
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1971

State of Washington

63rd Legislature

2013 Regular Session

By House Appropriations (originally sponsored by Representatives Carlyle and Nealey)

READ FIRST TIME 04/09/13.

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

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

10 **PART I**

11 **Providing Communications Services Tax Reform**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (b) Enhanced 911 operational costs.

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

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

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

21 (ii) By consumers whose retail transaction occurs within the state
22 in an amount of twenty-five cents per retail transaction. The tax must
23 be uniform for each retail transaction under this subsection
24 (6)(a)(ii). Until July 1, 2018, a seller of prepaid wireless
25 telecommunications service may charge an additional five cents per
26 retail transaction as compensation for the cost of collecting and
27 remitting the tax.

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

36 (7) For purposes of the state and county enhanced 911 excise taxes
37 imposed by subsections (2) and (6) of this section, the retail

1 transaction is deemed to occur at the location where the transaction is
2 sourced to under RCW 82.32.520(3)(c).

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

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

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

28 Subject to the enactment into law of the 2013 amendments to RCW
29 82.08.0289 in section 107 of this act, the 2013 amendments to RCW
30 80.36.430 in section 108 of this act, and the 2013 amendments to RCW
31 43.20A.725 in section 109 of this act:

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

1 radio access line, or interconnected voice over internet protocol
2 service line was not a sale to a subscriber, consumer, or was not
3 otherwise subject to the tax is upon the person who made the sale.

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

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

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

27 Subject to the enactment into law of the 2013 amendments to RCW
28 82.14B.040 in section 103 of this act, the 2013 amendments to RCW
29 82.14B.042 in section 104 of this act, the 2013 amendments to RCW
30 82.14B.030 in section 105 of this act, the 2013 amendments to RCW
31 82.14B.200 in section 106 of this act, the 2013 amendments to RCW
32 80.36.430 in section 108 of this act, and the 2013 amendments to RCW
33 43.20A.725 in section 109 of this act:

34 (1) Until the effective date of this section, the tax levied by RCW
35 82.08.020 (~~shall~~) does not apply to sales of:

36 (a) Local service;

37 (b) Coin-operated telephone service; and

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

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

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

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

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

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

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

1 (f) "Provider" means a provider of a fixed interconnected voice
2 over internet protocol service that is, or is affiliated with a person
3 that is, subject to a franchise fee in this state under the authority
4 of Title 47 U.S.C. Sec. 542(a). A provider is affiliated with a person
5 if the provider and the person have one hundred percent common
6 ownership.

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

9 Subject to the enactment into law of the 2013 amendments to RCW
10 82.14B.040 in section 103 of this act, the 2013 amendments to RCW
11 82.14B.042 in section 104 of this act, the 2013 amendments to RCW
12 82.14B.030 in section 105 of this act, the 2013 amendments to RCW
13 82.14B.200 in section 106 of this act, and the 2013 amendments to RCW
14 82.08.0289 in section 107 of this act:

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

1 (2) Local exchange companies (~~shall~~) must bill the (~~fund~~)
2 department for their expenses incurred in offering the telephone
3 assistance program, including administrative and program expenses. The
4 department (~~shall~~) must disburse the money to the local exchange
5 companies. The department is exempted from having to conclude a
6 contract with local exchange companies in order to effect this
7 reimbursement. The department (~~shall~~) must recover its
8 administrative costs (~~from the fund~~). The department may specify by
9 rule the range and extent of administrative and program expenses that
10 will be reimbursed to local exchange companies.

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

18 ~~((4) During the 2009-2011 and 2011-2013 biennia, the department
19 shall enter into an agreement with the WIN-211 organization for
20 operational support. During the 2011-2013 biennium, the department
21 shall provide five hundred thousand dollars per fiscal year for this
22 purpose.~~

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

26 (4) The department shall enter into an agreement with the
27 Washington information network 211 organization for operational
28 support, subject to the availability of amounts appropriated for this
29 purpose.

