PSHB 2414 (H-3990.1/20) (Rep. Hudgins)

Current Version of the Bill:

- Establishes and sets forth requirements for the Digital Capacity Grant Program under the Department of Commerce (Department).
- Requires local jurisdictions seeking a capacity grant to complete a Digital Equity Plan (Plan) that identifies the barriers to digital equity faced by covered populations in the local jurisdiction.
- Requires local jurisdictions seeking a capacity grant to select an administering entity to administer grant funds, among other responsibilities.
- Requires the Department to award annual capacity grants to support the implementation of the Plan and digital inclusion activities in local jurisdictions.
- Establishes and sets forth requirements for the Digital Competitive Grant Program under the Department for the stated purpose of supporting efforts to achieve digital equity, promote digital inclusion activities, and spur greater adoption of broadband among covered populations.
- Establishes grant calculation criteria that the Department must follow in awarding grants.
- Requires the Department to conduct evaluations of the activities carried out under the covered programs and submit and annual report to the Legislature of its findings.
- Provides that the Department may enter into contracts to evaluate grant-supported activities and promote the exchange of best practices related to each program.
- Requires the Department to provide technical support and assistance to entities to prepare grant applications awarded under covered programs.
- Provides that the state share of any Competitive Grant Program project for which the Department awards a grant may not exceed 90 percent of total project funds.
- Establishes assurances that grant recipients agree to in grant applications, and uphold thereafter, such as an assurance to adopt written complaint procedures.
- Sets forth certain requirements related to the provision of grants under each Program, including eligibility, application and awarding procedure, use of funds, stakeholder collaboration, termination of grant, program evaluation, and reporting requirements.

Proposed Substitute (H-3990.1/20) Compared to HB 2414:

- Adds digital equity service providers and certain specified experts to the individuals and entities the Department must consult with in establishing the Digital Equity Capacity Grant Program.
- Provides that a local jurisdiction has 90 days, rather than 60 days, after the notice of funding availability is provided to submit the Department a planning grant application.
- Adds valid and reliable research, such as local surveys, to the data the Department is authorized to use in determining the comparative lack of availability and adoption of broadband in local jurisdictions as a part of the grant formula.
- Provides that an eligible local jurisdiction may expend competitive grant funds within a specified amount of time that is determined when the grant and contract is awarded and is dependent on the scope of the project, rather than the requirement to expend funds within five years.
- Adds the Workforce Training and Education Board and digital inclusion, digital equity, and digital literacy experts to the entities the Department must consult with in establishing the Digital Equity Competitive Grant Program.

- Requires the Department to develop grant work products that exemplify best practices, or serve as examples, curriculum, and tools for other digital inclusion projects.
- Requires the Department to add to its fully searchable database grant work products that exemplify best practices, or serve as examples, curriculum, and tools.
- Adds the process by which an individual is able to use the internet to the definition of "Adoption of broadband."
- Makes revisions to the legislative findings and intent section.
- Makes technical edits.

AN ACT Relating to digital equity; adding a new chapter to Title 43 RCW; and providing an effective date.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that broadband connection and digital literacy are increasingly critical for Washingtonians' ability to participate in society, the economy, and civic institutions.

(2) The legislature further finds that broadband connection and digital literacy are critical in accessing health care and essential services, obtaining an education, and building careers in Washington.

(3) The legislature further finds that digital exclusion carries an immense societal and economic cost for Washingtonians. Digital exclusion materially harms an individual's opportunity for economic success, educational achievement, positive health outcomes, social inclusion, and civic engagement. Digital exclusion also exacerbates existing wealth and income gaps, especially those experienced by covered populations.

(4) The legislature further finds that achieving digital equity in Washington requires additional and sustained investment, collaboration, and research efforts and is a matter of social and economic justice and is worth pursuing.

(5) Therefore, it is the intent of the legislature to create a digital equity capacity grant program and a digital equity competitive grant program to promote the expansion of digital equity across the state by building capacity for local jurisdictions and supporting the implementation of a diverse array of digital equity projects, such as providing digital literacy and digital skills education to low-income populations, improving the online accessibility of social services for individuals with disabilities, and more accurately mapping broadband access and adoption in rural communities.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adoption of broadband" means the process by which an individual obtains daily access to and is able to use the internet that:

(a) Is 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) Allows individuals the digital skills necessary to participate online; and

(c) Is on a personal device that is on a secure and convenient network.

(2) "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.

(3) "Aging individual" means an individual sixty years of age or older.

(4) "Community anchor institution" means a public school, a library, a medical or health care provider, a community college or other higher education institution, a library agency, and any other nonprofit or governmental community support organization.

(5) "Covered household" means a household, the federal taxable income of which is not more than one hundred fifty 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.

