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**SENATE BILL 5899**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Senators Harper, Billig, Darneille, Hargrove, McAuliffe, Keiser, and Kohl-Welles

Read first time 04/04/13. Referred to Committee on Ways & Means.

1 AN ACT Relating to communications services reform to fund working  
2 connections child care; amending RCW 82.14B.040, 82.14B.042,  
3 82.14B.030, 82.14B.200, 80.36.430, 43.20A.725, 80.36.420, 80.36.450,  
4 80.36.460, 80.36.470, and 80.36.610; reenacting and amending RCW  
5 82.14B.020 and 82.08.0289; adding new sections to chapter 80.36 RCW;  
6 adding a new section to chapter 43.215 RCW; creating new sections;  
7 repealing RCW 82.72.010, 82.72.020, 82.72.030, 82.72.040, 82.72.050,  
8 82.72.060, 82.72.070, 82.72.080, 82.72.090, and 80.36.600; prescribing  
9 penalties; providing effective dates; and providing expiration dates.

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

11 **PART I**

12 **Providing Communications Services Tax Reform**

13 NEW SECTION. **Sec. 101.** (1) The legislature finds that:

14 (a) The communications industry is undergoing rapid change due to  
15 technological advances and deregulation. The legislature further finds  
16 that an industry that began with the telephone now includes cable,  
17 wireless, and satellite communications, as well as the internet;

18 (b) Washington's tax system has not kept pace with this industry;

1 (c) There are a vast array of state taxes and other charges on  
2 communications services in Washington that were established for a far  
3 different technological, legal, and structural landscape than what  
4 exists today;

5 (d) Many taxes and fees remain targeted to a specific technology  
6 (e.g., telephone taxes or cable franchise fees), despite the blurring  
7 of distinctions between technologies that provide similar services  
8 (e.g., the telephone and internet telephony); and

9 (e) The convergence of formerly distinct communications  
10 technologies renders the existing tax structure difficult to justify in  
11 terms of economic efficiency or equity.

12 (2) It is the legislature's intent to address the vast disparity in  
13 tax policy for communications services in an effort to minimize the  
14 existing inequity, inefficiency, and administrative complexity while  
15 preserving revenue sufficiency.

16 (3) With respect to section 107 of this act, the legislature  
17 further finds that:

18 (a) The department of revenue has consistently interpreted the  
19 phrase "a residential class of telephone service" as it would have been  
20 understood when the residential telephone service exemption was enacted  
21 in 1983;

22 (b) In 1983, all telephone service was divided into separate  
23 "local" and "toll" services for "residential" and "business"  
24 classifications, as defined by regulatory tariffs filed with the  
25 utilities and transportation commission. As a result, the department  
26 of revenue has consistently restricted the residential telephone  
27 service exemption in RCW 82.08.0289 to nontoll telephone service  
28 provided under a residential customer regulatory tariff. This includes  
29 traditional landline telephone service but excludes cellular telephone  
30 service and voice over internet protocol telephone services, which are  
31 not subject to regulatory tariffs;

32 (c) The department of revenue's interpretation of the residential  
33 telephone service exemption has been upheld by the board of tax appeals  
34 but was rejected by the Thurston county superior court in a 2011  
35 decision; and

36 (d) Further litigation would be costly and could result in the  
37 unintended expansion of the exemption to all telephone services that a  
38 carrier treats as residential, such as cellular and voice over internet

1 protocol telephone services provided to nonbusiness customers, and to  
2 long-distance service provided to residential customers for a flat  
3 rate. This could result in extremely large and devastating revenue  
4 impacts for the state and local governments.

5 (4) The legislature intends section 107 of this act to clarify  
6 retroactively that, prior to this act, the residential telephone  
7 service exemption in RCW 82.08.0289 has always applied only to  
8 residential nontoll telephone service offered under a tariff filed with  
9 the utilities and transportation commission, consistent with the  
10 department of revenue's long-standing interpretation of the exemption.

11 **Sec. 102.** RCW 82.14B.020 and 2010 1st sp.s. c 19 s 2 are each  
12 reenacted and amended to read as follows:

13 As used in this chapter:

14 (1) "Consumer" means a person who purchases a prepaid wireless  
15 telecommunications service in a retail transaction.

16 (2) "Emergency services communication system" means a multicounty  
17 or countywide communications network, including an enhanced 911  
18 emergency communications system, which provides rapid public access for  
19 coordinated dispatching of services, personnel, equipment, and  
20 facilities for police, fire, medical, or other emergency services.

21 ~~((+2))~~ (3) "Enhanced 911 emergency communications system" means a  
22 public communications system consisting of a network, database, and on-  
23 premises equipment that is accessed by dialing or accessing 911 and  
24 that enables reporting police, fire, medical, or other emergency  
25 situations to a public safety answering point. The system includes the  
26 capability to selectively route incoming 911 voice or data to the  
27 appropriate public safety answering point that operates in a defined  
28 911 service area and the capability to automatically display the name,  
29 address, and telephone number of incoming 911 voice or data at the  
30 appropriate public safety answering point. "Enhanced 911 emergency  
31 communications system" includes the modernization to next generation  
32 911 systems.

33 ~~((+3))~~ (4) "Interconnected voice over internet protocol service"  
34 has the same meaning as provided by the federal communications  
35 commission in 47 C.F.R. Sec. 9.3 on January 1, 2009, or a subsequent  
36 date determined by the department.

1        (~~(4)~~) (5) "Interconnected voice over internet protocol service  
2 line" means an interconnected voice over internet protocol service that  
3 offers an active telephone number or successor dialing protocol  
4 assigned by a voice over internet protocol provider to a voice over  
5 internet protocol service customer that has inbound and outbound  
6 calling capability, which can directly access a public safety answering  
7 point when such a voice over internet protocol service customer has a  
8 place of primary use in the state.

9        (~~(5)~~) (6) "Local exchange company" has the meaning ascribed to it  
10 in RCW 80.04.010.

11       (~~(6)~~) (7) "Place of primary use" means the street address  
12 representative of where the subscriber's use of the radio access line  
13 or interconnected voice over internet protocol service line occurs,  
14 which must be:

15       (a) The residential street address or primary business street  
16 address of the subscriber; and

17       (b) In the case of radio access lines, within the licensed service  
18 area of the home service provider.

19       (~~(7)~~) (8) "Prepaid wireless telecommunications service" means a  
20 telecommunications service that provides the right to use mobile  
21 wireless service as well as other nontelecommunications services  
22 including the download of digital products delivered electronically,  
23 content, and ancillary services, which must be paid for in full in  
24 advance and sold in predetermined units or dollars of which the number  
25 declines with use in a known amount.

26       (9) "Private telecommunications system" has the meaning ascribed to  
27 it in RCW 80.04.010.

28       (~~(8)~~) (10) "Radio access line" means the telephone number  
29 assigned to or used by a subscriber for two-way local wireless voice  
30 service available to the public for hire from a radio communications  
31 service company. Radio access lines include, but are not limited to,  
32 radio-telephone communications lines used in cellular telephone  
33 service, personal communications services, and network radio access  
34 lines, or their functional and competitive equivalent. Radio access  
35 lines do not include lines that provide access to one-way signaling  
36 service, such as paging service, or to communications channels suitable  
37 only for data transmission, or to nonlocal radio access line service,

1 such as wireless roaming service, or to a private telecommunications  
2 system.

