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**HOUSE BILL 1365**

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

**By** Representatives Gregerson, Stonier, Ramos, Callan, Simmons, J. Johnson, Taylor, Lovick, Leavitt, Ortiz-Self, Berg, Fitzgibbon, Ryu, Morgan, Wicks, Tharinger, Duerr, Ormsby, Hansen, Berry, Dolan, Valdez, Cody, Bronoske, Senn, Bateman, Bergquist, Kloba, Riccelli, Davis, Macri, Ramel, Harris-Talley, Pollet, and Sells

AN ACT Relating to procuring and supporting appropriate computers and devices for public school students and instructional staff; amending RCW 28A.650.020, 28A.635.060, 28A.650.010, and 82.32.145; reenacting and amending RCW 28A.650.015; adding new sections to chapter 28A.650 RCW; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.710 RCW; adding a new section to chapter 28A.715 RCW; adding a new chapter to Title 82 RCW; creating a new section; repealing RCW 28A.650.025 and 28A.650.030; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature finds that the COVID-19 pandemic has exposed the importance of internet-accessible learning devices to the ability of students to receive a modern education. When Washington schools closed in March 2020, school districts shifted quickly to offering education in an online environment. Teachers adapted their lessons for videoconferencing platforms and arranged for students to submit homework via email. However, distance learning amplified digital deserts and disparities among students that will only continue to grow for the foreseeable future.

The legislature finds that low-income and Black Washingtonians face disproportionate barriers to accessing internet in their homes. Recent census household pulse survey data shows that a computer is rarely or never available for a child's educational use for 59% of households experiencing poverty and 80% of Black households in Washington state.

Furthermore, the legislature finds that accessing the internet requires more than just a computer. For families and students to be truly connected, they need the digital literacy, skills, and support to use their device and navigate the web.

Therefore, the legislature intends to provide every student and every educator in Washington with an appropriate learning device as well as the necessary digital literacy support to ensure digital equity and access.

**PART I - POLICIES, PLANS, AND PROGRAMS**

NEW SECTION. **Sec.**  A new section is added to chapter 28A.650 RCW to read as follows:

(1) The educational service districts shall jointly establish and implement a procurement program for learning devices for students, appropriate computers for school staff, and associated peripheral devices.

(2) The process must allow for procurement of devices, learning management systems, cybersecurity protection, and device insurance.

(3) When selecting learning devices and learning management systems for procurement, the educational service districts must consider a variety of student needs. Considerations must include accessibility, age appropriateness, security, data storage and transfer capacity, and telecommunications capability.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.650 RCW to read as follows:

(1)(a) The office of the superintendent of public instruction must establish the student learning device grant program as specified in this section. The purpose of this program is to provide grants to school districts to fund the purchase of student learning devices, appropriate devices for paraeducators and certificated instructional staff, and associated peripheral devices.

(b) The office of the superintendent of public instruction must align the procurement program with other digital literacy and inclusion efforts ongoing across the state.

(2) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must award grants to school districts, charter schools established under chapter 28A.710 RCW, and state-tribal education compact schools established under chapter 28A.715 RCW that submit an application as required by the office of the superintendent of public instruction.

(3) The office of the superintendent of public instruction must evaluate and rank applicants using objective criteria that maximize the number of students with learning devices to reduce technology equity gaps. Grant awards must be prioritized so that new devices are provided to the most disadvantaged students.

(4) Awarded grant funds may be used to purchase devices through the procurement process established by the educational service districts as required by section 101 of this act.

(5) The office of the superintendent of public instruction may accept gifts, grants, and endowments from public and private sources for the benefit of the grant program and may expend any gifts, grants, and endowments and income from public and private sources according to their terms.

**Sec.**  RCW 28A.650.020 and 1993 c 336 s 705 are each amended to read as follows:

((~~Educational~~)) (1) The educational service districts shall jointly establish((~~, subject to available funding, regional educational technology support centers for the purpose of providing ongoing educator training, school district cost-benefit analysis, long-range planning, network planning, distance learning access support, and other technical and programmatic support. Each educational service district shall establish a representative advisory council to advise the educational service district in the expenditure of funds provided to the technology support centers~~)) and implement a digital navigator program to provide training and technical support for public school students, their families, and educators to use learning devices.

