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**HOUSE BILL 1460**

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

**By** Representatives Gregerson, Taylor, Simmons, J. Johnson, Lekanoff, Santos, Slatter, Dolan, Peterson, Callan, Ormsby, Morgan, Bateman, Bergquist, Ramel, Thai, Valdez, Pollet, Lovick, Macri, Chopp, Hackney, Ortiz-Self, Riccelli, Kloba, and Harris-Talley

AN ACT Relating to closing the digital divide by establishing excise taxes on telecommunications services to fund the expansion of the universal service programs in Washington; amending RCW 43.330.530, 43.330.532, 43.330.534, 43.330.412, and 80.36.690; adding new sections to chapter 80.36 RCW; adding a new section to chapter 43.330 RCW; adding new chapters to Title 82 RCW; creating a new section; prescribing penalties; and providing effective dates.

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

**PART I**

**SENIOR CALL-CHECK SERVICE AND NOTIFICATION PROGRAM**

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

(1) The department shall establish and administer a senior call-check service and notification program to eligible participants.

(2) The program established under subsection (1) of this section consists of a telephone call made or received each day at a regularly scheduled time by the department or the department's designee to the residence of an eligible participant to verify that the participant is able to receive notifications and answer the telephone or place a call from the telephone. A senior call-check service and notification includes:

(a) A live telephone call placed by an eligible participant or received by an eligible participant at a regularly scheduled time each day;

(b) If the eligible participant does not answer or place the regularly scheduled call and the department designs the program to require this action, one or more automated or live telephone calls to the eligible participant;

(c) If the eligible participant does not answer a call under (b) of this subsection, an additional automated or live telephone call to notify the person of record whose name has been provided to the department; and

(d) A notification to the eligible participant regarding information that the department has determined to be relevant.

(3) The department must ensure the program services under subsection (2) of this section and program information, including sign-up and marketing materials, are language accessible.

(4) The department may contract with a private vendor or nonprofit organization to provide the senior call-check service and notification required under this section.

(5) The department may adopt rules as necessary to implement the program.

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

(a) "Department" means the department of social and health services.

(b) "Eligible participant" means a resident of the state who is at least 65 years old.

(c) "Person of record" includes a local government agency, or other person or entity designated by the department, that chooses to participate in the program.

(d) "Program" means the senior call-check service and notification program established in this section.

**PART II**

**WASHINGTON LIFELINE PROGRAM**

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

The definitions in this section apply throughout this section and sections 3 through 11 of this act unless the context clearly requires otherwise.

(1) "Eligible telecommunications carrier" means a telecommunications carrier designated by the commission as an eligible telecommunications carrier.

(2) "Line" means an access line, service to an activated wireless handset, or service to an internet connection used as a substitute for a traditional telecommunications connection.

(3) "Low-income" means households as defined by the commission, provided that the definition may not exceed the higher of 80 percent of area median household income or 200 percent of the federal poverty level, adjusted for household size.

(4) "Program" means the Washington lifeline program established in section 3 of this act.

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

(1) A Washington lifeline program is established. Subject to the requirements under this section and sections 4 through section 11 of this act, the commission shall develop, implement, and administer the program to provide qualifying low-income customers reduced costs for eligible voice and broadband services under subsection (2) of this section.

(2) All eligible telecommunications carriers shall offer to all qualified low-income customers a lifeline adjustment to the customer's rate for voice and broadband technologies as provided in 47 C.F.R. Sec. 54.401(a) (2016).

(3) An eligible telecommunications carrier enrolling a customer for the lifeline program shall do so as provided under 47 C.F.R. Sec. 54.404(a) and (b) (2020).

(4) A customer may not request a lifeline adjustment on more than one line. An eligible telecommunications carrier shall not apply the lifeline adjustment unless the eligible telecommunications carrier has certified under subsection (3) of this section that the customer is not receiving a lifeline adjustment on another line or from any other provider.

(5) If an eligible telecommunications carrier becomes aware that a customer is receiving a lifeline adjustment on more than one line or from more than one provider, the eligible telecommunications carrier shall provide notice and take action to terminate the lifeline customer's enrollment as provided under section 8 of this act to ensure that the customer receives a lifeline adjustment on only one line.