3 ~~((+9))~~ (11) "Radio communications service company" has the meaning  
4 ascribed to it in RCW 80.04.010, except that it does not include radio  
5 paging providers. It does include those persons or entities that  
6 provide commercial mobile radio services, as defined by 47 U.S.C. Sec.  
7 332(d)(1), and both facilities-based and nonfacilities-based resellers.

8 ~~((+10))~~ (12) "Retail transaction" means the purchase of prepaid  
9 wireless telecommunications service from a seller for any purpose other  
10 than resale.

11 (13) "Seller" means a person who sells prepaid wireless  
12 telecommunications service to another person.

13 (14) "Subscriber" means the retail purchaser of telecommunications  
14 service, a competitive telephone service, or interconnected voice over  
15 internet protocol service. "Subscriber" does not include a consumer,  
16 as defined in this section.

17 ~~((+11))~~ (15) "Switched access line" means the telephone service  
18 line which connects a subscriber's main telephone(s) or equivalent main  
19 telephone(s) to the local exchange company's switching office.

20 **Sec. 103.** RCW 82.14B.040 and 2010 1st sp.s. c 19 s 6 are each  
21 amended to read as follows:

22 Subject to the enactment into law of the 2013 amendments to RCW  
23 82.08.0289 in section 107 of this act, the 2013 amendments to RCW  
24 80.36.430 in section 108 of this act, and the 2013 amendments to RCW  
25 43.20A.725 in section 109 of this act:

26 (1) Except as provided otherwise in subsection (2) of this section:

27 (a) The state enhanced 911 excise tax and the county enhanced 911  
28 excise tax on switched access lines must be collected from the  
29 subscriber by the local exchange company providing the switched access  
30 line.

31 ~~((+2))~~ (b) The state enhanced 911 excise tax and the county  
32 enhanced 911 excise tax on radio access lines must be collected from  
33 the subscriber by the radio communications service company, including  
34 those companies that resell radio access lines, providing the radio  
35 access line to the subscriber, and the seller of prepaid wireless  
36 telecommunications service.

1       (~~(+3)~~) (c) The state and county enhanced 911 excise taxes on  
2 interconnected voice over internet protocol service lines must be  
3 collected from the subscriber by the interconnected voice over internet  
4 protocol service company providing the interconnected voice over  
5 internet protocol service line to the subscriber.

6       (~~(+4)~~) (d) The amount of the tax must be stated separately on the  
7 billing statement which is sent to the subscriber.

8       (2)(a) The state and county enhanced 911 excise taxes imposed by  
9 this chapter must be collected from the consumer by the seller of a  
10 prepaid wireless telecommunications service for each retail transaction  
11 occurring in this state.

12       (b) The department must transfer all tax proceeds remitted by a  
13 seller under this subsection (2) as provided in RCW 82.14B.030 (2) and  
14 (6).

15       (c) The taxes required by this subsection to be collected by the  
16 seller must be separately stated in any sales invoice or instrument of  
17 sale provided to the consumer.

18       **Sec. 104.** RCW 82.14B.042 and 2010 1st sp.s. c 19 s 7 are each  
19 amended to read as follows:

20       Subject to the enactment into law of the 2013 amendments to RCW  
21 82.08.0289 in section 107 of this act, the 2013 amendments to RCW  
22 80.36.430 in section 108 of this act, and the 2013 amendments to RCW  
23 43.20A.725 in section 109 of this act:

24       (1)(a) The state and county enhanced 911 excise taxes imposed by  
25 this chapter must be paid by:

26       (i) The subscriber to the local exchange company providing the  
27 switched access line, the radio communications service company  
28 providing the radio access line, or the interconnected voice over  
29 internet protocol service company providing the interconnected voice  
30 over internet protocol service line; or

31       (ii) The consumer to the seller of prepaid wireless  
32 telecommunications service.

33       (b) Each local exchange company, each radio communications service  
34 company, and each interconnected voice over internet protocol service  
35 company must collect from the subscriber, and each seller of prepaid  
36 wireless telecommunications service must collect from the consumer, the  
37 full amount of the taxes payable. The state and county enhanced 911

1 excise taxes required by this chapter to be collected by a company or  
2 seller, are deemed to be held in trust by the company or seller until  
3 paid to the department. Any local exchange company, radio  
4 communications service company, seller of prepaid wireless  
5 telecommunications service, or interconnected voice over internet  
6 protocol service company that appropriates or converts the tax  
7 collected to its own use or to any use other than the payment of the  
8 tax to the extent that the money collected is not available for payment  
9 on the due date as prescribed in this chapter is guilty of a gross  
10 misdemeanor.

11 (2) If any local exchange company, radio communications service  
12 company, seller of prepaid wireless telecommunications service, or  
13 interconnected voice over internet protocol service company fails to  
14 collect the state or county enhanced 911 excise tax or, after  
15 collecting the tax, fails to pay it to the department in the manner  
16 prescribed by this chapter, whether such failure is the result of its  
17 own act or the result of acts or conditions beyond its control, the  
18 company or seller is personally liable to the state for the amount of  
19 the tax, unless the company or seller has taken from the buyer in good  
20 faith documentation, in a form and manner prescribed by the department,  
21 stating that the buyer is not a subscriber or consumer or is otherwise  
22 not liable for the state or county enhanced 911 excise tax.

23 (3) The amount of tax, until paid by the subscriber to the local  
24 exchange company, the radio communications service company, the  
25 interconnected voice over internet protocol service company, or to the  
26 department, or until paid by the consumer to the seller of prepaid  
27 wireless telecommunications service, or to the department, constitutes  
28 a debt from the subscriber to the company, or from the consumer to the  
29 seller. Any company or seller that fails or refuses to collect the tax  
30 as required with intent to violate the provisions of this chapter or to  
31 gain some advantage or benefit, either direct or indirect, and any  
32 subscriber or consumer who refuses to pay any tax due under this  
33 chapter is guilty of a misdemeanor. The state and county enhanced 911  
34 excise taxes required by this chapter to be collected by the local  
35 exchange company, radio communications service company, or  
36 interconnected voice over internet protocol service company must be  
37 stated separately on the billing statement that is sent to the  
38 subscriber.

1 (4) If a subscriber has failed to pay to the local exchange  
2 company, radio communications service company, or interconnected voice  
3 over internet protocol service company, or a consumer has failed to pay  
4 to the seller of prepaid wireless telecommunications service, the state  
5 or county enhanced 911 excise taxes imposed by this chapter and the  
6 company or seller has not paid the amount of the tax to the department,  
7 the department may, in its discretion, proceed directly against the  
8 subscriber or consumer for collection of the tax, in which case a  
9 penalty of ten percent may be added to the amount of the tax for  
10 failure of the subscriber or consumer to pay the tax to the company or  
11 seller, regardless of when the tax is collected by the department. Tax  
12 under this chapter is due as provided under RCW 82.14B.061.