(2) Subject to the availability of amounts appropriated for this specific purpose, each digital navigator program must provide the following services:

(a) Technical assistance for administrators, teachers, paraeducators, students, and students' families to securely use learning devices. Language assistance must be provided to students and students' families when needed;

(b) Training for administrators, teachers, and paraeducators that supports mastery of the skills necessary to fully engage students using learning devices;

(c) Coordination with community-based organizations that support students who are homeless or in foster care;

(d) Outreach to communities underserved with regard to the purposes of the program; and

(e) Device repair and recycle services.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.320 RCW to read as follows:

(1) Beginning in the 2022-23 school year, each school district must provide: (a) To each student, a learning device and peripheral devices that meets the unique needs of the student; and (b) to each paraeducator and certificated instructional staff person, appropriate computers and peripheral devices.

(2) School districts are encouraged to purchase devices through the educational service district procurement program established in section 101 of this act.

(3) School districts may apply for a grant under section 102 of this act to purchase devices.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.710 RCW to read as follows:

Section 104 of this act governs school operation and management under RCW 28A.710.040 and applies to charter schools established under this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.715 RCW to read as follows:

Section 104 of this act governs school operation and management under RCW 28A.715.020 and applies to state-tribal education compact schools established under this chapter.

**Sec.**  RCW 28A.650.015 and 2011 1st sp.s. c 43 s 725 and 2011 1st sp.s. c 11 s 133 are each reenacted and amended to read as follows:

(1) The superintendent of public instruction((~~, to the extent funds are appropriated,~~)) shall develop and implement a Washington state ((~~K-12 education technology~~)) plan for reducing technology equity gaps in the public schools. The technology equity plan ((~~shall be updated on at least a biennial basis, shall~~)) must be developed to coordinate and equitably expand the use of ((~~education~~)) learning devices and associated technology in the ((~~common~~)) public schools ((~~of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW~~)). ((~~The~~))

(2) Based on data collected from the public schools, the plan((~~, at a minimum, shall address:~~

~~(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;~~

~~(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of online information; and~~

~~(c) Methods~~)) must identify strategies to equitably increase the use of ((~~education~~)) learning devices and associated technology by students, paraeducators, and ((~~school personnel~~)) certificated staff throughout the state.

((~~(2)~~)) (3) The superintendent of public instruction shall ((~~appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The office of the chief information officer,~~)) consult and coordinate with the consolidated technology services agency created in RCW 43.105.006, the department of commerce, the statewide broadband office established in RCW 43.330.532, the office of equity established in RCW 43.06D.020, educational service districts, school directors, school administrators, ((~~school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the workforce training and education coordinating board, and the state library~~)) and other experts in the areas of technology access and inclusion in schools and communities.

((~~(3) The plan adopted and implemented under this section may not impose on school districts any requirements that are not specifically required by federal law or regulation, including requirements to maintain eligibility for the federal schools and libraries program of the universal service fund.~~))

(4) By December 1, 2020, and every December 1st every five years thereafter, the superintendent of public instruction must submit the technology equity plan to the appropriate committees of the legislature, in accordance with RCW 43.01.036.

**Sec.**  RCW 28A.635.060 and 1997 c 266 s 13 are each amended to read as follows:

(1) ((~~Any~~)) Except as provided in subsection (2) of this section, any pupil who defaces or otherwise injures any school property, or property belonging to a school contractor, employee, or another student, is subject to suspension and punishment. If any property of the school district, a contractor of the district, an employee, or another student has been lost or willfully cut, defaced, or injured, the school district may withhold the grades, diploma, and transcripts of the pupil responsible for the damage or loss until the pupil or the pupil's parent or guardian has paid for the damages. If the student is suspended, the student may not be readmitted until the student or parents or legal guardian has made payment in full or until directed by the superintendent of schools. If the property damaged is a school bus owned and operated by or contracted to any school district, a student suspended for the damage may not be permitted to enter or ride any school bus until the student or parent or legal guardian has made payment in full or until directed by the superintendent. When the pupil and parent or guardian are unable to pay for the damages, the school district shall provide a program of voluntary work for the pupil in lieu of the payment of monetary damages. Upon completion of voluntary work the grades, diploma, and transcripts of the pupil shall be released. The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(2) Before any penalties are assessed under this section, a school district board of directors shall adopt procedures which insure that pupils' rights to due process are protected. If the school property is a learning device, as defined in RCW 28A.650.010, the penalties under subsection (1) of this section may not include withholding of the pupil's grades, diploma, or transcripts, and unless the pupil willfully damaged or lost the learning device, the penalties may not include requiring the pupil to pay monetary damages or to perform voluntary work in lieu of such payment.