(6) "Covered populations" means:

(a) Individuals who live in covered 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.

(7) "Covered programs" means the digital equity capacity grant program established under section 3 of this act and the digital equity competitive grant program established under section 10 of this act.

(8) "Department" means the department of commerce.

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

(10)(a) "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:

(i) Reliable fixed and wireless broadband internet service;

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

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

(b) "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.

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

(12) "Disability" has the same meaning as defined in RCW 49.60.040.

(13) "Eligible local jurisdiction" means:

(a) With respect to planning grants made available under section 5(3) of this act, a local jurisdiction with respect to which the department has approved an application submitted to the department under section 5(3)(c) of this act; and

(b) With respect to capacity grants awarded under section 6 of this act, a local jurisdiction with respect to which the department has approved an application submitted to the department under section 6(2) of this act, including approval of the digital equity plan developed by the local jurisdiction under section 5 of this act.

(14) "Gender identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

(15) "Higher education institution" has the meaning provided in RCW 28B.07.020 and includes postsecondary vocational institutions.

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

(17) "Local educational agency" means a public board of education or other public authority legally constituted within Washington for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision, or of or for a combination of school districts or counties that is recognized as an administrative agency for its public elementary schools or secondary schools.

(18) "Postsecondary vocational institution" has the meaning provided in 20 U.S.C. Sec. 1002(c).

(19) "Socially and economically disadvantaged small business concern" has the meaning provided in 15 U.S.C. Sec. 637(a)(4).

(20) "Veteran" has the meaning provided in RCW 41.04.007.

NEW SECTION. **Sec. 3.** (1) The department shall establish a digital equity capacity grant program for the purposes of promoting the achievement of digital equity, supporting digital inclusion activities, and building capacity for efforts by local jurisdictions in Washington relating to the adoption of broadband by residents of those local jurisdictions. The program shall ensure that local jurisdictions have the capacity to promote the achievement of digital equity and support digital inclusion activities.

(2) Under the digital equity capacity grant program, the department shall make grants to local jurisdictions in accordance with the requirements under this section and sections 4 through 9 of this act.

(3) The department shall consult with representatives of the following individuals and entities in establishing the program under subsection (1) of this section:

(a) The statewide broadband office;

(b) The public works board;

(c) The utilities and transportation commission;

(d) The community economic revitalization board;

(e) The office of minority and women's business enterprises;

(f) The department of veterans affairs;

(g) The consolidated technology services agency;

(h) The office of financial management;

(i) Digital equity service providers;

(j) Experts from local governments, entities conducting research, nonprofit entities, libraries, and educational institutions; and

(k) The head of any other agency that the department determines to be appropriate.

(4) The department shall ensure the program complements and enhances, and does not conflict with, other broadband initiatives and programs.

(5) The department may adopt rules as necessary to carry out this section and sections 4 through 9 of this act.

NEW SECTION. **Sec. 4.** (1) The official of a local jurisdiction that wishes to be awarded a grant under section 3 of this act shall, from among entities that are eligible under subsection (2) of this section, select an administering entity for that local jurisdiction, which shall:

(a) Serve as the recipient of, and administering agent for, any grant awarded to the local jurisdiction under section 5 or 6 of this act;

(b) Develop, implement, and oversee the digital equity plan for the local jurisdiction described in section 5 of this act;

(c) Make subgrants to any entity included as a key stakeholder, under section 5(1)(d) of this act, that is located in the local jurisdiction in support of:

(i) The digital equity plan for the local jurisdiction; and

(ii) Digital inclusion activities in the local jurisdiction generally; and

(d) Serve as an advocate for digital equity policy and digital inclusion activities and a repository of best practice materials regarding the policies and activities.

(2) The following entities may serve as the administering entity for a local jurisdiction if the entity has demonstrated a capacity to administer the digital equity competitive grant program:

(a) The local jurisdiction, a political subdivision, agency, or other municipal or quasi-municipal corporation of the local jurisdiction, or an Indian tribe located in the local jurisdiction;

(b) A foundation, corporation, institution, association, or coalition that is a not-for-profit entity, located in the local jurisdiction and not a school;

(c) A community anchor institution, other than a school, that is located in the local jurisdiction;

(d) A local educational agency that is located in the local jurisdiction;

(e) An entity located in the local jurisdiction that carries out a workforce development program;

(f) An agency of the local jurisdiction that is responsible for administering or supervising adult education and literacy activities in the local jurisdiction;

(g) A public housing authority that is located in the local jurisdiction; and

(h) A partnership between any of the entities described in (a) through (g) of this subsection.