13 **Sec. 105.** RCW 82.14B.030 and 2010 1st sp.s. c 19 s 3 are each  
14 amended to read as follows:

15 Subject to the enactment into law of the 2013 amendments to RCW  
16 82.08.0289 in section 107 of this act, the 2013 amendments to RCW  
17 80.36.430 in section 108 of this act, and the 2013 amendments to RCW  
18 43.20A.725 in section 109 of this act:

19 (1) The legislative authority of a county may impose a county  
20 enhanced 911 excise tax on the use of switched access lines in an  
21 amount not exceeding seventy cents per month for each switched access  
22 line. The amount of tax must be uniform for each switched access line.  
23 Each county must provide notice of the tax to all local exchange  
24 companies serving in the county at least sixty days in advance of the  
25 date on which the first payment is due. The tax imposed under this  
26 subsection must be remitted to the department by local exchange  
27 companies on a tax return provided by the department. The tax must be  
28 deposited in the county enhanced 911 excise tax account as provided in  
29 RCW 82.14B.063.

30 (2)(a) The legislative authority of a county may also impose a  
31 county enhanced 911 excise tax on the use of radio access lines:

32 (i) By subscribers whose place of primary use is located within the  
33 county in an amount not exceeding seventy cents per month for each  
34 radio access line. The amount of tax must be uniform for each radio  
35 access line under this subsection (2)(a)(i); and

36 (ii) By consumers whose retail transaction occurs within the county



1 in an amount not exceeding seventy cents per retail transaction. The  
2 amount of tax must be uniform for each retail transaction under this  
3 subsection (2)(a)(ii).

4 (b) The county must provide notice of the tax to all radio  
5 communications service companies serving in the county at least sixty  
6 days in advance of the date on which the first payment is due. The tax  
7 imposed under this section must be remitted to the department by radio  
8 communications service companies, including those companies that resell  
9 radio access lines, and sellers of prepaid wireless telecommunications  
10 services, on a tax return provided by the department. The tax must be  
11 deposited in the county enhanced 911 excise tax account as provided in  
12 RCW 82.14B.063.

13 (3)(a) The legislative authority of a county may impose a county  
14 enhanced 911 excise tax on the use of interconnected voice over  
15 internet protocol service lines in an amount not exceeding seventy  
16 cents per month for each interconnected voice over internet protocol  
17 service line. The amount of tax must be uniform for each line and must  
18 be levied on no more than the number of voice over internet protocol  
19 service lines on an account that are capable of simultaneous  
20 unrestricted outward calling to the public switched telephone network.

21 (b) The interconnected voice over internet protocol service company  
22 must use the place of primary use of the subscriber to determine which  
23 county's enhanced 911 excise tax applies to the service provided to the  
24 subscriber.

25 (c) The tax imposed under this section must be remitted to the  
26 department by interconnected voice over internet protocol service  
27 companies on a tax return provided by the department.

28 (d) The tax must be deposited in the county enhanced 911 excise tax  
29 account as provided in RCW 82.14B.063.

30 (e) To the extent that a local exchange carrier and an  
31 interconnected voice over internet protocol service company  
32 contractually jointly provide a single service line, only one service  
33 company is responsible for remitting the enhanced 911 excise taxes, and  
34 nothing in this section precludes service companies who jointly provide  
35 service from agreeing by contract which of them (~~shall~~) must remit  
36 the taxes collected.

37 (4) Counties imposing a county enhanced 911 excise tax must provide

1 an annual update to the enhanced 911 coordinator detailing the  
2 proportion of their county enhanced 911 excise tax that is being spent  
3 on:

4 (a) Efforts to modernize their existing enhanced 911 communications  
5 system; and

6 (b) Enhanced 911 operational costs.

7 (5) A state enhanced 911 excise tax is imposed on all switched  
8 access lines in the state. The amount of tax may not exceed twenty-  
9 five cents per month for each switched access line. The tax must be  
10 uniform for each switched access line. The tax imposed under this  
11 subsection must be remitted to the department by local exchange  
12 companies on a tax return provided by the department. Tax proceeds  
13 must be deposited by the treasurer in the enhanced 911 account created  
14 in RCW 38.52.540.

15 (6)(a) A state enhanced 911 excise tax is imposed on the use of all  
16 radio access lines:

17 (i) By subscribers whose place of primary use is located within the  
18 state in an amount of twenty-five cents per month for each radio access  
19 line. The tax must be uniform for each radio access line under this  
20 subsection (6)(a)(i); and

21 (ii) By consumers whose retail transaction occurs within the state  
22 in an amount of twenty-five cents per retail transaction. The tax must  
23 be uniform for each retail transaction under this subsection  
24 (6)(a)(ii).

25 (b) The tax imposed under this section must be remitted to the  
26 department by radio communications service companies, including those  
27 companies that resell radio access lines, and sellers of prepaid  
28 wireless telecommunications service, on a tax return provided by the  
29 department. Tax proceeds must be deposited by the treasurer in the  
30 enhanced 911 account created in RCW 38.52.540. The tax imposed under  
31 this section is not subject to the state sales and use tax or any local  
32 tax.

33 (7) For purposes of the state and county enhanced 911 excise taxes  
34 imposed by subsections (2) and (6) of this section, the retail  
35 transaction is deemed to occur at the location where the transaction is  
36 sourced to under RCW 82.32.520(3)(c).

37 (8) A state enhanced 911 excise tax is imposed on all  
38 interconnected voice over internet protocol service lines in the state.

1 The amount of tax may not exceed twenty-five cents per month for each  
2 interconnected voice over internet protocol service line whose place of  
3 primary use is located in the state. The amount of tax must be uniform  
4 for each line and must be levied on no more than the number of voice  
5 over internet protocol service lines on an account that are capable of  
6 simultaneous unrestricted outward calling to the public switched  
7 telephone network. The tax imposed under this subsection must be  
8 remitted to the department by interconnected voice over internet  
9 protocol service companies on a tax return provided by the department.  
10 Tax proceeds must be deposited by the treasurer in the enhanced 911  
11 account created in RCW 38.52.540.

12 ~~((+8))~~ (9) For calendar year 2011, the taxes imposed by  
13 subsections (5) and ~~((+7))~~ (8) of this section must be set at their  
14 maximum rate. By August 31, 2011, and by August 31st of each year  
15 thereafter, the state enhanced 911 coordinator must recommend the level  
16 for the next year of the state enhanced 911 excise tax imposed by  
17 subsections (5) and ~~((+7))~~ (8) of this section, based on a systematic  
18 cost and revenue analysis, to the utilities and transportation  
19 commission. The commission must by the following October 31st  
20 determine the level of the state enhanced 911 excise taxes imposed by  
21 subsections (5) and ~~((+7))~~ (8) of this section for the following year.

22 **Sec. 106.** RCW 82.14B.200 and 2010 1st sp.s. c 19 s 12 are each  
23 amended to read as follows:

24 Subject to the enactment into law of the 2013 amendments to RCW  
25 82.08.0289 in section 107 of this act, the 2013 amendments to RCW  
26 80.36.430 in section 108 of this act, and the 2013 amendments to RCW  
27 43.20A.725 in section 109 of this act:

28 (1) Unless a seller, local exchange company, radio communications  
29 service company, or interconnected voice over internet protocol service  
30 company has taken from the buyer documentation, in a form and manner  
31 prescribed by the department, stating that the buyer is not a  
32 subscriber, consumer, or is otherwise not liable for the tax, the  
33 burden of proving that a sale of the use of a switched access line,  
34 radio access line, or interconnected voice over internet protocol  
35 service line was not a sale to a subscriber, consumer, or was not  
36 otherwise subject to the tax is upon the person who made the sale.

