digital equity opportunity
24 program created in this section, the director must:

25 (a) Consider the input provided by the digital equity forum, as
26 provided in subsection (3) of this section, in awarding grants; and

27 (b) Consider the extent to which the mix of grants awarded would
28 increase in the number of prekindergarten through 12th grade students
29 gaining access to greater levels of digital inclusion as a factor in
30 awarding grants.

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

34 ~~((4))~~ (6) The director must establish expected program outcomes
35 for each grant recipient and must require grant recipients to provide
36 an annual accounting of program outcomes.

37 NEW SECTION. Sec. 305. A new section is added to chapter 43.330
38 RCW to read as follows:

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

4 (2)(a) This program must provide grants to local governments,
5 institutions of higher education, workforce development councils, or
6 other entities to fund the development of a digital equity plan for a
7 discrete geographic region of the state. Only the director or the
8 director's designee may authorize expenditures.

9 (b) Priority must be given for grant applications:

10 (i) Accompanied by express support from community or
11 neighborhood-based nonprofit organizations, public development
12 authorities, federally recognized Indian tribes in the state, or
13 other community partners and partners from the categories of
14 institutions identified in RCW 43.330.421; and

15 (ii) That intend to use community-based participatory action
16 research methods as a part of the proposed plan.

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

19 (4) The digital equity forum shall review grant applications and
20 provide input to the department regarding the prioritization of
21 applications in awarding grants among eligible applicants under the
22 program.

23 (5) The department must:

24 (a) Pursuant to subsection (2)(b) of this section, evaluate and
25 rank applications using objective criteria such as the number of
26 underserved populations served and subjective criteria such as the
27 degree of support and engagement evidenced by the community who will
28 be served;

29 (b) Consider the input provided by the forum, as provided in
30 subsection (4) of this section, in awarding grants under the digital
31 equity planning grant program; and

32 (c) Consider the extent to which the mix of grants awarded would
33 increase in the number of prekindergarten through 12th grade students
34 gaining access to greater levels of digital inclusion as a factor in
35 awarding grants under the digital equity planning grant program.

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

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

1 NEW SECTION. **Sec. 306.** A new section is added to chapter 43.330

2 RCW to read as follows:

3 (1) The Washington digital equity forum is established for the
4 purpose of developing recommendations to advance digital connectivity
5 in Washington state and advising the statewide broadband office on
6 the digital equity opportunity program as provided under RCW
7 43.330.412 and the digital equity planning grant program as provided
8 under section 305 of this act.

9 (2) In developing its recommendations to advance digital
10 connectivity, the forum must:

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

13 (b) Strengthen public-private partnerships;

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

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

18 (e) Recommend reforms to current universal service mechanisms.

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

25 (a) Federally recognized tribes;

26 (b) State agencies involved in digital equity; and

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

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

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

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

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

39 (6) (a) Funds appropriated to the forum may be used to compensate,
40 for any work done in connection with the forum, additional persons

1 who have lived experience navigating barriers to digital connectivity
2 and digital equity.

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

6 (7) Staff for the digital equity forum must be provided by the
7 governor's statewide broadband office and the Washington state office
8 of equity. The governor's statewide broadband office and the
9 Washington state office of equity are jointly responsible for
10 transmitting the recommendations of the digital equity forum to the
11 legislature, consistent with RCW 43.01.036, by October 28, 2025, and
12 every odd-numbered year thereafter.

13 **PART 4**

14 **DIGITAL EQUITY ACCOUNT**

15 NEW SECTION. **Sec. 401.** A new section is added to chapter 80.36
16 RCW to read as follows:

17 (1) The digital equity account is created in the state treasury.
18 Moneys in the account may be spent only after appropriation.

19 (2) Any amounts appropriated by the legislature to the account,
20 private contributions, or any other source directed to the account,
21 must be deposited into the account. Funds from sources outside the
22 state, from private contributions, federal or other sources may be
23 directed to the specific purposes of the digital equity opportunity
24 program or digital equity planning grant program.

25 (3) The legislature may appropriate moneys in the account only
26 for the purposes of:

27 (a) RCW 43.330.412, the digital equity opportunity program; and

28 (b) Section 305 of this act, the digital equity planning grant
29 program.

30 **PART 5**

31 **MISCELLANEOUS PROVISIONS**

32 NEW SECTION. **Sec. 501.** The director of the department of
33 commerce or the director's designee, and the director of the
34 statewide broadband office or the director's designee, may take any
35 actions necessary to ensure that the provisions of this act are
36 implemented on the date identified in section 502 of this act.

1 NEW SECTION. **Sec. 502.** Sections 101, 102, 301 through 305, and
2 401 of this act take effect July 1, 2023.

3 NEW SECTION. **Sec. 503.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 504.** If specific funding for the purposes of
8 this act, referencing this act by bill or chapter number, is not
9 provided by June 30, 2022, in the omnibus appropriations act, this
10 act is null and void.

--- END ---