NEW SECTION. **Sec. 5.** (1) A local jurisdiction that wishes to be awarded a grant under this section or section 6 of this act shall develop a digital equity plan for the local jurisdiction, which shall include:

(a) The identification of the barriers to digital equity faced by covered populations in the local jurisdiction;

(b) Measurable objectives for documenting and promoting, among covered populations in that local jurisdiction, including:

(i) The availability of, and affordability of access to, fixed and wireless broadband technology;

(ii) The online accessibility and inclusivity of public resources and services;

(iii) Digital literacy;

(iv) Awareness of, and the use of, measures to secure the online privacy of, and cybersecurity with respect to, an individual; and

(v) The availability and affordability of consumer devices and technical support for those devices;

(c) An assessment of how the objectives described in (b) of this subsection will impact and interact with the local jurisdiction's:

(i) Economic and workforce development goals, plans, and outcomes;

(ii) Educational outcomes;

(iii) Health outcomes;

(iv) Civic and social engagement; and

(v) Delivery of other essential services;

(d) A description of how the local jurisdiction plans to collaborate with key stakeholders in the local jurisdiction in order to achieve the objectives described in (b) of this subsection, which may include:

(i) Community anchor institutions;

(ii) County and municipal governments;

(iii) Local educational agencies;

(iv) Where applicable, Indian tribes;

(v) Nonprofit organizations;

(vi) Organizations that represent the following:

(A) Individuals with disabilities, including organizations that represent children with disabilities;

(B) Aging individuals;

(C) Individuals with language barriers, including individuals who are English learners or who have low levels of literacy;

(D) Veterans; and

(E) Incarcerated individuals in that local jurisdiction;

(vii) Civil rights organizations;

(viii) Entities that carry out workforce development programs;

(ix) Agencies of the local jurisdiction that are responsible for administering or supervising adult education and literacy activities in the local jurisdiction;

(x) Public housing authorities in the local jurisdiction; and

(xi) A partnership between any of the entities described in (d)(i) through (x) of this subsection (1); and

(e) A list of organizations with which the administering entity for the local jurisdiction collaborated in developing and implementing the digital equity plan.

(2)(a) The administering entity for a local jurisdiction shall make the digital equity plan available for public comment for a period of not less than thirty days before the date on which the local jurisdiction submits an application to the department under section 6(2) of this act.

(b) The administering entity for a local jurisdiction shall, before submitting the application, consider all comments received during the comment period with respect to the application and make any changes to the plan that the administering entity determines to be worthwhile.

(c) The administering entity for a local jurisdiction shall, when submitting the application, describe any changes pursued by the administering entity in response to comments received during the comment period and include a written response to each comment received during the comment period.

(3)(a) Subject to the availability of amounts appropriated for this specific purpose, beginning July 1, 2022, the department shall, in accordance with the requirements of this subsection (3), award planning grants to local jurisdictions for the purpose of developing the digital equity plans of those local jurisdictions.

(b) In order to be awarded a planning grant, a local jurisdiction shall submit to the department an application under (c) of this subsection. A local jurisdiction is not eligible to receive a planning grant if the local jurisdiction was previously awarded a planning grant under this subsection (3).

(c) A local jurisdiction that wishes to be awarded a planning grant under this subsection (3) shall, not later than ninety days after the date on which the notice of funding availability with respect to the grant is released, submit to the department an application, in a format to be determined by the department, that contains the following materials:

(i) A description of the entity selected to serve as the administering entity for the local jurisdiction, as described in section 4 of this act;

(ii) A certification from the local jurisdiction that, not later than one year after the date on which the department awards the planning grant to the local jurisdiction, the administering entity

for that local jurisdiction shall develop a digital equity plan, which the administering entity shall submit to the department. The local jurisdiction must comply with the requirements of this subsection, including the public comment requirements under subsection (2)(b) of this section; and

(iii) The assurances required under section 7 of this act.

(d)(i) A planning grant awarded to an eligible local jurisdiction under this subsection (3) shall be determined according to the formula under section 6(3)(a)(i) of this act.

(A) With respect to a planning grant awarded to an eligible local jurisdiction under this subsection (3), the local jurisdiction shall expend the grant funds during the one-year period beginning on the date on which the local jurisdiction is awarded the grant funds. The department may grant an extension not longer than one hundred eighty days.

(B) The department shall ensure that any eligible local jurisdiction to which a planning grant is awarded under this subsection (3) may appeal or otherwise challenge in a timely fashion the amount of the grant awarded to the local jurisdiction.