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

32 Subject to the enactment into law of the 2013 amendments to RCW
33 82.14B.040 in section 103 of this act, the 2013 amendments to RCW
34 82.14B.042 in section 104 of this act, the 2013 amendments to RCW
35 82.14B.030 in section 105 of this act, the 2013 amendments to RCW
36 82.14B.200 in section 106 of this act, and the 2013 amendments to RCW
37 82.08.0289 in section 107 of this act:

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

8 (2) The department, through the sole authority of the office or its
9 successor organization, (~~shall~~) must maintain a program where
10 telecommunications relay services of a human or electronic nature will
11 be provided to connect hearing impaired, deaf-blind, or speech impaired
12 persons with persons who do not have a hearing or speech impairment.
13 Such telecommunications relay services (~~shall~~) must provide the
14 ability for an individual who has a hearing or speech impairment to
15 engage in voice, tactile, or visual communication by wire or radio with
16 a hearing individual in a manner that is functionally equivalent to the
17 ability of an individual who does not have a hearing or speech
18 impairment to communicate using voice or visual communication services
19 by wire or radio subject to subsection (4)(b) of this section.

20 (3) The telecommunications relay service and equipment distribution
21 program may operate in such a manner as to provide communications
22 transmission opportunities that are capable of incorporating new
23 technologies that have demonstrated benefits consistent with the intent
24 of this chapter and are in the best interests of the citizens of this
25 state.

26 (4) The office (~~shall~~) must administer and control the award of
27 money to all parties incurring costs in implementing and maintaining
28 telecommunications services, programs, equipment, and technical support
29 services according to this section. The relay service contract
30 (~~shall~~) must be awarded to an individual company registered as a
31 telecommunications company by the utilities and transportation
32 commission, to a group of registered telecommunications companies, or
33 to any other company or organization determined by the office as
34 qualified to provide relay services, contingent upon that company or
35 organization being approved as a registered telecommunications company
36 prior to final contract approval. The relay system providers and
37 telecommunications equipment vendors (~~shall~~) must be selected on the

1 basis of cost-effectiveness and utility to the greatest extent possible
2 under the program and technical specifications established by the
3 office.

4 (a) To the extent funds are available (~~((under the then current rate~~
5 ~~and not otherwise held in reserve or required for other))~~) for the
6 purposes authorized by this chapter, the office may award contracts for
7 communications and related services and equipment for hearing impaired
8 or speech impaired individuals accessing or receiving services provided
9 by, or contracted for, the department to meet access obligations under
10 Title 2 of the federal Americans with disabilities act or related
11 federal regulations.

12 (b) The office (~~shall~~) must perform its duties under this section
13 with the goal of achieving functional equivalency of access to and use
14 of telecommunications services similar to the enjoyment of access to
15 and use of such services experienced by an individual who does not have
16 a hearing or speech impairment only to the extent that funds are
17 available (~~((under the then current rate and not otherwise held in~~
18 ~~reserve or required for other))~~) for the purposes authorized by this
19 chapter.

20 (5) The program (~~shall~~) must be funded by (~~a telecommunications~~
21 ~~relay service (TRS) excise tax applied to each switched access line~~
22 ~~provided by the local exchange companies. The office shall determine,~~
23 ~~in consultation with the office's program advisory committee, the~~
24 ~~budget needed to fund the program on an annual basis, including both~~
25 ~~operational costs and a reasonable amount for capital improvements such~~
26 ~~as equipment upgrade and replacement. The budget proposed by the~~
27 ~~office, together with documentation and supporting materials, shall be~~
28 ~~submitted to the office of financial management for review and~~
29 ~~approval. The approved budget shall be given by the department in an~~
30 ~~annual budget to the department of revenue no later than March 1st~~
31 ~~prior to the beginning of the fiscal year. The department of revenue~~
32 ~~shall then determine the amount of telecommunications relay service~~
33 ~~excise tax to be placed on each switched access line and shall inform~~
34 ~~local exchange companies and the utilities and transportation~~
35 ~~commission of this amount no later than May 1st. The department of~~
36 ~~revenue shall determine the amount of telecommunications relay service~~
37 ~~excise tax to be collected in the following fiscal year by dividing the~~
38 ~~total of the program budget, as submitted by the office, by the total~~

1 number of switched access lines in the prior calendar year, as reported
2 to the department of revenue under chapter 82.14B RCW, and shall not
3 exercise any further oversight of the program under this subsection
4 other than administering the collection of the telecommunications relay
5 service excise tax as provided in RCW 82.72.010 through 82.72.090. The
6 telecommunications relay service excise tax shall not exceed nineteen
7 cents per month per access line. The telecommunications relay service
8 excise tax shall be separately identified on each ratepayer's bill with
9 the following statement: "Funds - federal - ADA - requirement." All
10 proceeds from the telecommunications relay service excise tax shall be
11 put into a fund to be administered by the office through the
12 department. During the 2009-2011 and 2011-2013 fiscal biennia, the
13 funds may also be used to provide individualized employment services
14 and employment related counseling to people with disabilities, and
15 technical assistance to employers about the employment of people with
16 disabilities. "Switched access line" has the meaning provided in RCW
17 82.14B.020)) the legislature by means of a biennial general fund
18 appropriation to the department for the purposes of the program.