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

The commission must adopt rules establishing a lifeline base rate under the program. The commission may consider the following methods for determining the base rate under this section:

(1) Summing all relevant charges and fees an eligible telecommunications carrier is offering for local service on a stand-alone basis;

(2) Establishing a $25 base rate for eligible telecommunications carriers that do not offer local service on a stand-alone basis, and only offers it as part of a service package; or

(3) By assessing the particular facts and circumstances concerning an eligible telecommunications carrier's local service or internet access charges.

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

(1) Except as provided in subsection (2) of this section and section 6 of this act:

(a) If the lifeline base rate is $25 or less, the lifeline adjustment is $10.

(b) If the lifeline base rate is greater than $25, the lifeline adjustment is the lesser of the following:

(i) The amount necessary to reduce the lifeline monthly rate to $15;

(ii) The maximum reimbursement available under 47 C.F.R. Sec. 54.403, plus $9.25.

(2) If the eligible telecommunications carrier offers prepaid wireless service, the lifeline adjustment for that service must be the greater of the following:

(a) The number of minutes that, when calculated using the lowest per minute rate the eligible telecommunications carrier offers to its prepaid wireless customers, equals or exceeds the value of the adjustment under subsection (1) of this section that would otherwise apply;

(b) The number of minutes recognized by the federal communications commission as an acceptable compliance plan provision for that provider.

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

(1) When a customer qualifies for federal universal service fund support for eligible residents of tribal lands under 47 C.F.R. Sec. 54.400:

(a) If the lifeline base rate is $25 or less, the lifeline adjustment is $10, plus whatever federal universal service fund support the customer qualifies for as an eligible resident of tribal lands.

(b) If the lifeline base rate is greater than $25, the lifeline adjustment is the amount necessary to reduce the lifeline monthly rate to the level at which the adjustment results in a state reimbursement amount that is equal to what it would be under section 5(1)(b) of this act, plus whatever federal universal service fund support the customer qualifies for as an eligible resident of tribal lands.

(2) The adjustment under subsection (1)(a) of this section must be increased automatically if both of the following occur:

(a) A federal communications commission order or a change in federal law causes an increase in a customer's lifeline base rate;

(b) The state reimbursement amount after the increased adjustment is not greater than it was before the federal communications commission order or change in federal law.

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

(1) Except as provided in subsection (2) of this section, the eligible telecommunications carrier shall show the lifeline adjustment either as an adjustment to the full tariffed or standard rate on a customer's bill or as a special rate designation. Whenever possible, the eligible telecommunications carrier shall begin showing the lifeline adjustment or rate on an eligible customer's bill on the next bill date following the date of application for lifeline assistance. If the eligible telecommunications carrier does not apply the lifeline adjustment or rate on the next bill date, when the eligible telecommunications carrier does apply the credit it must be applied back to the date of application.

(2) If an eligible telecommunications carrier offers prepaid service and does not render a bill for that service, if it maintains a statement of account or account balance for a prepaid service customer the provisions of subsection (1) of this section apply to the statement of account or account balance. If the eligible telecommunications carrier does not maintain a statement of account or account balance, the eligible telecommunications carrier shall include information about adjustments and applicability dates in its terms of service.

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

Providers shall follow the provisions of 47 C.F.R. Sec. 54.405(e) to terminate lifeline enrollment. The provider shall query the state database used to verify the customer's eligibility in order to obtain information about whether the customer is still eligible according to that database. If that database indicates that the customer is no longer eligible, the eligible telecommunications carrier shall follow the disenrollment procedures in 47 C.F.R. Sec. 54.405(e). The eligible telecommunications carrier shall send the notice separately from the customer's regular monthly bill, if one is provided. The notice must state the termination date and provide information about how to demonstrate continued eligibility.

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

(1) An eligible telecommunications carrier may only receive reimbursement if it complies with all federal lifeline requirements, including the requirement to stop requesting federal universal service fund reimbursement for a prepaid wireless telephone that has not been used in 60 days and the requirement to use the appropriate state database where possible to verify lifeline eligibility.

(2) The commission may withhold or suspend reimbursement while investigating compliance with state or federal lifeline requirements.

(3) Notwithstanding subsection (2) of this section, the provider reimbursement for partial months of service shall follow the policy set by the federal universal service administration corporation or its successors.

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

(1) An eligible telecommunications carrier must annually submit to the commission, on a schedule determined by the commission, a report indicating the outreach efforts conducted to increase participation of the eligible populations under the program.