1 (2) If a seller, local exchange company, radio communications  
2 service company, or interconnected voice over internet protocol service  
3 company does not receive documentation, in a form and manner prescribed  
4 by the department, stating that the buyer is not a subscriber,  
5 consumer, or is otherwise not liable for the tax at the time of the  
6 sale, have such documentation on file at the time of the sale, or  
7 obtain such documentation from the buyer within a reasonable time after  
8 the sale, the seller, local exchange company, radio communications  
9 service company, or interconnected voice over internet protocol service  
10 company remains liable for the tax as provided in RCW 82.14B.042,  
11 unless the seller, local exchange company, radio communications service  
12 company, or interconnected voice over internet protocol service company  
13 can demonstrate facts and circumstances according to rules adopted by  
14 the department that show the sale was properly made without payment of  
15 the state or county enhanced 911 excise tax.

16 (3) The penalty imposed by RCW 82.32.291 may not be assessed on  
17 state or county enhanced 911 excise taxes due but not paid as a result  
18 of the improper use of documentation stating that the buyer is not a  
19 subscriber or consumer or is otherwise not liable for the state or  
20 county enhanced 911 excise tax. This subsection does not prohibit or  
21 restrict the application of other penalties authorized by law.

22 **Sec. 107.** RCW 82.08.0289 and 2007 c 6 s 1006 and 2007 c 6 s 1005  
23 are each reenacted and amended to read as follows:

24 Subject to the enactment into law of the 2013 amendments to RCW  
25 82.14B.040 in section 103 of this act, the 2013 amendments to RCW  
26 82.14B.042 in section 104 of this act, the 2013 amendments to RCW  
27 82.14B.030 in section 105 of this act, the 2013 amendments to RCW  
28 82.14B.200 in section 106 of this act, the 2013 amendments to RCW  
29 80.36.430 in section 108 of this act, and the 2013 amendments to RCW  
30 43.20A.725 in section 109 of this act:

31 (1) Until the effective date of this section, the tax levied by RCW  
32 82.08.020 ((shall)) does not apply to sales of:

33 (a) Local service;

34 (b) Coin-operated telephone service; and

35 (c) Mobile telecommunications services, including any toll service,  
36 provided to a customer whose place of primary use is outside this  
37 state.

1 (2) The definitions in RCW 82.04.065, as well as the definitions in  
2 this subsection, apply to this section.

3 (a) "Local service" means: (i) Ancillary services and  
4 telecommunications service, as those terms are defined in RCW  
5 82.04.065, other than toll service, provided to an individual  
6 subscribing to a residential class of telephone service offered under  
7 a tariff required to be filed with the Washington utilities and  
8 transportation commission under Title 80 RCW; and (ii) fixed  
9 interconnected voice over internet protocol service, other than the  
10 nonlocal service allocation attributable to that service, sold by a  
11 provider to an individual classified as residential by that provider.

12 (b) "Toll service" means long distance service regardless of the  
13 method of billing for such service, but does not include customer  
14 access line charges for access to a toll calling network.

15 (c) "Coin-operated telephone service" means a telecommunications  
16 service paid for by inserting money into a telephone accepting direct  
17 deposits of money to operate.

18 (d) "Fixed interconnected voice over internet protocol service"  
19 means a service that meets the definition of interconnected voice over  
20 internet protocol service in 47 C.F.R. Sec. 9.3 on January 1, 2009, and  
21 that offers an active telephone number or successor dialing protocol  
22 assigned by a provider; provides inbound and outbound calling  
23 capability; and can be used for transmission of telephone calls only  
24 from a fixed location.

25 (e) "Nonlocal service allocation" means the portion of the  
26 provider's fixed interconnected voice over internet protocol service  
27 attributable to the provider's nationwide nonlocal service activity as  
28 determined using a method sanctioned by the federal communications  
29 commission in FCC 06-94 and reported to the federal communications  
30 commission for the same calendar quarter. If the provider does not  
31 report any nonlocal service activity to the federal communications  
32 commission, the full revenue derived from the fixed interconnected  
33 voice over internet protocol service is deemed part of the nonlocal  
34 service allocation.

35 (f) "Provider" means a provider of a fixed interconnected voice  
36 over internet protocol service that is subject to a franchise fee in  
37 this state under the authority of 47 U.S.C. Sec. 542(a).

1       **Sec. 108.** RCW 80.36.430 and 2011 1st sp.s. c 50 s 968 are each  
2 amended to read as follows:

3       Subject to the enactment into law of the 2013 amendments to RCW  
4 82.14B.040 in section 103 of this act, the 2013 amendments to RCW  
5 82.14B.042 in section 104 of this act, the 2013 amendments to RCW  
6 82.14B.030 in section 105 of this act, the 2013 amendments to RCW  
7 82.14B.200 in section 106 of this act, and the 2013 amendments to RCW  
8 82.08.0289 in section 107 of this act:

9       (1) The Washington telephone assistance program (~~((shall be))~~) is  
10 funded by (~~((a telephone assistance excise tax on all switched access~~  
11 ~~lines))~~) the legislature by means of a biennial general fund  
12 appropriation to the department and by funds from any federal  
13 government or other programs for this purpose. (~~((Switched access lines~~  
14 ~~are defined in RCW 82.14B.020. The telephone assistance excise tax~~  
15 ~~shall be applied equally to all residential and business access lines~~  
16 ~~not to exceed fourteen cents per month. The department shall submit an~~  
17 ~~approved annual budget for the Washington telephone assistance program~~  
18 ~~to the department of revenue no later than March 1st prior to the~~  
19 ~~beginning of each fiscal year. The department of revenue shall then~~  
20 ~~determine the amount of telephone assistance excise tax to be placed on~~  
21 ~~each switched access line and shall inform local exchange companies and~~  
22 ~~the utilities and transportation commission of this amount no later~~  
23 ~~than May 1st. The department of revenue shall determine the amount of~~  
24 ~~telephone assistance excise tax by dividing the total of the program~~  
25 ~~budget funded by the telephone assistance excise tax, as submitted by~~  
26 ~~the department, by the total number of switched access lines in the~~  
27 ~~prior calendar year. The telephone assistance excise tax shall be~~  
28 ~~separately identified on each ratepayer's bill as the "Washington~~  
29 ~~telephone assistance program." All money collected from the telephone~~  
30 ~~assistance excise tax shall be transferred to a telephone assistance~~  
31 ~~fund administered by the department.))~~)

32       (2) Local exchange companies (~~((shall))~~) must bill the (~~((fund))~~)  
33 department for their expenses incurred in offering the telephone  
34 assistance program, including administrative and program expenses. The  
35 department (~~((shall))~~) must disburse the money to the local exchange  
36 companies. The department is exempted from having to conclude a  
37 contract with local exchange companies in order to effect this  
38 reimbursement.       The department (~~((shall))~~) must recover its

1 administrative costs (~~from the fund~~). The department may specify by  
2 rule the range and extent of administrative and program expenses that  
3 will be reimbursed to local exchange companies.

4 (3) The department (~~shall~~) must enter into an agreement with the  
5 department of commerce for an amount not to exceed eight percent of the  
6 prior fiscal year's total revenue for the administrative and program  
7 expenses of providing community service voice mail services. The  
8 community service voice mail service may include toll-free lines in  
9 community action agencies through which recipients can access their  
10 community service voice mailboxes at no charge.