(ii) An eligible local jurisdiction to which a planning grant is awarded under this subsection (3) shall, through the administering entity for that local jurisdiction, use the grant funds only for the following purposes:

(A) To develop the digital equity plan of the local jurisdiction; and

(B) To make subgrants to any of the entities described in subsection (1)(d) of this section to assist in the development of the digital equity plan of the local jurisdiction. The administering entity shall, with respect to any subgrant issued, provide to the local jurisdiction the assurances required under section 7 of this act.

NEW SECTION. **Sec. 6.** (1) Subject to the availability of amounts appropriated for this specific purpose, beginning not later than two years after the date on which the department begins awarding planning grants under section 5(3) of this act, the department shall award grants to eligible local jurisdictions annually to support:

(a) The implementation of the digital equity plans of those local jurisdictions; and

(b) Digital inclusion activities in those local jurisdictions.

(2) A local jurisdiction that wishes to be awarded a grant under this section shall, not later than sixty days after the date on which the notice of funding availability with respect to the grant is released, submit to the department an application, in a format to be determined by the department, that contains the following materials:

(a) A description of the entity selected to serve as the administering entity for the local jurisdiction;

(b) The digital equity plan of that local jurisdiction;

(c) A certification that the local jurisdiction, acting through the administering entity, shall implement the digital equity plan and make grants in a manner that is consistent with the aims of the digital equity plan;

(d) The assurances required under section 7 of this act; and

(e) Any amendments to the digital equity plan for a local jurisdiction that has been previously awarded a grant under this section. The amendments included must be compared with the digital equity plan of the local jurisdiction previously submitted.

(3)(a)(i) Subject to the requirements set forth in (a)(ii) and (iii) of this subsection (3), the department shall calculate the amount of a grant awarded to an eligible local jurisdiction under this subsection in accordance with the following criteria, using the best available data for all local jurisdictions for the fiscal year in which the grant is awarded:

(A) Fifty percent of the total grant amount shall be based on the population of the eligible local jurisdiction in proportion to the total population of all eligible local jurisdictions.

(B) Twenty-five percent of the total grant amount shall be based on the number of individuals in the eligible local jurisdiction who are covered populations in proportion to the total number of individuals in all eligible local jurisdictions who are covered populations.

(C) Twenty-five percent of the total grant amount shall be based on the comparative lack of availability and adoption of broadband in the eligible local jurisdiction in proportion to the lack of availability and adoption of broadband of all eligible local jurisdictions, which shall be determined according to data collected from:

(I) The federal communications commission;

(II) The American community survey or, if necessary, other data collected by the United States bureau of the census;

(III) The internet and computer use supplement to the current population survey of the United States bureau of the census;

(IV) Other valid and reliable research, such as local surveys, that identify digital inclusion service needs and gaps in the jurisdiction; and

(V) Any other source that the department, after appropriate notice and opportunity for public comment, determines to be appropriate.

(ii) The amount of a grant awarded to an eligible local jurisdiction under this subsection (3) in a fiscal year shall be not less than one-half of one percent of the total amount made available to award grants to eligible local jurisdictions for that fiscal year.

(iii) After awarding planning grants and capacity grants to eligible local jurisdictions in a fiscal year, the department shall distribute any remaining amounts to carry out this section to eligible local jurisdictions to which the department has awarded grants under this subsection (3) for that fiscal year in accordance with the formula described in (a)(i) of this subsection (3).

(b) With respect to a grant awarded to an eligible local jurisdiction under this subsection, the eligible local jurisdiction shall expend the grant funds up to five years after the date on which the eligible local jurisdiction is awarded the grant funds, depending on the scope, to be determined in awarding the grant and contract.

(c) The department shall ensure that any eligible local jurisdiction to which a grant is awarded under this subsection (3) may appeal or otherwise challenge in a timely fashion the amount of the grant awarded to the local jurisdiction.

(d) The administering entity for an eligible local jurisdiction to which a grant is awarded under this subsection (3) shall use the grant amounts for the following purposes:

(i) To update or maintain the digital equity plan of the local jurisdiction. An administering entity for an eligible local jurisdiction to which a grant is awarded under this subsection may use not more than twenty percent of the amount of the grant for this purpose;

(ii) To implement the digital equity plan of the local jurisdiction;

(iii)(A) Subject to (d)(iii)(B) of this subsection (3), to award a grant to any eligible entity located in the local jurisdiction in order to:

(I) Assist in the implementation of the digital equity plan of the local jurisdiction;

(II) Pursue digital inclusion activities in the local jurisdiction consistent with the digital equity plan of the local jurisdiction; and

(III) Report to the local jurisdiction regarding the digital inclusion activities of the entity.