(2) An eligible telecommunications carrier may not do any of the following to a lifeline customer:

(a) Charge a deposit for service if the customer voluntarily accepts call limitation;

(b) Request that the customer pay in advance for more than one month's local service bill; or

(c) Disconnect the customer from local service for nonpayment of toll charges.

(3) An eligible telecommunications carrier may counsel a customer that otherwise would be subject to disconnection to accept call limitations.

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

(1) On or before December 1, 2022, and biennially thereafter, the commission must submit a report to the appropriate committees of legislature, consistent with RCW 43.01.036, to provide an assessment of the lifeline program under sections 2 through 10 of this act. The report may include, but is not limited to:

(a) Identifying challenges and providing recommendation to improve agency coordination in administering the program; and

(b) Assessing and providing a recommendation of expanding the program to telecommunications carriers that are not designated as an eligible telecommunications carrier.

(2) The commission may adopt rules as necessary to implement this section and sections 2 through 10 of this act.

**PART III**

**UNIVERSAL TELECONNECT SERVICE PROGRAM**

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

The definitions in this section apply throughout this section and section 13 of this act unless the context clearly requires otherwise.

(1) "Basic telecommunications services" means the following services:

(a) Single-party service;

(b) Voice grade access to the public switched network;

(c) Support for local usage;

(d) Dual tone multifrequency signaling (touch-tone);

(e) Access to emergency services (911);

(f) Access to operator services;

(g) Access to interexchange services;

(h) Access to directory assistance; and

(i) Toll limitation services.

(2) "Broadband service" means any service providing advanced telecommunications capability, including internet access and access to high quality voice, data, graphics, or video.

(3) "E-rate discount" means an actual discount under the e-rate program, or a representative discount figure as determined by the commission.

(4) "E-rate program" means the federal universal service e-rate program as provided in 47 C.F.R. Sec. 54 and administered by the schools and libraries division of the universal service administrative company.

(5) "Office" means the statewide broadband office established under RCW 43.330.532.

(6) "Program" means the universal teleconnect service program created in section 13 of this act.

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

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

(1) A state universal teleconnect service program is established. The office shall develop, implement, and administer the program for the purpose of providing discounted rates for telecommunications services to qualifying K-12 schools, community colleges, libraries, community-based and public hospitals, community-based and public health clinics, and community organizations.

(2) Eligible applicants to receive discounted rates under the program include, but are not limited to, all customers eligible to receive discounts for telecommunications services under the e-rate program administered by the schools and libraries division of the universal service administrative company that also apply for discounts on telecommunications services provided in subsection (1) of this section.

(3) The discount developed under subsection (1) of this section must:

(a) Be a minimum of a 50 percent discount to program participants for broadband services;

(b) Be a minimum of a 25 percent discount to program participants for basic telecommunications services; and

(c) Be applied after applying an e-rate discount. The office shall first apply an e-rate discount, regardless of whether the customer has applied for an e-rate discount or has been approved, if the customer, in the determination of the office, meets the eligibility requirements for an e-rate discount.

(4) In establishing a discount under the program, the office must give priority to bridging the digital divide by encouraging expanded access to state-of-the-art technologies for rural, inner city, low-income, and disabled residents of Washington.

(5) The office must adopt rules to implement this section.

**PART IV**

**DIGITAL EQUITY OPPORTUNITY PROGRAM**

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

The definitions in this section apply throughout this section and RCW 43.330.532 through 43.330.538 unless the context clearly requires otherwise.

(1) (a) "Advanced telecommunications capability" means, without regard to any transmission media or technology, high-speed, switched, broadband telecommunications capability that enables users to originate and receive high quality voice, data, graphics, and video telecommunications using any technology.

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

(2) "Aging individual" means an individual 60 years of age or older.

(3) "Board" means the public works board established in RCW 43.155.030.

((~~(2)~~)) (4) "Broadband" or "broadband service" means any service providing advanced telecommunications capability and internet access with transmission speeds that, at a minimum, provide twenty-five megabits per second download and three megabits per second upload.

((~~(3)~~)) (5) "Broadband adoption" means the process by which an individual obtains daily access to the internet that:

(a) Is at a speed, quality, and capacity necessary for the individual to accomplish common tasks, such that the access qualifies as an advanced telecommunications capability;

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

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

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

((~~(4)~~)) (7) "Department" means the department of commerce.