11 (~~(4) During the 2009-2011 and 2011-2013 biennia, the department  
12 shall enter into an agreement with the WIN 211 organization for  
13 operational support. During the 2011-2013 biennium, the department  
14 shall provide five hundred thousand dollars per fiscal year for this  
15 purpose.~~

16 (~~(5) During the 2009-2011 biennium, the telephone assistance fund  
17 shall also be used in support of the economic services administration  
18 call centers and related operations.~~)

19 **Sec. 109.** RCW 43.20A.725 and 2011 1st sp.s. c 50 s 944 are each  
20 amended to read as follows:

21 Subject to the enactment into law of the 2013 amendments to RCW  
22 82.14B.040 in section 103 of this act, the 2013 amendments to RCW  
23 82.14B.042 in section 104 of this act, the 2013 amendments to RCW  
24 82.14B.030 in section 105 of this act, the 2013 amendments to RCW  
25 82.14B.200 in section 106 of this act, and the 2013 amendments to RCW  
26 82.08.0289 in section 107 of this act:

27 (1) The department, through the sole authority of the office or its  
28 successor organization, (~~shall~~) must maintain a program whereby an  
29 individual of school age or older who possesses a hearing or speech  
30 impairment is provided with telecommunications equipment, software,  
31 and/or peripheral devices, digital or otherwise, that is determined by  
32 the office to be necessary for such a person to access and use  
33 telecommunications transmission services effectively.

34 (2) The department, through the sole authority of the office or its  
35 successor organization, (~~shall~~) must maintain a program where  
36 telecommunications relay services of a human or electronic nature will  
37 be provided to connect hearing impaired, deaf-blind, or speech impaired

1 persons with persons who do not have a hearing or speech impairment.  
2 Such telecommunications relay services (~~shall~~) must provide the  
3 ability for an individual who has a hearing or speech impairment to  
4 engage in voice, tactile, or visual communication by wire or radio with  
5 a hearing individual in a manner that is functionally equivalent to the  
6 ability of an individual who does not have a hearing or speech  
7 impairment to communicate using voice or visual communication services  
8 by wire or radio subject to subsection (4)(b) of this section.

9 (3) The telecommunications relay service and equipment distribution  
10 program may operate in such a manner as to provide communications  
11 transmission opportunities that are capable of incorporating new  
12 technologies that have demonstrated benefits consistent with the intent  
13 of this chapter and are in the best interests of the citizens of this  
14 state.

15 (4) The office (~~shall~~) must administer and control the award of  
16 money to all parties incurring costs in implementing and maintaining  
17 telecommunications services, programs, equipment, and technical support  
18 services according to this section. The relay service contract  
19 (~~shall~~) must be awarded to an individual company registered as a  
20 telecommunications company by the utilities and transportation  
21 commission, to a group of registered telecommunications companies, or  
22 to any other company or organization determined by the office as  
23 qualified to provide relay services, contingent upon that company or  
24 organization being approved as a registered telecommunications company  
25 prior to final contract approval. The relay system providers and  
26 telecommunications equipment vendors (~~shall~~) must be selected on the  
27 basis of cost-effectiveness and utility to the greatest extent possible  
28 under the program and technical specifications established by the  
29 office.

30 (a) To the extent funds are available (~~under the then-current rate~~  
31 ~~and not otherwise held in reserve or required for other~~) for the  
32 purposes authorized by this chapter, the office may award contracts for  
33 communications and related services and equipment for hearing impaired  
34 or speech impaired individuals accessing or receiving services provided  
35 by, or contracted for, the department to meet access obligations under  
36 Title 2 of the federal Americans with disabilities act or related  
37 federal regulations.



1 (b) The office (~~shall~~) must perform its duties under this section  
2 with the goal of achieving functional equivalency of access to and use  
3 of telecommunications services similar to the enjoyment of access to  
4 and use of such services experienced by an individual who does not have  
5 a hearing or speech impairment only to the extent that funds are  
6 available (~~under the then current rate and not otherwise held in~~  
7 ~~reserve or required for other~~) for the purposes authorized by this  
8 chapter.

9 (5) The program (~~shall~~) must be funded by (~~a telecommunications~~  
10 ~~relay service (TRS) excise tax applied to each switched access line~~  
11 ~~provided by the local exchange companies. The office shall determine,~~  
12 ~~in consultation with the office's program advisory committee, the~~  
13 ~~budget needed to fund the program on an annual basis, including both~~  
14 ~~operational costs and a reasonable amount for capital improvements such~~  
15 ~~as equipment upgrade and replacement. The budget proposed by the~~  
16 ~~office, together with documentation and supporting materials, shall be~~  
17 ~~submitted to the office of financial management for review and~~  
18 ~~approval. The approved budget shall be given by the department in an~~  
19 ~~annual budget to the department of revenue no later than March 1st~~  
20 ~~prior to the beginning of the fiscal year. The department of revenue~~  
21 ~~shall then determine the amount of telecommunications relay service~~  
22 ~~excise tax to be placed on each switched access line and shall inform~~  
23 ~~local exchange companies and the utilities and transportation~~  
24 ~~commission of this amount no later than May 1st. The department of~~  
25 ~~revenue shall determine the amount of telecommunications relay service~~  
26 ~~excise tax to be collected in the following fiscal year by dividing the~~  
27 ~~total of the program budget, as submitted by the office, by the total~~  
28 ~~number of switched access lines in the prior calendar year, as reported~~  
29 ~~to the department of revenue under chapter 82.14B RCW, and shall not~~  
30 ~~exercise any further oversight of the program under this subsection~~  
31 ~~other than administering the collection of the telecommunications relay~~  
32 ~~service excise tax as provided in RCW 82.72.010 through 82.72.090. The~~  
33 ~~telecommunications relay service excise tax shall not exceed nineteen~~  
34 ~~cents per month per access line. The telecommunications relay service~~  
35 ~~excise tax shall be separately identified on each ratepayer's bill with~~  
36 ~~the following statement: "Funds federal ADA requirement." All~~  
37 ~~proceeds from the telecommunications relay service excise tax shall be~~  
38 ~~put into a fund to be administered by the office through the~~

1 department. During the 2009-2011 and 2011-2013 fiscal biennia, the  
2 funds may also be used to provide individualized employment services  
3 and employment-related counseling to people with disabilities, and  
4 technical assistance to employers about the employment of people with  
5 disabilities. "Switched access line" has the meaning provided in RCW  
6 82.14B.020)) the legislature by means of a biennial general fund  
7 appropriation to the department for the purposes of the program.

8 (6) The telecommunications relay service program and equipment  
9 vendors ((shall)) must provide services and equipment consistent with  
10 the requirements of federal law for the operation of both interstate  
11 and intrastate telecommunications services for the hearing impaired or  
12 speech impaired. The department and the utilities and transportation  
13 commission ((shall be)) are responsible for ensuring compliance with  
14 federal requirements and ((shall)) must provide timely notice to the  
15 legislature of any legislation that may be required to accomplish  
16 compliance.

17 (7) The department ((shall)) must adopt rules establishing  
18 eligibility criteria, ownership obligations, financial contributions,  
19 and a program for distribution to individuals requesting and receiving  
20 such telecommunications devices distributed by the office, and other  
21 rules necessary to administer programs and services consistent with  
22 this chapter.

23 NEW SECTION. Sec. 110. For services affected by the expiration of  
24 the exemption for local service under RCW 82.08.0289(1) that cover a  
25 billing period starting before and ending after the effective date of  
26 section 107 of this act, RCW 82.08.064(3)(a) is deemed to apply, and  
27 retail sales tax will apply to the first billing period starting on or  
28 after the effective date of section 107 of this act.