19 (6) The telecommunications relay service program and equipment
20 vendors ((shall)) must provide services and equipment consistent with
21 the requirements of federal law for the operation of both interstate
22 and intrastate telecommunications services for the hearing impaired or
23 speech impaired. The department and the utilities and transportation
24 commission ((shall be)) are responsible for ensuring compliance with
25 federal requirements and ((shall)) must provide timely notice to the
26 legislature of any legislation that may be required to accomplish
27 compliance.

28 (7) The department ((shall)) must adopt rules establishing
29 eligibility criteria, ownership obligations, financial contributions,
30 and a program for distribution to individuals requesting and receiving
31 such telecommunications devices distributed by the office, and other
32 rules necessary to administer programs and services consistent with
33 this chapter.

34 NEW SECTION. Sec. 110. For services affected by the expiration of
35 the exemption for local service under RCW 82.08.0289(1) that cover a
36 billing period starting before and ending after the effective date of

1 section 107 of this act, RCW 82.08.064(3)(a) is deemed to apply, and
2 retail sales tax will apply to the first billing period starting on or
3 after the effective date of section 107 of this act.

4 NEW SECTION. **Sec. 111.** Section 107 of this act applies
5 prospectively as well as retroactively to tax periods open for
6 assessment or refund of taxes under RCW 82.32.050 or 82.32.060,
7 including any refund claims or disputed assessments pending before the
8 department of revenue, board of tax appeals, or any court of law.

9 NEW SECTION. **Sec. 112.** In accordance with Article VIII, section
10 5 of the state Constitution, section 107 of this act does not authorize
11 refunds of sales tax validly collected before the effective date of
12 this section on fixed interconnected voice over internet protocol
13 service as defined in section 107 of this act.

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

16 (1) RCW 82.72.010 (Definitions) and 2007 c 6 s 1010 & 2004 c 254 s
17 3;

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

20 (3) RCW 82.72.030 (Collection of tax by local exchange company) and
21 2004 c 254 s 5;

22 (4) RCW 82.72.040 (Tax payment and collection requirements) and
23 2009 c 563 s 214 & 2004 c 254 s 6;

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

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

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

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

31 (9) RCW 82.72.090 (Applicability of chapter 82.32 RCW) and 2004 c
32 254 s 11.

33 NEW SECTION. **Sec. 114.** The repeals in section 113 of this act do
34 not affect any existing right acquired or liability or obligation

1 incurred under the statutes repealed or under any rule or order adopted
2 under those statutes nor do they it affect any proceedings instituted
3 under them.

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

6 The Washington telephone assistance program (~~shall~~) may be
7 available to participants of programs set forth in RCW 80.36.470.
8 Within funds specifically appropriated by the legislature for the
9 Washington telephone assistance program, assistance (~~shall~~) may
10 consist of the following components:

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

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

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

17 (a) The commission (~~shall~~) must establish a single telephone
18 assistance rate for all local exchange companies operating in the state
19 of Washington. The telephone assistance rate (~~shall~~) must include
20 any federal end user charges and any other charges necessary to obtain
21 local exchange service.

22 (b) The commission (~~shall~~) must, in establishing the telephone
23 assistance rate, consider all charges for local exchange service,
24 including federal end user charges, mileage charges, extended area
25 service, and any other charges necessary to obtain local exchange
26 service.

27 (c) The telephone assistance rate (~~shall~~) is only (~~be~~)
28 available to eligible customers subscribing to the lowest priced local
29 exchange flat rate service, where the lowest priced local exchange flat
30 rate service, including any federal end user charges and any other
31 charges necessary to obtain local exchange service, is greater than the
32 telephone assistance rate.

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

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

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

7 Within funds specifically appropriated by the legislature for the
8 Washington telephone assistance program, the Washington telephone
9 assistance program (~~shall~~) must limit reimbursement to one
10 residential switched access line per eligible household, or one
11 discounted community service voice mailbox per eligible person.