((~~(5)~~)) (8) "Digital equity" means the condition in which individuals and communities in Washington have the information technology capacity that is needed for full participation in society and the economy.

(9)(a) "Digital inclusion" means the activities that are necessary to ensure that all individuals in Washington have access to, and the use of, affordable information and communication technologies, including:

(i) Reliable fixed and wireless broadband internet service;

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

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

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

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

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

((~~(6)~~)) (12) "Local government" includes cities, towns, counties, municipal corporations, public port districts, public utility districts, quasi-municipal corporations, special purpose districts, and multiparty entities comprised of public entity members.

((~~(7)~~)) (13) "Low-income household" means a household, the federal taxable income of which is not more than 200 percent of an amount equal to the poverty level, as determined by using criteria of poverty established by the United States bureau of the census, for the most recently completed taxable year.

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

((~~(8)~~)) (15) "Office" means the governor's statewide broadband office established in RCW 43.330.532.

((~~(9)~~)) (16) "Tribe" means any federally recognized Indian tribe whose traditional lands and territories included parts of Washington.

((~~(10)~~)) (17) "Underserved population" means:

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

(b) Aging individuals;

(c) Incarcerated individuals;

(d) Veterans;

(e) Individuals with disabilities;

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

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

(h) Individuals who primarily reside in a rural area.

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

**Sec.**  RCW 43.330.532 and 2019 c 365 s 3 are each amended to read as follows:

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

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

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

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

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

**Sec.**  RCW 43.330.534 and 2019 c 365 s 4 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

(c) Barriers to the deployment, adoption, and utilization of broadband service, including affordability of service; and

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

(3) The office may assist applicants for the grant and loan programs created in RCW 43.155.160 and 43.330.412 and section 18 of this act with seeking federal funding or matching grants and other grant opportunities for deploying or increasing adoption of broadband services.

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

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

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

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

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

(a) Provide ((~~organizational and capacity building~~)) support to community technology programs throughout the state((~~, and identify and facilitate the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. No~~)) for the purpose of:

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

(ii) Developing, cataloging, disseminating, and promoting the exchange of best practices, both with respect to and independent of the covered programs, in order to achieve digital equity. After July 1, 2023, no more than fifteen percent of funds received by the director for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to ((~~provide~~)) advance digital equity and digital inclusion by providing training and skill-building opportunities; access to hardware and software; internet connectivity; digital media literacy; assistance in the adoption of information and communication technologies in low-income and underserved areas and populations of the state; and development of locally relevant content and delivery of vital services through technology.

(2) Grant applicants must:

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

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

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

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

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

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

(g) Comply with such other requirements as the director establishes.

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

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

(5) No grant under the digital equity opportunity program created under this section may be awarded based on a formula or criteria that gives preference to urban areas over rural areas, including the use of a criterion in awarding a grant that affords increased weight the greater the density of population.

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

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

(2) This program shall provide grants to local governments, institutions of higher education, or other entities who have entered into an agreement with a local government, to fund the development of a digital equity plan for a discrete geographic region of the state. Priority must be given for grant applications accompanied by express support from nonprofit community or neighborhood-based organizations, public development authorities, federally recognized Indian tribes in the state, or other community partners and partners from the categories of institutions outlined in RCW 43.330.421. Only the director or the director's designee may authorize expenditures.

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

(4) The department must evaluate and rank applications using objective criteria such as the number of underserved population served and subjective criteria such as the degree of support and engagement evidenced by the community who will be served.

(5) No planning grant under this section may be awarded based on a formula or criteria that gives preference to urban areas over rural areas, including the use of a criterion in awarding a grant that affords increased weight the greater the density of population.

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

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

**PART V**

**UNIVERSAL SERVICES ACCOUNT**

**Sec.**  RCW 80.36.690 and 2019 c 365 s 16 are each amended to read as follows:

(1) The universal ((~~communications~~)) services account is created in ((~~the custody of~~)) the state ((~~treasurer. Revenues to the account consist of moneys deposited in the account by the legislature and any penalties or other recoveries received pursuant to RCW 80.36.670. Expenditures from the account may be used only for the purposes of the universal communications services program established in RCW 80.36.650 and commission expenses related to implementation and administration of the provisions of RCW 80.36.630 through 80.36.690 and section 212, chapter 8, Laws of 2013 2nd sp. sess. Only the secretary of the commission or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures~~)) treasury. Moneys in the account may be spent only after appropriation.