29 NEW SECTION. Sec. 111. Section 107 of this act applies  
30 prospectively as well as retroactively to tax periods open for  
31 assessment or refund of taxes under RCW 82.32.050 or 82.32.060,  
32 including any refund claims or disputed assessments pending before the  
33 department of revenue, board of tax appeals, or any court of law.

34 NEW SECTION. Sec. 112. In accordance with Article VIII, section  
35 5 of the state Constitution, section 107 of this act does not authorize

1 refunds of sales tax validly collected before the effective date of  
2 this section on fixed interconnected voice over internet protocol  
3 service as defined in section 107 of this act.

4 NEW SECTION. **Sec. 113.** The following acts or parts of acts are  
5 each repealed:

6 (1) RCW 82.72.010 (Definitions) and 2007 c 6 s 1010 & 2004 c 254 s  
7 3;

8 (2) RCW 82.72.020 (Authorization to administer telephone program  
9 excise taxes) and 2004 c 254 s 4;

10 (3) RCW 82.72.030 (Collection of tax by local exchange company) and  
11 2004 c 254 s 5;

12 (4) RCW 82.72.040 (Tax payment and collection requirements) and  
13 2009 c 563 s 214 & 2004 c 254 s 6;

14 (5) RCW 82.72.050 (Administration of telephone program excise  
15 taxes) and 2004 c 254 s 7;

16 (6) RCW 82.72.060 (Tax returns) and 2004 c 254 s 8;

17 (7) RCW 82.72.070 (Liability for payment of taxes) and 2009 c 563  
18 s 215 & 2004 c 254 s 9;

19 (8) RCW 82.72.080 (Liability for payment of taxes upon termination,  
20 dissolution, or abandonment of business) and 2004 c 254 s 10; and

21 (9) RCW 82.72.090 (Applicability of chapter 82.32 RCW) and 2004 c  
22 254 s 11.

23 NEW SECTION. **Sec. 114.** The repeals in section 113 of this act do  
24 not affect any existing right acquired or liability or obligation  
25 incurred under the statutes repealed or under any rule or order adopted  
26 under those statutes nor do they it affect any proceedings instituted  
27 under them.

28 **Sec. 115.** RCW 80.36.420 and 2003 c 134 s 3 are each amended to  
29 read as follows:

30 The Washington telephone assistance program (~~shall~~) may be  
31 available to participants of programs set forth in RCW 80.36.470.  
32 Within funds specifically appropriated by the legislature for the  
33 Washington telephone assistance program, assistance (~~shall~~) may  
34 consist of the following components:

1 (1) A discount on service connection fees of fifty percent or more  
2 as set forth in RCW 80.36.460.

3 (2) A waiver of deposit requirements on local exchange service, as  
4 set forth in RCW 80.36.460.

5 (3) A discounted flat rate service for local exchange service,  
6 which (~~shall be~~) is subject to the following conditions:

7 (a) The commission (~~shall~~) must establish a single telephone  
8 assistance rate for all local exchange companies operating in the state  
9 of Washington. The telephone assistance rate (~~shall~~) must include  
10 any federal end user charges and any other charges necessary to obtain  
11 local exchange service.

12 (b) The commission (~~shall~~) must, in establishing the telephone  
13 assistance rate, consider all charges for local exchange service,  
14 including federal end user charges, mileage charges, extended area  
15 service, and any other charges necessary to obtain local exchange  
16 service.

17 (c) The telephone assistance rate (~~shall~~) is only (~~be~~)  
18 available to eligible customers subscribing to the lowest priced local  
19 exchange flat rate service, where the lowest priced local exchange flat  
20 rate service, including any federal end user charges and any other  
21 charges necessary to obtain local exchange service, is greater than the  
22 telephone assistance rate.

23 (d) The cost of providing the service (~~shall~~) must be paid, to  
24 the maximum extent possible, by a waiver of all or part of federal end  
25 user charges and, to the extent necessary, from the (~~telephone~~  
26 ~~assistance fund created by RCW 80.36.430~~) available appropriated  
27 funds.

28 (4) A discount on a community service voice mailbox that provides  
29 recipients with (a) an individually assigned telephone number; (b) the  
30 ability to record a personal greeting; and (c) a secure private  
31 security code to retrieve messages.

32 **Sec. 116.** RCW 80.36.450 and 2003 c 134 s 6 are each amended to  
33 read as follows:

34 Within funds specifically appropriated by the legislature for the  
35 Washington telephone assistance program, the Washington telephone  
36 assistance program (~~shall~~) must limit reimbursement to one

1 residential switched access line per eligible household, or one  
2 discounted community service voice mailbox per eligible person.

3 **Sec. 117.** RCW 80.36.460 and 2003 c 134 s 7 are each amended to  
4 read as follows:

5 Local exchange companies (~~shall~~) must waive deposits on local  
6 exchange service for eligible subscribers and provide a fifty percent  
7 discount on the company's customary charge for commencing  
8 telecommunications service for eligible subscribers. (~~Part or all of~~  
9 ~~the remaining fifty percent of service connection fees may be paid by~~  
10 ~~funds from federal government or other programs for this purpose.))  
11 The commission or other appropriate agency (~~shall~~) must make timely  
12 application for any available federal funds. The remaining portion of  
13 the connection fee to be paid by the subscriber (~~shall~~) must be  
14 expressly payable by installment fees spread over a period of months.  
15 A subscriber may, however, choose to pay the connection fee in a lump  
16 sum. Costs associated with the waiver and discount (~~shall~~) must be  
17 accounted for separately and recovered from the telephone assistance  
18 (~~fund~~) appropriation.~~

19 **Sec. 118.** RCW 80.36.470 and 2003 c 134 s 8 are each amended to  
20 read as follows:

21 (1) Adult recipients of department-administered programs for the  
22 financially needy which provide continuing financial or medical  
23 assistance, food stamps, or supportive services to persons in their own  
24 homes are eligible for participation in the telephone assistance  
25 program. The department (~~shall~~) must notify the participants of  
26 their eligibility.

27 (2) Participants in community service voice mail programs are  
28 eligible for participation in services available under RCW 80.36.420  
29 (1), (2), and (3) after completing use of community service voice mail  
30 services. Eligibility (~~shall~~) must be for a period including the  
31 remainder of the current service year and the following service year.  
32 Community agencies (~~shall~~) must notify the department of participants  
33 eligible under this subsection.

34 (3) Enrollment in the Washington telephone assistance program may  
35 not result in expenditures that exceed the total amount of funds made  
36 available by the legislature for the Washington telephone assistance

1 program. When the department finds that there is a danger of an  
2 overexpenditure of appropriated funds, the department must close the  
3 Washington telephone assistance program enrollment until the department  
4 finds the danger no longer exists.

5 **PART II**

6 **Establishing a Temporary Universal Communications Services Program**

7 NEW SECTION. Sec. 201. (1) The legislature finds that:

8 (a) The benefit that all consumers and communications providers  
9 derive from connection to the legacy public telephone network is  
10 enhanced by a universal service program that enables as many consumers  
11 to be connected to the public network as possible; and

12 (b) Consumers in all areas of the state should continue to have  
13 access to communications services at reasonable rates.