(B) Before an administering entity for an eligible local jurisdiction may award a grant under this section, the administering entity shall require the entity to which the grant is awarded to certify that:

(I) The entity shall carry out the activities required under this subsection (3)(d);

(II) The receipt of the grant shall not result in unjust enrichment of the entity; and

(III) The administering entity shall cooperate with any evaluation carried out by or for the administering entity or the department for any program that relates to a grant awarded to the entity;

(iv) To evaluate the efficacy of the efforts funded by grants made under (d)(iii) of this subsection. An administering entity for an eligible local jurisdiction to which a grant is awarded under this section may use not more than five percent of the amount of the grant for this purpose; and

(v) For the administrative costs incurred in carrying out the activities under this subsection (3)(d). An administering entity for an eligible local jurisdiction to which a grant is awarded under this section may use not more than three percent of the amount of the grant for this purpose.

(4) A grant or subgrant awarded under this section shall supplement, not supplant, other federal or state funds that have been made available for this purpose.

NEW SECTION. **Sec. 7.** When applying for a grant under section 5 or 6 of this act, a local jurisdiction shall include in the application assurances that:

(1)(a) The local government shall use the grant funds in accordance with any applicable statute, regulation, and application procedure.

(b) The administering entity for that local jurisdiction shall adopt and use proper methods of administering any grant that the local government is awarded, including by:

(i) Enforcing any obligation imposed under law on any agency, institution, organization, or other entity that is responsible for carrying out the program to which the grant relates;

(ii) Correcting any deficiency in the operation of a program to which the grant relates, as identified through an audit or another monitoring or evaluation procedure; and

(iii) Adopting written procedures for the receipt and resolution of complaints alleging a violation of law with respect to a program to which the grant relates.

(c) The administering entity for that local jurisdiction shall cooperate in carrying out any evaluation of any program that relates to a grant awarded to the covered recipient and that is carried out by or for the department or another state official;

(2) The administering entity for that local jurisdiction shall:

(a) Use fiscal control and fund accounting procedures that ensure the proper disbursement of, and accounting for, any federal or state funds that the local jurisdiction is awarded under section 5 or 6 of this act.

(b) Submit to the department any reports that may be necessary to enable the department to perform the duties of the department.

(c) Maintain any records and provide any information to the department, including those records, that the department determines is necessary to enable the department to perform the duties of the department under this section.

(d) With respect to any significant proposed change or amendment to the digital equity plan for the local jurisdiction, make the change or amendment available for public comment in accordance with section 5(2) of this act; and

(3) The local jurisdiction, before submitting to the department the digital equity plan of the local jurisdiction, has complied with the public comment requirements of section (5)(2) of this act.

NEW SECTION. **Sec. 8.** (1) The department shall terminate a grant awarded to an eligible local jurisdiction under this section if, after notice to the local jurisdiction and opportunity for a hearing, the department:

(a) Presents to the local jurisdiction a rationale and supporting information that clearly demonstrates the grant funds are not contributing to the development or execution of the digital equity plan of the local jurisdiction, as applicable, and the local jurisdiction is not upholding assurances made by the state to the department under section 7 of this act; and

(b) Determines that the grant is no longer necessary to achieve the original purpose for which department awarded the grant.

(2) The department shall redistribute unspent grant amounts, resulting from the termination of a grant under subsection (1) of this section, to eligible local jurisdictions to which the department has awarded grants under section 5 or 6 of this act for that fiscal year in accordance with the formula described under section 6(3) of this act.

NEW SECTION. **Sec. 9.** (1)(a) The department shall require any entity to which a grant, including a subgrant, is awarded under section 5 or 6 of this act to publicly report, for each year during the period described in section 5 or 6 of this act, as applicable, with respect to the grant, and in a format specified by the department. The report must include the following:

(i) The use of that grant by the entity;

(ii) The progress of the entity towards fulfilling the objectives for which the grant was awarded; and

(iii) The implementation of the digital equity plan of the local jurisdiction.

(b) The department shall establish appropriate mechanisms to ensure that each eligible local jurisdiction to which a grant is awarded under section 5 or 6 of this act uses the grant amounts in an appropriate manner and complies with all terms with respect to the use of the grant amounts.

(c) The department shall create and maintain a fully searchable database, which shall be accessible on the internet at no cost to the public, that contains, at a minimum:

(i) The application of each local jurisdiction that has applied for a grant under this section;

(ii) The status of each application;

(iii) Each report submitted by an entity;

(iv) A record of public comments made regarding the digital equity plan of a local jurisdiction and any written responses to or actions taken as a result of those comments; and

(v) Any other information that is sufficient to allow the public to understand and monitor grants awarded under this section.

(2) The department may establish additional reporting and information requirements for any recipient of a grant under this section.