(2) ((~~This section expires July 1, 2025~~)) All receipts from the switched access line tax pursuant to chapter 82.--- RCW (the new chapter created in section 38 of this act), the internet access line tax pursuant to chapter 82.--- RCW (the new chapter created in section 39 of this act), any penalties or other recoveries received pursuant to RCW 80.36.670, or any other source directed to the account must be deposited into the account.

(3) Expenditures from the account may be used only for programs established in:

(a) RCW 80.36.650, the universal communications services program;

(b) Section 1 of this act, the senior call-check service and notification program;

(c) Section 3 of this act, the Washington lifeline program;

(d) Section 13 of this act, the state universal teleconnect service program;

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

(f) Section 18 of this act, the digital equity planning grant program.

**PART VI**

**TELEPHONE AND VOICE OVER INTERNET PROTOCOL TAX**

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

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

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

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

(4) "Local exchange company" has the same meaning as defined in RCW 80.04.010.

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

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

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

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

(7) "Private telecommunications system" has the same meaning as defined in RCW 80.04.010.

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

(9)(a) "Radio communications service company" has the same meaning as defined in RCW 80.04.010, except that it does not include radio paging providers.

(b) "Radio communications service company" does include those persons or entities that provide commercial mobile radio services, as defined by 47 U.S.C. Sec. 332(d)(1), and both facilities-based and nonfacilities-based resellers.

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

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

(12)(a) "Subscriber" means the retail purchaser of telecommunications service, a competitive telephone service, or interconnected voice over internet protocol service.

(b) "Subscriber" does not include a consumer, as defined in this section.

(13) "Switched access line" means the telephone service line that connects a subscriber's main telephone or equivalent main telephone to the local exchange company's switching office.

NEW SECTION. **Sec.**  (1) An additional excise tax is imposed on all switched access lines in the state. The amount of tax is equal to 25 cents per month for each switched access line. The tax must be uniform for each switched access line. The tax imposed under this subsection must be remitted to the department by local exchange companies on a tax return provided by the department. Tax proceeds must be deposited by the treasurer in the universal services account created in RCW 80.36.690.

(2)(a) An additional excise tax is imposed on the use of all radio access lines:

(i) By subscribers whose place of primary use is located within the state in an amount of 25 cents per month for each radio access line. The tax must be uniform for each radio access line under this subsection (2)(a)(i); and

(ii) By consumers whose retail transaction occurs within the state in an amount of 25 cents per retail transaction. The tax must be uniform for each retail transaction under this subsection (2)(a)(ii).

(b) The tax imposed under this section must be remitted to the department by radio communications service companies, including those companies that resell radio access lines, and sellers of prepaid wireless telecommunications service, on a tax return provided by the department. Tax proceeds must be deposited by the treasurer in the universal services account created in RCW 80.36.690. The tax imposed under this section is not subject to the state sales and use tax or any local tax.

(3) For the purposes of the additional excise taxes imposed by subsection (2) of this section, the retail transaction is deemed to occur at the location where the transaction is sourced to under RCW 82.32.520(3)(c).

(4) An additional excise tax is imposed on all interconnected voice over internet protocol service lines in the state. The amount of tax is equal to 25 cents per month for each interconnected voice over internet protocol service line whose place of primary use is located in the state. The amount of tax must be uniform for each line and must be levied on no more than the number of voice over internet protocol service lines on an account that are capable of simultaneous unrestricted outward calling to the public switched telephone network. The tax imposed under this subsection must be remitted to the department by interconnected voice over internet protocol service companies on a tax return provided by the department. Tax proceeds must be deposited by the treasurer in the universal services account created in RCW 80.36.690.

NEW SECTION. **Sec.**  (1) Except as provided otherwise in subsection (2) of this section:

(a) The additional excise tax imposed by this chapter on switched access lines must be collected from the subscriber by the local exchange company providing the switched access line.

(b) The additional excise tax imposed by this chapter on radio access lines must be collected from the subscriber by the radio communications service company, including those companies that resell radio access lines, providing the radio access line to the subscriber, and the seller of prepaid wireless telecommunications service.

(c) The additional excise tax imposed by this chapter on interconnected voice over internet protocol service lines must be collected from the subscriber by the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line to the subscriber.