14 (2) The state has long relied on incumbent local exchange carriers  
15 to provide a ubiquitous incumbent public network as carriers of last  
16 resort. Significant changes are occurring in the communications  
17 marketplace, including: (a) The migration from customer reliance on  
18 access lines for voice service to the use of broadband for a number of  
19 communications applications; and (b) changes in federal regulations  
20 governing: How communications providers compensate other providers for  
21 the use of the network; and eligibility for federal universal service  
22 funds. These changes are adversely affecting the ability of some  
23 communications providers to continue to offer communications services  
24 in rural areas of the state of Washington at rates that are comparable  
25 to those prevailing in urban areas. These changes, absent explicit  
26 federal and state universal service support for such communications  
27 providers, may lead, in the short term, to unreasonable telephone  
28 service rate increases or cessation of service for some Washington  
29 consumers. Therefore, it is in the best interest of the state to  
30 ensure that incumbent local exchange carriers are able to continue to  
31 provide services as the carrier of last resort.

32 (3) As a result of the foregoing and to enable all consumers in  
33 Washington to access and benefit from a ubiquitous public network, the  
34 legislature intends to create a targeted and temporary universal  
35 service program that supports the legacy public telephone network of  
36 Washington's smaller incumbent communications providers and ensures

1 access to the network during this transition to broadband services, is  
2 operated in a transparent manner pursuant to rules adopted by the  
3 utilities and transportation commission, and advances universal service  
4 in a manner not inconsistent with the requirements of 47 U.S.C. Sec.  
5 254, the federal telecommunications act of 1996.

6 NEW SECTION. **Sec. 202.** A new section is added to chapter 80.36  
7 RCW to read as follows:

8 (1) The definitions in this section apply throughout this section  
9 and sections 203 through 209 and 212 of this act unless the context  
10 clearly requires otherwise.

11 (a) "Basic residential service" means those services set out in 47  
12 C.F.R. Sec. 54.101(a)(2011) and mandatory extended area service  
13 approved by the commission.

14 (b) "Basic telecommunications services" means the following  
15 services:

- 16 (i) Single-party service;
- 17 (ii) Voice grade access to the public switched network;
- 18 (iii) Support for local usage;
- 19 (iv) Dual tone multifrequency signaling (touch-tone);
- 20 (v) Access to emergency services (911);
- 21 (vi) Access to operator services;
- 22 (vii) Access to interexchange services;
- 23 (viii) Access to directory assistance; and
- 24 (ix) Toll limitation services.

25 (c) "Communications provider" means a provider of communications  
26 services that assigns a working telephone number to a final consumer  
27 for intrastate wireline or wireless communications services or  
28 interconnected voice over internet protocol service, and includes local  
29 exchange carriers.

30 (d) "Communications services" includes telecommunications services  
31 and information services and any combination thereof.

32 (e) "Incumbent local exchange carrier" has the same meaning as set  
33 forth in 47 U.S.C. Sec. 251(h).

34 (f) "Incumbent public network" means the network established by  
35 incumbent local exchange carriers for the delivery of communications  
36 services to customers that is used by communications providers for

1 origination or termination of communications services by or to  
2 customers.

3 (g) "Interconnected voice over internet protocol service" means an  
4 interconnected voice over internet protocol service that: (a) Enables  
5 real-time, two-way voice communications; (b) requires a broadband  
6 connection from the user's location; (c) requires internet protocol-  
7 compatible customer premises equipment; and (d) permits users generally  
8 to receive calls that originate on the public network and to terminate  
9 calls to the public network.

10 (h) "Program" means the state universal communications services  
11 program created in section 203 of this act.

12 (i) "Telecommunications" has the same meaning as defined in 47  
13 U.S.C. Sec. 153(43).

14 (j) "Telecommunications act of 1996" means the telecommunications  
15 act of 1996 (P.L. 104-104, 110 Stat. 56).

16 (k) "Working telephone number" means a north American numbering  
17 plan telephone number, or successor dialing protocol, that is developed  
18 for use in placing calls to or from the public network, that enables a  
19 consumer to make or receive calls.

20 (2) This section expires July 1, 2020.

21 NEW SECTION. **Sec. 203.** A new section is added to chapter 80.36  
22 RCW to read as follows:

23 (1) A state universal communications services program is  
24 established. The program is established to protect public safety and  
25 welfare under the authority of the state to regulate telecommunications  
26 under Article XII, section 19 of the state Constitution. The purpose  
27 of the program is to support continued provision of basic  
28 telecommunications services under rates, terms, and conditions  
29 established by the commission during the time over which incumbent  
30 communications providers in the state are adapting to changes in  
31 federal universal service fund and intercarrier compensation support.

32 (2) Under the program, eligible communications providers may  
33 receive distributions from the universal communications services  
34 account created in section 208 of this act in exchange for the  
35 affirmative agreement to provide continued services under the rates,  
36 terms, and conditions established by the commission under this chapter  
37 for the period covered by the distribution. The commission must



1 implement and administer the program under terms and conditions  
2 established in sections 202 through 208 of this act. Expenditures for  
3 the program may not exceed five million dollars per fiscal year.

4 (3) A communications provider is eligible to receive distributions  
5 from the account if:

6 (a) The communications provider is: (i) An incumbent local  
7 exchange carrier serving fewer than forty thousand access lines in the  
8 state; or (ii) a radio communications service company providing  
9 wireless two-way voice communications service to less than the  
10 equivalent of forty thousand access lines in the state. For purposes  
11 of determining the access line threshold in this subsection, the access  
12 lines or equivalents of all affiliates must be counted as a single  
13 threshold;

14 (b) The customers of the communications provider are at risk of  
15 rate instability or service interruptions or cessations absent a  
16 distribution to the provider that will allow the provider to maintain  
17 rates reasonably close to the benchmark; and

18 (c) The communications provider meets any other requirements  
19 established by the commission pertaining to the provision of  
20 communications services, including basic telecommunications services  
21 and broadband services.

22 (4)(a) Distributions to eligible communications providers are based  
23 on a benchmark established by the commission. The benchmark is the  
24 rate the commission determines to be a reasonable amount customers  
25 should pay for basic residential service provided over the incumbent  
26 public network. However, if an incumbent local exchange carrier is  
27 charging rates above the benchmark for the basic residential service,  
28 that provider may not seek distributions from the fund for the purpose  
29 of reducing those rates to the benchmark.

30 (b) To receive a distribution under the program, an eligible  
31 communications provider must affirmatively consent to continue  
32 providing communications services to its customers under rates, terms,  
33 and conditions established by the commission pursuant to this chapter  
34 for the period covered by the distribution.

35 (5) The program is funded from amounts deposited by the legislature  
36 in the universal communications services account established in section  
37 208 of this act. The commission must operate the program within  
38 amounts appropriated for this purpose and deposited in the account.

1 (6) The commission must periodically review the accounts and  
2 records of any communications provider that receives distributions  
3 under the program to ensure compliance with the program and monitor the  
4 providers' use of the funds.

5 (7) The commission must establish an advisory board, consisting of  
6 a reasonable balance of representatives from different types of  
7 communications providers and consumers, to advise the commission on  
8 any rules and policies governing the operation of the program.

9 (8) The program terminates on June 30, 2019, and no distributions  
10 may be made after that date.

11 (9) This section expires July 1, 2020.

