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HOUSE BILL 1365

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State of Washington

67th Legislature

2021 Regular Session

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

Read first time 01/25/21. Referred to Committee on Education.

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

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

11 NEW SECTION. **Sec. 1.** The legislature finds that the COVID-19  
12 pandemic has exposed the importance of internet-accessible learning  
13 devices to the ability of students to receive a modern education.  
14 When Washington schools closed in March 2020, school districts  
15 shifted quickly to offering education in an online environment.  
16 Teachers adapted their lessons for videoconferencing platforms and  
17 arranged for students to submit homework via email. However, distance  
18 learning amplified digital deserts and disparities among students  
19 that will only continue to grow for the foreseeable future.

20 The legislature finds that low-income and Black Washingtonians  
21 face disproportionate barriers to accessing internet in their homes.

1 Recent census household pulse survey data shows that a computer is  
2 rarely or never available for a child's educational use for 59% of  
3 households experiencing poverty and 80% of Black households in  
4 Washington state.

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

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

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

14 NEW SECTION. **Sec. 101.** A new section is added to chapter  
15 28A.650 RCW to read as follows:

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

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

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

27 NEW SECTION. **Sec. 102.** A new section is added to chapter  
28 28A.650 RCW to read as follows:

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

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

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

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

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

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

21 **Sec. 103.** RCW 28A.650.020 and 1993 c 336 s 705 are each amended  
22 to read as follows:

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

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

38 (a) Technical assistance for administrators, teachers,  
39 paraeducators, students, and students' families to securely use

1 learning devices. Language assistance must be provided to students  
2 and students' families when needed;

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

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

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

10 (e) Device repair and recycle services.

11 NEW SECTION. Sec. 104. A new section is added to chapter  
12 28A.320 RCW to read as follows:

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

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

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

23 NEW SECTION. Sec. 105. A new section is added to chapter  
24 28A.710 RCW to read as follows:

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

28 NEW SECTION. Sec. 106. A new section is added to chapter  
29 28A.715 RCW to read as follows:

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

33 **Sec. 107.** RCW 28A.650.015 and 2011 1st sp.s. c 43 s 725 and 2011  
34 1st sp.s. c 11 s 133 are each reenacted and amended to read as  
35 follows:

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

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

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

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

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

22           (~~((2))~~) (3) The superintendent of public instruction shall  
23 (~~((appoint an educational technology advisory committee to assist in~~  
24 ~~the development and implementation of the technology plan in~~  
25 ~~subsection (1) of this section. The committee shall include, but is~~  
26 ~~not limited to, persons representing: The office of the chief~~  
27 ~~information officer,))~~ consult and coordinate with the consolidated  
28 technology services agency created in RCW 43.105.006, the department  
29 of commerce, the statewide broadband office established in RCW  
30 43.330.532, the office of equity established in RCW 43.06D.020,  
31 educational service districts, school directors, school  
32 administrators, ((school principals, teachers, classified staff,  
33 higher education faculty, parents, students, business, labor,  
34 scientists and mathematicians, the workforce training and education  
35 coordinating board, and the state library)) and other experts in the  
36 areas of technology access and inclusion in schools and communities.

37           (~~((3) The plan adopted and implemented under this section may not~~  
38 ~~impose on school districts any requirements that are not specifically~~  
39 ~~required by federal law or regulation, including requirements to~~

1 ~~maintain eligibility for the federal schools and libraries program of~~  
2 ~~the universal service fund.))~~

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

7 **Sec. 108.** RCW 28A.635.060 and 1997 c 266 s 13 are each amended  
8 to read as follows:

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

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

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

6 **Sec. 109.** RCW 28A.650.010 and 2017 c 90 s 1 are each amended to  
7 read as follows:

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

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

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

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

27 NEW SECTION. **Sec. 110.** The following acts or parts of acts are  
28 each repealed:

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

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

33 **PART II - FUNDING**

34 NEW SECTION. **Sec. 201.** A new section is added to chapter  
35 28A.650 RCW to read as follows:

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

8 NEW SECTION. **Sec. 202.** The definitions in this section apply  
9 throughout this chapter unless the context clearly requires  
10 otherwise.

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

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

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

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

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

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

20 (b) "Selling price" also means:

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

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

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

35 NEW SECTION. **Sec. 203.** (1) There is levied and collected a tax  
36 on each retail sale in this state of smart wireless devices. The  
37 amount of the tax is as follows:



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

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

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

7 NEW SECTION. **Sec. 204.** (1) The tax imposed in this chapter must  
8 be paid by the buyer to the seller. Each seller must collect from the  
9 buyer the full amount of the tax payable with respect to each taxable  
10 sale.

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

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

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

28 NEW SECTION. **Sec. 205.** Chapter 82.32 RCW applies to the  
29 administration of this chapter.

30 **Sec. 206.** RCW 82.32.145 and 2020 c 301 s 6 are each amended to  
31 read as follows:

32 (1) Whenever the department has issued a warrant under RCW  
33 82.32.210 for the collection of unpaid trust fund taxes from a  
34 limited liability business entity and that business entity has been  
35 terminated, dissolved, or abandoned, or is insolvent, the department  
36 may pursue collection of the entity's unpaid trust fund taxes,  
37 including penalties and interest on those taxes, against any or all

1 of the responsible individuals. For purposes of this subsection,  
2 "insolvent" means the condition that results when the sum of the  
3 entity's debts exceeds the fair market value of its assets. The  
4 department may presume that an entity is insolvent if the entity  
5 refuses to disclose to the department the nature of its assets and  
6 liabilities.

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

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

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

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

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

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

1 (6) Any person having been issued a notice of assessment under  
2 this section is entitled to the appeal procedures under RCW  
3 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

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

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

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

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

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

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

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

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

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

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

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

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

17 (h) "Trust fund taxes" means taxes collected from purchasers and  
18 held in trust under RCW 82.08.050, including taxes imposed under RCW  
19 82.08.020, 82.08.150, ~~((and))~~ 82.51.010, and section 203 of this act.

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

23 NEW SECTION. **Sec. 207.** Sections 202 through 205 of this act  
24 constitute a new chapter in Title 82 RCW.

25 NEW SECTION. **Sec. 208.** Sections 202 through 206 of this act  
26 take effect October 1, 2021.

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