(d) The amount of the tax must be stated separately on the billing statement that is sent to the subscriber.

(2)(a) The additional excise taxes imposed by this chapter must be collected from the consumer by the seller of a prepaid wireless telecommunications service for each retail transaction occurring in this state.

(b) The department must transfer all tax proceeds remitted by a seller under this subsection as provided in section 21(2) of this act.

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

NEW SECTION. **Sec.**  (1)(a) The additional excise taxes imposed by this chapter must be paid by:

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

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

(b) Each local exchange company, each radio communications service company, and each interconnected voice over internet protocol service company must collect from the subscriber, and each seller of prepaid wireless telecommunications service must collect from the consumer, the full amount of the taxes payable. The additional excise taxes required by this chapter to be collected by a company or seller, are deemed to be held in trust by the company or seller until paid to the department. Any local exchange company, radio communications service company, seller of prepaid wireless telecommunications service, or interconnected voice over internet protocol service company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

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

(3) The amount of tax, until paid by the subscriber to the local exchange company, the radio communications service company, the interconnected voice over internet protocol service company, or to the department, or until paid by the consumer to the seller of prepaid wireless telecommunications service, or to the department, constitutes a debt from the subscriber to the company, or from the consumer to the seller. Any company or seller that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber or consumer who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The additional excise taxes required by this chapter to be collected by the local exchange company, radio communications service company, or interconnected voice over internet protocol service company must be stated separately on the billing statement that is sent to the subscriber.

(4) If a subscriber has failed to pay to the local exchange company, radio communications service company, or interconnected voice over internet protocol service company, or a consumer has failed to pay to the seller of prepaid wireless telecommunications service, the additional excise taxes imposed by this chapter and the company or seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber or consumer for collection of the tax, in which case a penalty of 10 percent may be added to the amount of the tax for failure of the subscriber or consumer to pay the tax to the company or seller, regardless of when the tax is collected by the department. Tax under this chapter is due as provided under section 25 of this act.

NEW SECTION. **Sec.**  (1) The department must administer and adopt rules as may be necessary to enforce and administer the additional excise taxes imposed by this chapter. Chapter 82.32 RCW, with the exception of RCW 82.32.045, 82.32.145, and 82.32.380, applies to the administration, collection, and enforcement of the additional excise taxes imposed by this chapter.

(2) The additional excise tax imposed by this chapter, along with reports and returns on forms prescribed by the department, are due at the same time the taxpayer reports other taxes under RCW 82.32.045. If no other taxes are reported under RCW 82.32.045, the taxpayer must remit the tax on an annual basis in accordance with RCW 82.32.045.

(3) The department may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year.

(4) The additional excise tax imposed by this chapter is in addition to any taxes imposed upon the same persons under chapters 82.08, 82.12, and 82.14 RCW.

NEW SECTION. **Sec.**  (1) A local exchange company, radio communications service company, or interconnected voice over internet protocol service company must file tax returns on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the company. A company filing returns on a cash receipts basis is not required to pay tax on debt subject to credit or refund under subsection (2) of this section.

(2) A local exchange company, radio communications service company, or interconnected voice over internet protocol service company is entitled to a credit or refund for additional excise taxes imposed by this chapter previously paid on bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003.

NEW SECTION. **Sec.**  The taxes imposed by this chapter do not apply to any activity that the state or county is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States.

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

(2) If a seller, local exchange company, radio communications service company, or interconnected voice over internet protocol service company does not receive documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber, consumer, or is otherwise not liable for the tax at the time of the sale, have such documentation on file at the time of the sale, or obtain such documentation from the buyer within a reasonable time after the sale, the seller, local exchange company, radio communications service company, or interconnected voice over internet protocol service company remains liable for the tax as provided in section 23 of this act, unless the seller, local exchange company, radio communications service company, or interconnected voice over internet protocol service company can demonstrate facts and circumstances according to rules adopted by the department that show the sale was properly made without payment of the additional excise tax imposed by this chapter.

(3) The penalty imposed by RCW 82.32.291 may not be assessed on additional excise taxes imposed by this chapter due but not paid as a result of the improper use of documentation stating that the buyer is not a subscriber or consumer or is otherwise not liable for the additional excise tax imposed by this chapter. This subsection does not prohibit or restrict the application of other penalties authorized by law.

