

HOUSE BILL REPORT

HB 1460

As Reported by House Committee On:

Finance
Appropriations

Title: 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.

Brief Description: Closing the digital divide by establishing excise taxes on telecommunications services to fund the expansion of the universal service programs in Washington.

Sponsors: Representatives Gregerson, Taylor, Simmons, Johnson, J., 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.

Brief History:

Committee Activity:

Finance: 2/8/21, 2/17/21 [DPS];
Appropriations: 2/22/21 [DP2S(w/o sub FIN)].

Brief Summary of Second Substitute Bill

- Establishes the Digital Equity Opportunity Grant Program and the Digital Equity Planning Grant Program.
- Creates the Digital Equity Forum.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Thai and Wylie.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 5 members: Representatives Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase, Stokesbary and Vick.

Staff: Nick Tucker (786-7383).

Background:

Federal Universal Service Fund Programs.

The Federal Communications Commission (FCC) Universal Service Fund (USF) is used to implement programs related to "universal service," which is the principle that all Americans should have access to communications services and which was a cornerstone of the federal Communications Act of 1934 that established the FCC.

The federal Telecommunication Act of 1996 expanded the traditional goal of universal service to include increased access to both telecommunications and advanced for all consumers at just, reasonable, and affordable rates. The FCC established four programs within the FCC to implement the statute. These programs include: Connect America Fund for rural areas (previously High-Cost Support); Lifeline for low-income consumers; E-rate for schools and libraries; and Rural Health Care program.

Federal Lifeline Program.

The federal Lifeline program provides a discount on phone service for qualifying low-income consumers. The discount is provided to subscribers on monthly telephone service, broadband Internet service, or bundled voice-broadband packages purchased from participating wireline or wireless providers. The program provides up to a \$9.25 monthly discount on service for eligible low-income subscribers and up to \$34.25 per month for those on tribal lands. Eligibility is determined based on income, participation in certain federal assistance programs, and other factors.

Federal E-Rate Program.

The federal E-rate program provides funding to schools and libraries to assist those institutions with obtaining affordable broadband. Discounts for support depend on the level of poverty and whether the school or library is located in an urban or rural area. The discounts range from 20 percent to 90 percent of the costs of eligible services. E-rate program funding is based on demand up to an annual FCC-established cap of \$4.15 billion.

Community Technology Opportunity Program.

The Community Technology Opportunity Program (CTOP) provided organizational and capacity-building support for community technology programs throughout the state. A portion of the CTOP funds were distributed through a competitive grant program. The grants were to be used by community technology programs to: provide 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 of the state; and development of locally relevant content and delivery of vital services through technology. The account used to fund the CTOP was repealed in 2011.

Universal Communications Services Program.

The Universal Communications Services (UCS) program was established in 2014 to provide temporary direct support to Washington's smaller incumbent communications service providers during certain changes in federal funding. In 2019 the purpose of the UCS program was expanded to include the provision, enhancement, and maintenance of broadband services.

Summary of Substitute Bill:

Senior Call-Check Service and Notification Program.

The Department of Social and Health Services (DSHS) is directed to establish and administer a Senior Call-Check Service and Notification Program (Call-Check Program). Any resident of the state who is at least 65 years of age is eligible to participate in the Call-Check Program. The DSHS must ensure that the Call-Check Program is language-accessible.

The Call-Check Program consists of a regularly scheduled, daily telephone call to the residence of a participant to verify that the participant is able to receive notifications and answer or place a telephone call. The daily call may be made by the DSHS or a designee of the DSHS. If a participant does not answer or place a scheduled call, one or more additional live or automated calls may be placed to the participant. If a participant still does not answer the calls, an automated or live call is made to notify a designated local government agency or other person or entity as designated by the DSHS. The call-check program may also provide notifications to participants deemed to be relevant by the DSHS.

The DSHS is authorized to contract with a private vendor or nonprofit organization to provide the call-check program. The DSHS is authorized to adopt rules as necessary to implement the program.

Washington Broadband Assistance Program.

The DSHS is directed to establish, develop, implement, and administer a Washington Broadband Assistance Program (Broadband Assistance Program) to provide low-income persons with reduced rates for eligible voice and broadband services. Companies providing voice and broadband services must inform new customers of the program when enrolling them for services. The DSHS is responsible for determining eligibility of low-income persons. The reduced rate may only be applied to one line per customer.

"Low-income" is to be defined by the DSHS, provided that the definition may not exceed 80 percent of area median income or 200 percent of the federal poverty line.