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

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

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

30 (1) Adult recipients of department-administered programs for the
31 financially needy which provide continuing financial or medical
32 assistance, food stamps, or supportive services to persons in their own
33 homes are eligible for participation in the telephone assistance
34 program. The department (~~shall~~) must notify the participants of
35 their eligibility.

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

8 (3) Enrollment in the Washington telephone assistance program may
9 not result in expenditures that exceed the total amount of funds made
10 available by the legislature for the Washington telephone assistance
11 program. When the department finds that there is a danger of an
12 overexpenditure of appropriated funds, the department must close the
13 Washington telephone assistance program enrollment until the department
14 finds the danger no longer exists.

15 PART II

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

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

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

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

24 (2) The state has long relied on incumbent local exchange carriers
25 to provide a ubiquitous incumbent public network as carriers of last
26 resort. Significant changes are occurring in the communications
27 marketplace, including: (a) The migration from customer reliance on
28 access lines for voice service to the use of broadband for a number of
29 communications applications; and (b) changes in federal regulations
30 governing: How communications providers compensate other providers for
31 the use of the network; and eligibility for federal universal service
32 funds. These changes are adversely affecting the ability of some
33 communications providers to continue to offer communications services
34 in rural areas of the state of Washington at rates that are comparable
35 to those prevailing in urban areas. These changes, absent explicit
36 federal and state universal service support for such communications

1 providers, may lead, in the short term, to unreasonable telephone
2 service rate increases or cessation of service for some Washington
3 consumers. Therefore, it is in the best interest of the state to
4 ensure that incumbent local exchange carriers are able to continue to
5 provide services as the carrier of last resort.

6 (3) As a result of the foregoing and to enable all consumers in
7 Washington to access and benefit from a ubiquitous public network, the
8 legislature intends to create a targeted and temporary universal
9 service program that supports the legacy public telephone network of
10 Washington's smaller incumbent communications providers and ensures
11 access to the network during this transition to broadband services, is
12 operated in a transparent manner pursuant to rules adopted by the
13 utilities and transportation commission, and advances universal service
14 in a manner not inconsistent with the requirements of 47 U.S.C. Sec.
15 254, the federal telecommunications act of 1996.

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

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

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

24 (b) "Basic telecommunications services" means the following
25 services:

- 26 (i) Single-party service;
- 27 (ii) Voice grade access to the public switched network;
- 28 (iii) Support for local usage;
- 29 (iv) Dual tone multifrequency signaling (touch-tone);
- 30 (v) Access to emergency services (911);
- 31 (vi) Access to operator services;
- 32 (vii) Access to interexchange services;
- 33 (viii) Access to directory assistance; and
- 34 (ix) Toll limitation services.

35 (c) "Communications provider" means a provider of communications
36 services that assigns a working telephone number to a final consumer

1 for intrastate wireline or wireless communications services or
2 interconnected voice over internet protocol service, and includes local
3 exchange carriers.

4 (d) "Communications services" includes telecommunications services
5 and information services and any combination thereof.

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

8 (f) "Incumbent public network" means the network established by
9 incumbent local exchange carriers for the delivery of communications
10 services to customers that is used by communications providers for
11 origination or termination of communications services by or to
12 customers.

13 (g) "Interconnected voice over internet protocol service" means an
14 interconnected voice over internet protocol service that: (a) Enables
15 real-time, two-way voice communications; (b) requires a broadband
16 connection from the user's location; (c) requires internet protocol-
17 compatible customer premises equipment; and (d) permits users generally
18 to receive calls that originate on the public network and to terminate
19 calls to the public network.

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

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

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

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

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

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

33 (1) A state universal communications services program is
34 established. The program is established to protect public safety and
35 welfare under the authority of the state to regulate telecommunications
36 under Article XII, section 19 of the state Constitution. The purpose
37 of the program is to support continued provision of basic

1 telecommunications services under rates, terms, and conditions
2 established by the commission during the time over which incumbent
3 communications providers in the state are adapting to changes in
4 federal universal service fund and intercarrier compensation support.

5 (2) Under the program, eligible communications providers may
6 receive distributions from the universal communications services
7 account created in section 208 of this act in exchange for the
8 affirmative agreement to provide continued services under the rates,
9 terms, and conditions established by the commission under this chapter
10 for the period covered by the distribution. The commission must
11 implement and administer the program under terms and conditions
12 established in sections 202 through 208 of this act. Expenditures for
13 the program may not exceed five million dollars per fiscal year.