NEW SECTION. **Sec.**  (1) Upon termination, dissolution, or abandonment of a corporate or limited liability company business, any officer, member, manager, or other person having control or supervision of additional excise tax funds collected and held in trust under section 23 of this act, or who is charged with the responsibility for the filing of returns or the payment of additional excise tax funds collected and held in trust under section 23 of this act, is personally liable for any unpaid taxes and interest and penalties on those taxes, if such officer or other person willfully fails to pay or to cause to be paid any additional excise taxes due from the corporation under this chapter. For the purposes of this section, any additional excise taxes imposed by this chapter that have been paid but not collected are deductible from the additional excise taxes imposed by this chapter collected but not paid. For purposes of this subsection "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.

(2) The officer, member, manager, or other person is liable only for taxes collected that became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation described in subsection (1) of this section, plus interest and penalties on those taxes.

(3) Persons liable under subsection (1) of this section are exempt from liability if nonpayment of the additional excise tax funds held in trust is due to reasons beyond their control as determined by the department by rule.

(4) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160 through 82.32.200.

(5) This section applies only if the department has determined that there is no reasonable means of collecting the additional excise tax funds held in trust directly from the corporation.

(6) This section does not relieve the corporation or limited liability company of other tax liabilities or otherwise impair other tax collection remedies afforded by law.

(7) Collection authority and procedures prescribed in chapter 82.32 RCW apply to collections under this section.

**PART VII**

**INTERNET ACCESS TAX**

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

(1) "Consumer" means a person who purchases a prepaid internet access service in a retail transaction.

(2) "Internet access service" means mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service.

(3) "Prepaid internet access service" means any internet access service that must be paid for in full in advance and sold in predetermined units or dollars of which the number declines with use in a known amount.

(4) "Retail transaction" means the purchase of prepaid internet access service from a seller for any purpose other than resale.

(5) "Seller" means a person who sells prepaid internet access service to another person.

(6) "Subscriber" means the retail purchaser of an internet access service subscription. "Subscriber" does not include a consumer, as defined in this section.

NEW SECTION. **Sec.**  (1) An excise tax is imposed on all internet access service subscriptions. The amount of tax is equal to 25 cents per month for each subscriber. The tax imposed under this subsection must be remitted to the department by internet access service providers on a tax return provided by the department. Tax proceeds must be deposited by the treasurer in the universal services account created in RCW 80.36.690.

(2) An excise tax is imposed on the use of all prepaid internet access service by consumers whose retail transaction occurs within the state in an amount of 25 cents per retail transaction. The tax imposed under this subsection must be remitted to the department by sellers of prepaid internet access service on a tax return provided by the department. Tax proceeds must be deposited by the treasurer in the universal services account created in RCW 80.36.690.

NEW SECTION. **Sec.**  (1) Except as provided otherwise in subsection (2) of this section:

(a) The excise tax imposed by this chapter on internet access service subscriptions must be collected from the subscriber by the internet access service provider providing the internet access service.

(b) The amount of the tax must be stated separately on the billing statement that is sent to the subscriber.

(2)(a) The excise taxes imposed by this chapter must be collected from the consumer by the seller of prepaid internet access service for each retail transaction occurring in this state.

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

NEW SECTION. **Sec.**  (1)(a) The excise taxes imposed by this chapter must be paid by:

(i) The subscriber to the internet access service provider providing the internet access service; or

(ii) The consumer to the seller of prepaid internet access service.

(b) Each internet access service provider and each seller of prepaid internet access service must collect from the consumer, the full amount of the taxes payable. The excise taxes required by this chapter to be collected by a company or seller, are deemed to be held in trust by the company or seller until paid to the department. Any internet access service provider or seller of prepaid internet access service that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any internet access service provider or seller of prepaid internet access service fails to collect the excise tax imposed by this chapter or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the company or seller is personally liable to the state for the amount of the tax, unless the company or seller has taken from the buyer in good faith documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or consumer or is otherwise not liable for the excise tax imposed by this chapter.

(3) The amount of tax, until paid by the subscriber to the internet access service provider, or to the department, or until paid by the consumer to the seller of prepaid internet access service, or to the department, constitutes a debt from the subscriber to the company, or from the consumer to the seller. Any company or seller that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber or consumer who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The excise taxes required by this chapter to be collected by the internet access service provider must be stated separately on the billing statement that is sent to the subscriber.