(3) If the department of social and health services or a child-placing agency licensed by the department has been granted custody of a child, that child's records, if requested by the department or agency, are not to be withheld for nonpayment of school fees or any other reason.

**Sec.**  RCW 28A.650.010 and 2017 c 90 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Digital citizenship" includes the norms of appropriate, responsible, and healthy behavior related to current technology use, including digital and media literacy, ethics, etiquette, and security. The term also includes the ability to access, analyze, evaluate, develop, produce, and interpret media, as well as internet safety and cyberbullying prevention and response.

(2) ((~~"Education technology" or "technology" means the effective use of electronic and optical tools, including telephones, and electronic and optical pathways in helping students learn.~~

~~(3) "Network" means integrated linking of education technology systems in schools for transmission of voice, data, video, or imaging, or a combination of these.~~)) "Learning devices" means internet-accessible computers, tablets, and other devices, with appropriate operating systems, software applications, and data security, that can be used to access curricula, educational web applications and websites, and learning management systems, and with telecommunications capabilities sufficient for videoconferencing.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 28A.650.025 (Distribution of funds for regional educational technology support centers) and 1993 c 336 s 706; and

(2)RCW 28A.650.030 (Distribution of funds to expand the education statewide network) and 1993 c 336 s 707.

**PART II - FUNDING**

NEW SECTION. **Sec.**  A new section is added to chapter 28A.650 RCW to read as follows:

The learning device and technology account is created in the state treasury. Revenues to the account consist of revenues collected under section 203 of this act and appropriations, grants, and donations directed for deposit into the account. Expenditures from the account must be used for the purposes of RCW 28A.650.020 and sections 101 and 102 of this act. Moneys in the account may be spent only after appropriation.

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

(1) "Buyer" has the same meaning as in RCW 82.08.010.

(2) "Department" means the department of revenue.

(3)(a) "Retail sale" has the same meaning as in RCW 82.04.050.

(b) "Retail sale" also means the transfer of a smart wireless device to a buyer that is partially or fully discounted by the seller in exchange for the buyer purchasing other products or services furnished in connection with the smart wireless device.

(4) "Seller" has the same meaning as in RCW 82.08.010.

(5)(a) "Selling price" has the same meaning as in RCW 82.08.010.

(b) "Selling price" also means:

(i) In the case of a smart wireless device that is sold to the buyer under conditions where the selling price does not represent the true value or the smart wireless device is sold together with other products or services for one nonitemized price, the retail selling price of the same product or similar products of like quality and character, sold in an arm's length transaction; and

(ii) In the case of installment sales of a smart wireless device, the total aggregate consideration to be paid by the buyer to the seller for the smart wireless device.

(6) "Smart wireless device" means any type of instrument, device, machine, or equipment that is capable of wireless access to the internet. This includes, but is not limited to, smartphones, laptop computers, tablets, wearable devices, smart speakers, gaming consoles, smart gyms, and smart televisions.

NEW SECTION. **Sec.**  (1) There is levied and collected a tax on each retail sale in this state of smart wireless devices. The amount of the tax is as follows:

(a) $2 for a device with a selling price of more than $250, but less than $1,000; and

(b) $5 for a device with a selling price of $1,000 or more.

(2) The revenue collected under this section must be deposited in the learning device and technology account created in section 201 of this act.

NEW SECTION. **Sec.**  (1) The tax imposed in this chapter must be paid by the buyer to the seller. Each seller must collect from the buyer the full amount of the tax payable with respect to each taxable sale.

(2) The tax required by this chapter, to be collected by the seller, is deemed to be held in trust by the seller until paid to the department. Any seller who appropriates or converts the tax collected to the seller's own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(3) If any seller fails to collect the tax imposed in this chapter or, having collected the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is, nevertheless, personally liable to the state for the amount of the tax.

(4) The tax required by this chapter to be collected by the seller must be stated separately from the selling price in any sales invoice or other instrument of sale.