12 NEW SECTION. **Sec. 204.** A new section is added to chapter 80.36  
13 RCW to read as follows:

14 (1) To implement the program, the commission must adopt rules for  
15 the following purposes:

16 (a) Operation of the program, including criteria for: Eligibility  
17 for distributions; use of the funds; identification of any reports or  
18 data that must be filed with the commission, including, but not limited  
19 to, how a communication provider used the distributed funds; and the  
20 communications provider's broadband services and infrastructure;

21 (b) Operation of the universal communications services account  
22 established in section 208 of this act;

23 (c) Establishment of the benchmark used to calculate distributions;  
24 and

25 (d) Readoption, amendment, or repeal of any existing rules adopted  
26 pursuant to RCW 80.36.610 and 80.36.620 as necessary to be consistent  
27 with sections 202 through 209 of this act.

28 (2) This section expires July 1, 2020.

29 NEW SECTION. **Sec. 205.** A new section is added to chapter 80.36  
30 RCW to read as follows:

31 (1) In addition to any other penalties prescribed by law, the  
32 commission may impose penalties for failure to make or delays in making  
33 or filing any reports required by the commission for administration of  
34 the program. In addition, the commission may recover amounts  
35 determined to have been improperly distributed under section 203 of  
36 this act. For the purposes of this section, the provisions of RCW

1 80.04.380 through 80.04.405, inclusive, apply to all companies that  
2 receive support from the universal communications services account  
3 created in section 208 of this act.

4 (2) Any action taken under this section must be taken only after  
5 providing the affected communications provider with notice and an  
6 opportunity for a hearing, unless otherwise provided by law.

7 (3) Any amounts recovered under this section must be deposited in  
8 the universal communications services account created in section 208 of  
9 this act.

10 (4) This section expires July 1, 2020.

11 NEW SECTION. **Sec. 206.** A new section is added to chapter 80.36  
12 RCW to read as follows:

13 (1) The commission may delegate to the commission secretary or  
14 other staff the authority to resolve disputes and make other  
15 administrative decisions necessary to the administration and  
16 supervision of the program consistent with the relevant statutes and  
17 commission rules.

18 (2) This section expires July 1, 2020.

19 NEW SECTION. **Sec. 207.** (1) To ensure that this act is implemented  
20 in a timely manner, the utilities and transportation commission must  
21 adopt rules under section 204 of this act prior to July 1, 2014. To  
22 ensure timely implementation of this act, the utilities and  
23 transportation commission may initiate efforts to establish an advisory  
24 board and other actions under sections 203 and 204 of this act prior to  
25 July 1, 2014.

26 (2) This section expires July 1, 2020.

27 NEW SECTION. **Sec. 208.** A new section is added to chapter 80.36  
28 RCW to read as follows:

29 (1) The universal communications services account is created in the  
30 custody of the state treasurer. Revenues to the account consist of  
31 moneys deposited in the account by the legislature and any penalties or  
32 other recoveries received pursuant to section 205 of this act.  
33 Expenditures from the account may be used only for the purposes of the  
34 universal communications services program established in section 203 of  
35 this act. Only the secretary of the commission or the secretary's

1 designee may authorize expenditures from the account. The account is  
2 subject to allotment procedures under chapter 43.88 RCW, but an  
3 appropriation is not required for expenditures.

4 (2) This section expires July 1, 2020.

5 **Sec. 209.** RCW 80.36.610 and 1998 c 337 s 2 are each amended to  
6 read as follows:

7 ~~((1))~~ The commission is authorized to take actions, conduct  
8 proceedings, and enter orders as permitted or contemplated for a state  
9 commission under the ~~((federal))~~ telecommunications act of 1996 ~~((, P.L.~~  
10 ~~104-104 (110 Stat. 56), but the commission's authority to either~~  
11 ~~establish a new state program or to adopt new rules to preserve and~~  
12 ~~advance universal service under section 254(f) of the federal act is~~  
13 ~~limited to the actions expressly authorized by RCW 80.36.600)).~~ The  
14 commission may establish by rule fees to be paid by persons seeking  
15 commission action under the ~~((federal))~~ telecommunications act of 1996,  
16 and by parties to proceedings under that act, to offset in whole or  
17 part the commission's expenses that are not otherwise recovered through  
18 fees in implementing the act ~~((, but new fees or assessments charged~~  
19 ~~telecommunications carriers to either establish a state program or to~~  
20 ~~adopt rules to preserve and advance universal service under section~~  
21 ~~254(f) of the federal act do not take effect until the legislature has~~  
22 ~~approved a state universal service program.~~

23 ~~(2) The legislature intends that under the future universal service~~  
24 ~~program established in this state:~~

25 ~~(a) Every telecommunications carrier that provides intrastate~~  
26 ~~telecommunications services shall contribute, on an equitable and~~  
27 ~~nondiscriminatory basis, to the preservation and advancement of~~  
28 ~~universal service in the state;~~

29 ~~(b) The contributions shall be competitively and technologically~~  
30 ~~neutral; and~~

31 ~~(c) The universal service program to be established in accordance~~  
32 ~~with RCW 80.36.600 shall not be inconsistent with the requirements of~~  
33 ~~47 U.S.C. Sec. 254)).~~

34 NEW SECTION. **Sec. 210.** RCW 80.36.600 (Universal service program--  
35 Planning and preparation--Commission's duties--Approval of legislature

1 required--Definitions) and 1999 c 372 s 16 & 1998 c 337 s 1 are each  
2 repealed.

3 NEW SECTION. **Sec. 211.** A new section is added to chapter 80.36  
4 RCW to read as follows:

5 (1) The universal communications services program established in  
6 sections 201 through 208 of this act terminates on June 30, 2019.

7 (2) This section expires July 1, 2020.

8 NEW SECTION. **Sec. 212.** By December 1, 2017, and in compliance  
9 with RCW 43.01.036, the Washington utilities and transportation  
10 commission must report to the appropriate committees of the  
11 legislature, on the following: (1) Whether funding levels for each  
12 small telecommunications company have been adequate to maintain  
13 reliable universal service; (2) the future impacts on small  
14 telecommunications companies from the elimination of funding under this  
15 act; (3) the impacts on customer rates from the current level of  
16 funding and the future impacts when the funding terminates under this  
17 act; and (4) the impacts on line and service delivery investments when  
18 the funding is terminated under this act.

### 19 **PART III**

#### 20 **Providing Funding for Working Connections Child Care**

21 NEW SECTION. **Sec. 301.** A new section is added to chapter 43.215  
22 RCW to read as follows:

23 (1) Beginning September 1, 2013, the department must increase the  
24 base rate for all child care providers by five percent.

25 (2) Beginning September 1, 2013, the department must provide an  
26 additional two and one-half percent increase in the subsidy rate for  
27 child care providers who meet the quality rating and improvement system  
28 levels 2, 3, 4, or 5 in the early achievers program.

### 29 **PART IV**

#### 30 **Miscellaneous Provisions**

31 NEW SECTION. **Sec. 401.** Part I of this act takes effect August 1,  
32 2013.

1        NEW SECTION.    **Sec. 402.**    Sections 201 through 206, 208, 209, and  
2    211 of this act take effect July 1, 2014.

3        NEW SECTION.    **Sec. 403.**    Section 209 of this act expires July 1,  
4    2020.

5        NEW SECTION.    **Sec. 404.**    If any provision of this act or its  
6    application to any person or circumstance is held invalid, the  
7    remainder of the act or the application of the provision to other  
8    persons or circumstances is not affected.

--- END ---