(4) If a subscriber has failed to pay to the internet access service provider or a consumer has failed to pay to the seller of prepaid internet access service, the excise taxes imposed by this chapter and the company or seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber or consumer for collection of the tax, in which case a penalty of 10 percent may be added to the amount of the tax for failure of the subscriber or consumer to pay the tax to the company or seller, regardless of when the tax is collected by the department. Tax under this chapter is due as provided under section 34 of this act.

NEW SECTION. **Sec.**  (1) The department must administer and adopt rules as may be necessary to enforce and administer the excise taxes imposed by this chapter. Chapter 82.32 RCW, with the exception of RCW 82.32.045, 82.32.145, and 82.32.380, applies to the administration, collection, and enforcement of the excise taxes imposed by this chapter.

(2) The excise tax imposed by this chapter, along with reports and returns on forms prescribed by the department, are due at the same time the taxpayer reports other taxes under RCW 82.32.045. If no other taxes are reported under RCW 82.32.045, the taxpayer must remit the tax on an annual basis in accordance with RCW 82.32.045.

(3) The department may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year.

(4) The excise tax imposed by this chapter is in addition to any taxes imposed upon the same persons under chapters 82.08, 82.12, and 82.14 RCW.

NEW SECTION. **Sec.**  (1) An internet access service provider company must file tax returns on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the company. A company filing returns on a cash receipts basis is not required to pay tax on debt subject to credit or refund under subsection (2) of this section.

(2) An internet access service provider company is entitled to a credit or refund for excise taxes imposed by this chapter previously paid on bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003.

NEW SECTION. **Sec.**  (1) Unless a seller or internet access service provider has taken from the buyer documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber, consumer, or is otherwise not liable for the tax, the burden of proving that a sale of the use of internet access service was not a sale to a subscriber, consumer, or was not otherwise subject to the tax is upon the person who made the sale.

(2) If a seller or internet access service provider company does not receive documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber, consumer, or is otherwise not liable for the tax at the time of the sale, have such documentation on file at the time of the sale, or obtain such documentation from the buyer within a reasonable time after the sale, the seller or internet access service provider company remains liable for the tax as provided in section 32 of this act, unless the seller or internet access service provider company can demonstrate facts and circumstances according to rules adopted by the department that show the sale was properly made without payment of the excise tax imposed by this chapter.

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

NEW SECTION. **Sec.**  (1) Upon termination, dissolution, or abandonment of a corporate or limited liability company business, any officer, member, manager, or other person having control or supervision of excise tax funds collected and held in trust under section 32 of this act, or who is charged with the responsibility for the filing of returns or the payment of excise tax funds collected and held in trust under section 32 of this act, is personally liable for any unpaid taxes and interest and penalties on those taxes, if such officer or other person willfully fails to pay or to cause to be paid any excise taxes due from the corporation under this chapter. For the purposes of this section, any excise taxes imposed by this chapter that have been paid but not collected are deductible from the excise taxes imposed by this chapter collected but not paid. For purposes of this subsection "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.

(2) The officer, member, manager, or other person is liable only for taxes collected that became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation described in subsection (1) of this section, plus interest and penalties on those taxes.

(3) Persons liable under subsection (1) of this section are exempt from liability if nonpayment of the excise tax funds held in trust is due to reasons beyond their control as determined by the department by rule.

(4) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160 through 82.32.200.

(5) This section applies only if the department has determined that there is no reasonable means of collecting the excise tax funds held in trust directly from the corporation.

(6) This section does not relieve the corporation or limited liability company of other tax liabilities or otherwise impair other tax collection remedies afforded by law.

(7) Collection authority and procedures prescribed in chapter 82.32 RCW apply to collections under this section.

**PART VIII**

**MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec.**  The secretary of the department of social and health services, the secretary of the utilities and transportation commission, and the director of the statewide broadband office may take the necessary steps to ensure that the provisions of this act are implemented on the dates identified in sections 40 and 41 of this act.

NEW SECTION. **Sec.**  Sections 20 through 28 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec.**  Sections 29 through 36 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec.**  Sections 1 through 19 of this act take effect July 1, 2022.

NEW SECTION. **Sec.**  Sections 20 through 36 of this act take effect October 1, 2021.

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

**--- END ---**