NEW SECTION. **Sec.**  Chapter 82.32 RCW applies to the administration of this chapter.

**Sec.**  RCW 82.32.145 and 2020 c 301 s 6 are each amended to read as follows:

(1) Whenever the department has issued a warrant under RCW 82.32.210 for the collection of unpaid trust fund taxes from a limited liability business entity and that business entity has been terminated, dissolved, or abandoned, or is insolvent, the department may pursue collection of the entity's unpaid trust fund taxes, including penalties and interest on those taxes, against any or all of the responsible individuals. For purposes of this subsection, "insolvent" means the condition that results when the sum of the entity's debts exceeds the fair market value of its assets. The department may presume that an entity is insolvent if the entity refuses to disclose to the department the nature of its assets and liabilities.

(2) Personal liability under this section may be imposed for state and local trust fund taxes.

(3)(a) For a responsible individual who is the current or a former chief executive or chief financial officer, liability under this section applies regardless of fault or whether the individual was or should have been aware of the unpaid trust fund tax liability of the limited liability business entity.

(b) For any other responsible individual, liability under this section applies only if he or she willfully fails to pay or to cause to be paid to the department the trust fund taxes due from the limited liability business entity.

(4)(a) Except as provided in this subsection (4)(a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for trust fund tax liability accrued during the period that he or she was the chief executive or chief financial officer. However, if the responsible individual had the responsibility or duty to remit payment of the limited liability business entity's trust fund taxes to the department during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for trust fund tax liability that became due during the period that he or she had the duty to remit payment of the limited liability business entity's taxes to the department but was not the chief executive or chief financial officer.

(b) All other responsible individuals are liable under this section only for trust fund tax liability that became due during the period he or she had the responsibility or duty to remit payment of the limited liability business entity's taxes to the department.

(5) Persons described in subsection (3)(b) of this section are exempt from liability under this section in situations where nonpayment of the limited liability business entity's trust fund taxes is due to reasons beyond their control as determined by the department by rule.

(6) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

(7) This section does not relieve the limited liability business entity of its trust fund tax liability or otherwise impair other tax collection remedies afforded by law.

(8) Collection authority and procedures prescribed in this chapter apply to collections under this section.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chief executive" means: The president of a corporation; or for other entities or organizations other than corporations or if the corporation does not have a president as one of its officers, the highest ranking executive manager or administrator in charge of the management of the company or organization.

(b) "Chief financial officer" means: The treasurer of a corporation; or for entities or organizations other than corporations or if a corporation does not have a treasurer as one of its officers, the highest senior manager who is responsible for overseeing the financial activities of the entire company or organization.

(c) "Limited liability business entity" means a type of business entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity, or a business entity that is managed or owned in whole or in part by an entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity. Limited liability business entities include corporations, limited liability companies, limited liability partnerships, trusts, general partnerships and joint ventures in which one or more of the partners or parties are also limited liability business entities, and limited partnerships in which one or more of the general partners are also limited liability business entities.

(d) "Manager" has the same meaning as in RCW 25.15.006.

(e) "Member" has the same meaning as in RCW 25.15.006, except that the term only includes members of member-managed limited liability companies.

(f) "Officer" means any officer or assistant officer of a corporation, including the president, vice president, secretary, and treasurer.

(g)(i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with an unpaid tax warrant issued by the department.

(ii) "Responsible individual" also includes any current or former employee or other individual, but only if the individual had the responsibility or duty to remit payment of the limited liability business entity's unpaid trust fund tax liability reflected in a tax warrant issued by the department.

(iii) Whenever any taxpayer has one or more limited liability business entities as a member, manager, or partner, "responsible individual" also includes any current and former officers, members, or managers of the limited liability business entity or entities or of any other limited liability business entity involved directly in the management of the taxpayer. For purposes of this subsection (9)(g)(iii), "taxpayer" means a limited liability business entity with an unpaid tax warrant issued against it by the department.

(h) "Trust fund taxes" means taxes collected from purchasers and held in trust under RCW 82.08.050, including taxes imposed under RCW 82.08.020, 82.08.150, ((~~and~~)) 82.51.010, and section 203 of this act.

(i) "Willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

NEW SECTION. **Sec.**  Sections 202 through 205 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec.**  Sections 202 through 206 of this act take effect October 1, 2021.

**--- END ---**