NEW SECTION. **Sec. 10.** (1) Subject to the availability of amounts appropriated for this specific purpose, not later than thirty days after the date on which the department begins awarding capacity grants under section 6 of this act, and not before that date, the department shall establish the digital equity competitive grant program, the purpose of which is to award grants to support efforts to achieve digital equity, promote digital inclusion activities, and spur greater adoption of broadband among covered populations.

(2) In establishing the program under subsection (1) of this section, the department:

(a) May consult with local jurisdictions to identify covered populations located in that local jurisdiction and allocate grant funds within that local jurisdiction for projects in or affecting the local jurisdiction; and

(b) Shall consult with representatives of the following entities:

(i) The statewide broadband office;

(ii) The public works board;

(iii) The utilities and transportation commission;

(iv) The community economic revitalization board;

(v) The office of minority and women's business enterprises;

(vi) The department of veterans affairs;

(vii) The consolidated technology services agency;

(viii) The office of financial management;

(ix) The workforce training and education board;

(x) State, tribal, and local organizations with expertise in providing digital inclusion, digital equity, or digital literacy services; and

(xi) The head of any other agency that the department determines to be appropriate.

(3) The department shall ensure the program complements and enhances, and does not conflict with, other broadband initiatives and programs.

(4) The department may adopt rules as necessary to carry out this section and sections 11 through 17 of this act.

NEW SECTION. **Sec. 11.** (1) The department may award a grant under the program to any of the following entities if the entity is not serving, and has not served, as the administering entity for a local jurisdiction under section 4(2) of this act:

(a) A political subdivision, agency, or other municipal or quasi-municipal corporation of the local jurisdiction, including an agency that is responsible for administering or supervising adult education and literacy activities in the local jurisdiction;

(b) An Indian tribe;

(c) A foundation, corporation, institution, or association that is a not-for-profit entity;

(d) A community anchor institution;

(e) A local educational agency;

(f) An entity that carries out a workforce development program;

(g) A partnership between any of the entities described in (a) through (f) of this subsection; and

(h) A partnership between an entity described in (a) through (f) of this subsection and an entity that the department, by rule, determines to be in the public interest.

(2) The administering entity selected under subsection (1) of this section may not be a school.

NEW SECTION. **Sec. 12.** (1) An entity that wishes to be awarded a grant under the program shall submit to the department an application at such time, in such form, and containing such information as the department may require.

(2) The application under subsection (1) of this section must:

(a) Provide a detailed explanation of how the entity will use any grant amounts awarded under the program to carry out the purposes of the program in an efficient and expeditious manner;

(b) Identify the period in which the applicant will expend the grant funds awarded under the program;

(c) Include a justification for the amount of the grant that the applicant is requesting and, for each fiscal year in which the

applicant will expend the grant funds, a budget for the activities that the grant funds will support;

(d) Demonstrate, to the satisfaction of the department, that the entity:

(i) Is capable of carrying out the project or function to which the application relates;

(ii) Is capable of carrying out the reporting requirements described under section 17 of this act in a competent manner that is in compliance with all applicable federal, state, and local laws; and

(iii) If the administering entity, shall appropriate or otherwise unconditionally obligate from nonfederal sources funds that are necessary to meet the requirements of section 14 of this act;

(e) Disclose to the department the source and amount of other federal, state, or outside funding sources from which the entity receives, or has applied for, funding for activities or projects to which the application relates; and

(f) Provide the assurances that are required under section 15 of this act. The application must also provide an assurance that the entity shall follow such additional procedures as the department may require to ensure that grant funds are used and accounted for in an appropriate manner.

NEW SECTION. **Sec. 13.** (1) In deciding whether to award a grant under the program, the department shall, to the extent practicable, consider:

(a) Whether the application would, if approved:

(i) Increase internet access and the adoption of broadband among covered populations to be served by the applicant; and

(ii) Not result in unjust enrichment;

(b) Whether the applicant is, or plans to subcontract with, a socially and economically disadvantaged small business concern;

(c) The comparative geographic diversity of the application in relation to other eligible applications; and

(d) The extent to which an application may duplicate or conflict with another program.

(2)(a) In addition to the evaluation activities required under (b) of this subsection, an entity to which the department awards a grant under the program shall use the grant amounts to support not less than one of the following activities:

(i) To develop and implement digital inclusion activities that benefit covered populations;

(ii) To facilitate the adoption of broadband by covered populations in order to provide educational and employment opportunities to those populations;

(iii) To implement, consistent with the purposes of this chapter, workforce development programs or other training programs for covered populations that cover basic, advanced, and applied skills;

(iv) To make available equipment, instrumentation, networking capability, hardware and software, or digital network technology for broadband services to covered populations at low or no cost;

(v) To construct, upgrade, expend, or operate new or existing public access computing centers for covered populations through community anchor institutions; or

(vi) To undertake any other project and activity that the department finds to be consistent with the purposes for which the program is established.