The Utilities and Transportation Commission (UTC) is directed to annually establish which services are eligible for inclusion in the program and the amount of assistance to be provided to customers. In determining the amount of assistance to be provided, the UTC must consider: the number of customers expected to participate; the price of eligible services; other assistance programs available to customers; and other reasonable facts and circumstances. The UTC may exclude a company from the program if it determines that the costs charged by the company are excessive or the quality of service or customer service is poor.

Universal Teleconnect Service Program.

The State Broadband Office (SBO) is directed to establish, develop, implement, and administer a Universal Teleconnect Service Program (Teleconnect Program) for the purpose of providing discounted rates for telecommunications services to qualifying kindergarten through grade 12 schools, community colleges, libraries, community-based and public hospitals or health clinics, and community organizations. The SBO is authorized to adopt rules as necessary to implement the program.

The discount provided under the Teleconnect Program must be a minimum 50 percent discount for broadband services and a minimum of a 25 percent discount for basic telecommunications services. The discount must be applied after applying the federal E-rate discount.

The SBO, in establishing a discount, 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 the state.

Digital Equity Opportunity Grant Program.

The Community Technology Opportunity Program, administered by the Department of Commerce (Commerce), is renamed to become the Digital Equity Opportunity Program (Opportunity Grant Program). The Opportunity Grant Program is created to advance broadband adoption and digital equity and inclusion through the state.

The Opportunity Grant Program must provide organizational and capacity-building support to community technology programs throughout the state and additional support for the purpose of: evaluating the impact and efficacy of activities supported by grants awarded under the covered programs; and developing, cataloging, disseminating, and promoting the exchange of best practices, in order to achieve digital equity.

The competitive grant program is expanded to provide grants to advance digital equity and digital inclusion. The grant program is further modified to require 10 percent of matching funds and to specify that Commerce may not give preference to urban areas over rural areas or give priority for greater population density.

Digital Equity Planning Grant Program.

Commerce is directed to establish a Digital Equity Planning Grant Program (Planning Grant Program) to 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.

Commerce is authorized to adopt rules as necessary to implement the program and is directed to develop criteria for the contents of digital equity plans.

Applications must be made to Commerce to be eligible to receive a grant under the program. Commerce must evaluate and rank applications using both objective and subjective criteria. Priority must be given for applications accompanied by express support from certain nonprofit organizations, public development authorities, federally recognized Indian tribes, or other certain community partners. Commerce may not give preference to urban areas over rural areas or give priority for greater population density.

Digital Equity Access Account.

The Digital Equity Access Account (Account) is created in the State Treasury. Moneys in the Account may only be spent after appropriation.

All amounts appropriated by the Legislature to the Account or any other source directed to the Account must be deposited in the Account.

Expenditures from the Account may be used only for: the Universal Communications Services Program; the Call-Check Program; the Broadband Assistance Program; the Teleconnect Program; the Opportunity Grant Program; and the Planning Grant Program.

Miscellaneous Provisions.

The secretaries or directors of the DSHS, the UTC, Commerce, and the SBO, or their designee, may take any action necessary to ensure that the provisions of the act are implemented by the relevant effective dates.

A severability clause is included.

Substitute Bill Compared to Original Bill:

The substitute bill:

- modifies the Washington Lifeline Program as follows:
 - renames the Washington Lifeline Program as the Washington Broadband Assistance Program;
 - provides that the definition of "low-income" is determined by the Department of Social and Health Services (DSHS);
 - provides that the DSHS may promulgate rules to implement the program;
 - provides that the Utilities and Transportation Commission (UTC) may

- promulgate rules to establish which services are eligible for inclusion in the program and the amount of assistance to be provided to customers;
 - removes sections establishing formulas for determining the amount of assistance to be provided to customers;
 - removes additional administrative provisions to be addressed by rule by the DSHS and the UTC; and
 - removes sections requiring annual reporting;
 - modifies the Digital Equity Opportunity Program as follows:
 - provides that the definition of "low-income" is determined by the DSHS; and
 - restores current law language allowing grants made under the program to provide organizational and capacity building support;
 - removes the section modifying the existing Universal Communications Services Account;
 - creates a new Digital Equity Access Account into which appropriations are deposited and from which the programs created in the bill are funded;
 - removes the sections creating a telephone and voice over Internet protocol tax and an Internet access tax; and
 - authorizes the Secretary of the DSHS, the Chair of the UTC, the Director of the Department of Commerce, or the Director of the Statewide Broadband Office, or a chosen designee, to take any actions necessary to implement the provisions of the act by the specified effective dates.
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Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 17, 2021.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2022.