(b)(i) An entity to which the department awards a grant under the program shall use not more than ten percent of the grant amounts to measure and evaluate the activities supported with the grant amounts.

(ii) An entity to which the department awards a grant under the program shall annually submit to the department each measurement and evaluation, in a manner specified by the department, no later than fifteen months after the date on which the entity is awarded the grant amounts for any year in which the entity expends grant amounts.

(c) An entity to which the department awards a grant under the program may use not more than ten percent of the amount of the grant for administrative costs in carrying out any of the activities described in (a) of this subsection.

(d) An entity awarded a grant under this subsection shall expend the grant amounts during the four year period beginning on the date on which the entity is awarded the grant amounts. During the one year period beginning on the date that is four years after the date on which the entity is awarded the grant amounts, the entity may continue to measure and evaluate the activities supported with the grant amounts, as required under (b) of this subsection.

(3) A grant or subgrant awarded under this section shall supplement, not supplant, other federal or state funds that have been made available to carry out activities described in this section.

NEW SECTION. **Sec. 14.** (1) Except as provided in subsection (2) of this section, the state share of any project for which the department awards a grant under the competitive grant program established under section 6 of this act may not exceed ninety percent.

(2) The department may grant a waiver with respect to the limitation on the state share of a project described in subsection (1) of this section if:

(a) The applicant with respect to the project petitions the department for the waiver; and

(b) The department determines that the applicant petition demonstrates financial need.

NEW SECTION. **Sec. 15.** When applying for a grant under this chapter, an entity shall include in the application for that grant assurances that the entity shall:

(1) Use any grant funds that the entity is awarded in accordance with any applicable statute, regulation, and application procedure to the extent required under applicable law;

(2) Adopt and use proper methods of administering any grant that the entity is awarded, including by:

(a) Enforcing any obligation imposed under law on any agency, institution, organization, or other entity that is responsible for carrying out a program to which the grant relates;

(b) Correcting any deficiency in the operation of a program to which the grant relates, as identified through an audit or another monitoring or evaluation procedure; and

(c) Adopting written procedures for the receipt and resolution of complaints alleging a violation of law with respect to a program to which the grant relates;

(3) Cooperate with respect to any evaluation of any program that relates to a grant awarded to the entity, including an evaluation carried out by or for the department or another state official;

(4) Use fiscal control and fund accounting procedures that ensure the proper disbursement of, and accounting for, any state funds that the entity is awarded under the program;

(5) Submit to the department any reports that may be necessary to enable the department to perform the duties of the department under the program; and

(6) Maintain any records and provide any information to the department, including those records, that the department determines is necessary to enable the department to perform the duties of the department under the program.

NEW SECTION. **Sec. 16.** (1) In addition to other authority under applicable law, the department may deobligate or terminate a grant awarded to an entity under this chapter if, after notice to the entity and opportunity for a hearing, the department:

(a) Presents to the entity a rationale and supporting information that clearly demonstrates that:

(i) The grant funds are not being used in a manner that is consistent with the application with respect to the grant submitted by the entity under section 12 of this act; and

(ii) The entity is not upholding assurances made by the entity to the department under section 15 of this act; or

(b) Determines that the grant is no longer necessary to achieve the original purpose for which the department awarded the grant.

(2) The department may, with respect to any grant funds that the department deobligates or terminates under subsection (1) of this section, competitively award the grant funds to another applicant, consistent with the requirements of this section.

NEW SECTION. **Sec. 17.** (1)(a) The department shall require any entity to which the department awards a grant under the program to, for each year during the period described in section 13(2)(d) of this act with respect to the grant, submit to the department a report, in a format specified by the department, regarding:

(i) The amount of the grant;

(ii) The use by the entity of the grant amounts; and

(iii) The progress of the entity towards fulfilling the objectives for which the grant was awarded.

(b) The department shall establish mechanisms to ensure appropriate use of, and compliance with respect to all terms regarding, grant funds awarded under the program.

(c) The department shall create and maintain a fully searchable database, which shall be accessible on the internet at no cost to the public, that contains, at a minimum:

(i) A list of each entity that has applied for a grant under the program;

(ii) A description of each grant application under the program, including the proposed purpose of each grant described;

(iii) The status of each grant application under the program, including whether the department has awarded a grant with respect to the application and, if applicable, the amount of the grant;

(iv) Each report submitted by an entity under (a) of this subsection;

(v) All work products described under section 18(3) of this act that exemplify best practices, or serve as examples, curriculum, and tools for other digital inclusion projects; and

(vi) Any other information that is sufficient to allow the public to understand and monitor grants awarded under the program.

(d) The department shall ensure that any entity with respect to which an award is deobligated or terminated under section 16 of this act may, in a timely manner, appeal or otherwise challenge that deobligation or termination, as applicable.

(2) The department may establish additional reporting and information requirements for any recipient of a grant under the program.

NEW SECTION. **Sec. 18.** (1) Not later than one year after the date on which the department begins awarding grants under section 6(1) of this act, and annually thereafter, the department shall:

(a) Submit to the appropriate committees of the legislature a report that documents, for the year covered by the report:

(i) The findings of each evaluation conducted under (b) of this subsection;

(ii) A list of each grant awarded under each covered program, which shall include:

(A) The amount of each such grant;

(B) The recipient of each such grant; and

(C) The purpose for which each such grant was awarded;

(iii) Any deobligation, termination, or modification of a grant awarded under the covered programs, which shall include a description of the subsequent usage of any funds to which such an action applies; and

(iv) Each challenge made by an applicant for, or a recipient of, a grant under the covered programs and the outcome of each such challenge; and

(b) Conduct evaluations of the activities carried out under the covered programs, which shall include an evaluation of:

(i) Whether eligible local jurisdictions to which grants are awarded under the program established under section 3 of this act are:

(A) Abiding by the assurances made by those local jurisdictions under section 7 of this act;

(B) Meeting, or have met, the stated goals of the digital equity plans developed by the local jurisdictions under section 5 of this act;

(C) Satisfying the reporting requirements imposed by the department on local jurisdictions under section 9 of this act; and

(D) In compliance with any other rules, requirements, or regulations adopted by the department in implementing that program; and

(ii) Whether entities to which grants are awarded under the program established under section 10 of this act are:

(A) Abiding by the assurances made by those entities under section 15 of this act;

(B) Meeting, or have met, the stated goals of those entities with respect to the use of the grant amounts;

(C) Satisfying the requirements imposed by the department on those local jurisdictions under section 17 of this act; and

(D) In compliance with any other rules, requirements, or regulations adopted by the department in implementing that program.

(2) The department shall make each report submitted under subsection (1)(a) of this section publicly available in an online format that facilitates access and ease of use, is searchable, and is accessible including to individuals with disabilities and in languages other than English.

(3) The department shall develop grant work products that exemplify best practices, or serve as examples, curriculum, and tools for other digital inclusion projects.

NEW SECTION. **Sec. 19.** The department may award grants and enter into contracts, cooperative agreements, and other arrangements with state agencies, public and private organizations, and other entities with expertise that the department determines appropriate in order to:

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

(2) Develop, catalog, disseminate, and promote the exchange of best practices, both with respect to and independent of the covered programs, in order to achieve digital equity.

NEW SECTION. **Sec. 20.** In carrying out section 18 of this act, and to further the objectives described in section 19 of this act, the department shall conduct ongoing collaboration and consult with:

(1) The statewide broadband office;

(2) The public works board;

(3) The utilities and transportation commission;

(4) The community economic revitalization board;

(5) The office of minority and women's business enterprises;

(6) The department of veterans affairs;

(7) The consolidated technology services agency;

(8) The office of financial management;

(9) State agencies and local jurisdiction officials;

(10) Entities serving as administering entities for local jurisdictions under section 4 of this act;

(11) National, state, tribal, and local organizations that provide digital inclusion, digital equity, or digital literacy services;

(12) Researchers, academics, and philanthropic organizations; and

(13) Other agencies, organizations, entities, and community stakeholders, as determined appropriate by the department.

NEW SECTION. **Sec. 21.** (1) The department shall provide technical support and assistance, assistance to entities to prepare the applications of those entities with respect to grants awarded under the covered programs, and other resources, to the extent practicable, to ensure consistency in data reporting and to meet the objectives of this section.

(2) Technical support and assistance provided by the department includes introductory workshops to assist entities preparing applications with respect to grants awarded under covered programs. The department shall provide introductory workshops ten weeks prior to the applicable application due date, and the department shall provide notice at least six weeks prior to holding the workshop.

NEW SECTION. **Sec. 22.** (1) No individual in the United States may, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that is funded in whole or in part with funds made available under this chapter.

(2) The department shall effectuate subsection (1) of this section with respect to any program or activity by issuing regulations and taking actions consistent with chapter 49.60 RCW.

(3) Judicial review of an action taken by the department under subsection (2) of this section shall be available to the extent provided in chapter 49.60 RCW.

NEW SECTION. **Sec. 23.** The department shall, to the extent practicable, carry out this chapter in a technologically neutral manner.

NEW SECTION. **Sec. 24.** Sections 1 through 23 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 25.** This act takes effect July 1, 2021.

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