Staff Summary of Public Testimony:

(In support) Digital equity is needed now more than ever in an almost all-remote environment and it is a basic need to function in today's economy. The digital divide existed well before the start of the pandemic. Before COVID-19, access to Internet devices and digital literacy was already an issue and the problem is getting worse. The pandemic has moved many services and activities to the Internet. Achieving digital equity is critical for the long-term success of students, adults, and the economy after the pandemic.

Over a quarter of Washington residents do not have access to digital and Internet infrastructure and this problem is only getting worse. People must choose between buying food and paying for rent or paying for Internet and phone services. At the height of the pandemic, as many as 285,000 students did not have access to the Internet and many more lacked access to high-speed Internet. This bill will also help older adults thrive in the digital world and use technology to improve many aspects of their lives. The senior call-

check program will reduce social isolation for older adults.

This is a people issue, not a partisan issue. This bill will eliminate barriers to opportunities and allow people to reach their full potential through the power of school and work. This policy was developed carefully with stakeholders over the interim and provides solutions in five main areas as identified by stakeholders. Charitable giving has not worked to solve the digital infrastructure issues faced by low-income individuals and senior citizens and so the Legislature must act.

(Opposed) This bill will result in wireless customers paying an excess of \$21 million annually in new wireless taxes in a time when low-income customers are already struggling to pay their bills. Washington already has the third highest combined tax rate on wireless consumer. Washington residents are paying more than \$250 million in state and local wireless taxes each year. The Internet access tax is also problematic as a tax on Internet access is currently preempted in federal law by the permanent Internet Tax Freedom Act. Congress has recently provided \$5 billion in funding for programs that address many of the goals of this bill. Additionally, the Coronavirus Aid, Relief, and Economic Security Act specifically provides funding for rural broadband. There are many other federal programs that support these issues.

(Other) This bill contains revenues and spending that are not included in the Governor's budget. However, the work that the bill directs for the Department of Commerce is welcome. There are some administrative details in the bill that should be addressed, including aligning the roles of the different agencies.

Persons Testifying: (In support) Representative Gregerson, prime sponsor; Eileen Aparis and Carlos Galeana, Goodwill Industries; Nancy Chamberlain, Washington State Parent Teacher Association; Cathleen MacCaul, AARP Washington; Kate White Tudor, Washington Association of Area Agencies on Aging; and Sharone Navas, Equity in Education Coalition.

(Opposed) Jake Lestock, CTIA.

(Other) Jasmine Vasavada, Department of Commerce–Washington Statewide Broadband Office.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Finance. Signed by 20 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Boehnke, Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen,

Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 11 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Caldier, Dye, Harris, Hoff, Jacobsen, Schmick and Steele.

Minority Report: Without recommendation. Signed by 1 member: Representative Rude.

Staff: Charlie Gavigan (786-7340).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Finance:

The second substitute bill makes the following changes:

- removes the sections of the bill creating the Senior Call-Check Service and Notification Program, the Washington Broadband Assistance Program, and the Universal Teleconnect Service Program;
- modifies the definition of "low-income" to mean a household whose income is not more than 200 percent of the federal poverty level; and
- establishes the Washington Digital Equity Forum (Forum) for the purpose of developing recommendations to advance digital connectivity in the state. In developing its recommendations, the Forum must:
 - develop goals that are consistent with the goals of the Statewide Broadband Office, strengthen public-private partnerships, increase collaboration between government agencies, and be subject to public input;
 - submit a report of recommendations made by the Forum every even-numbered year, with the first report due by October 28, 2022;
 - be staffed by the Statewide Broadband Office and the Washington State Office of Equity and that the directors of those offices shall appoint members to the Forum, in addition to four legislative members serving ex officio; and
 - specify that members serve without compensation but may be reimbursed for travel expenses.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available. New fiscal note requested on February 23, 2021.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) The bill has been pared down and focuses on some of the areas discussed in the Legislature over the past decade. This is a really complicated area. Digital equity and inclusion for all communities is important. The bill tries to help the state prepare ourselves for federal dollars in this area, as well as help local communities with planning grants. A digital equity collaboration process similar to the Food Policy Forum can help provide the infrastructure for us to move forward as a state no matter where people live.

(Opposed) None.

Persons Testifying: Representative Gregerson, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.