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

16 (a) The communications provider is: (i) An incumbent local
17 exchange carrier serving fewer than forty thousand access lines in the
18 state; or (ii) a radio communications service company providing
19 wireless two-way voice communications service to less than the
20 equivalent of forty thousand access lines in the state. For purposes
21 of determining the access line threshold in this subsection, the access
22 lines or equivalents of all affiliates must be counted as a single
23 threshold, if the lines or equivalents are located in Washington;

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

28 (c) The communications provider meets any other requirements
29 established by the commission pertaining to the provision of
30 communications services, including basic telecommunications services.

31 (4)(a) Distributions to eligible communications providers are based
32 on a benchmark established by the commission. The benchmark is the
33 rate the commission determines to be a reasonable amount customers
34 should pay for basic residential service provided over the incumbent
35 public network. However, if an incumbent local exchange carrier is
36 charging rates above the benchmark for the basic residential service,
37 that provider may not seek distributions from the fund for the purpose
38 of reducing those rates to the benchmark.

1 (b) To receive a distribution under the program, an eligible
2 communications provider must affirmatively consent to continue
3 providing communications services to its customers under rates, terms,
4 and conditions established by the commission pursuant to this chapter
5 for the period covered by the distribution.

6 (5) The program is funded from amounts deposited by the legislature
7 in the universal communications services account established in section
8 208 of this act. The commission must operate the program within
9 amounts appropriated for this purpose and deposited in the account.

10 (6) The commission must periodically review the accounts and
11 records of any communications provider that receives distributions
12 under the program to ensure compliance with the program and monitor the
13 providers' use of the funds.

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

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

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

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

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

25 (a) Operation of the program, including criteria for: Eligibility
26 for distributions; use of the funds; identification of any reports or
27 data that must be filed with the commission, including, but not limited
28 to, how a communication provider used the distributed funds; and the
29 communications provider's infrastructure;

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

32 (c) Establishment of the benchmark used to calculate distributions;
33 and

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

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

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

3 (1) In addition to any other penalties prescribed by law, the
4 commission may impose penalties for failure to make or delays in making
5 or filing any reports required by the commission for administration of
6 the program. In addition, the commission may recover amounts
7 determined to have been improperly distributed under section 203 of
8 this act. For the purposes of this section, the provisions of RCW
9 80.04.380 through 80.04.405, inclusive, apply to all companies that
10 receive support from the universal communications services account
11 created in section 208 of this act.

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

15 (3) Any amounts recovered under this section must be deposited in
16 the universal communications services account created in section 208 of
17 this act.

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

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

21 (1) The commission may delegate to the commission secretary or
22 other staff the authority to resolve disputes and make other
23 administrative decisions necessary to the administration and
24 supervision of the program consistent with the relevant statutes and
25 commission rules.

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

27 NEW SECTION. **Sec. 207.** (1) To ensure that this act is implemented
28 in a timely manner, the utilities and transportation commission must
29 adopt rules under section 204 of this act prior to July 1, 2014. To
30 ensure timely implementation of this act, the utilities and
31 transportation commission may initiate efforts to establish an advisory
32 board and other actions under sections 203 and 204 of this act prior to
33 July 1, 2014.

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

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

3 (1) The universal communications services account is created in the
4 custody of the state treasurer. Revenues to the account consist of
5 moneys deposited in the account by the legislature and any penalties or
6 other recoveries received pursuant to section 205 of this act.
7 Expenditures from the account may be used only for the purposes of the
8 universal communications services program established in section 203 of
9 this act. Only the secretary of the commission or the secretary's
10 designee may authorize expenditures from the account. The account is
11 subject to allotment procedures under chapter 43.88 RCW, but an
12 appropriation is not required for expenditures.

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

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

16 (~~((1))~~) The commission is authorized to take actions, conduct
17 proceedings, and enter orders as permitted or contemplated for a state
18 commission under the (~~(federal)~~) telecommunications act of 1996(~~(, P.L.~~
19 ~~104-104-(110-Stat.-56), -but-the-commission's-authority-to-either~~
20 ~~establish-a-new-state-program-or-to-adopt-new-rules-to-preserve-and~~
21 ~~advance-universal-service-under-section-254(f)-of-the-federal-act-is~~
22 ~~limited-to-the-actions-expressly-authorized-by-RCW-80.36.600))~~). The
23 commission may establish by rule fees to be paid by persons seeking
24 commission action under the (~~(federal)~~) telecommunications act of 1996,
25 and by parties to proceedings under that act, to offset in whole or
26 part the commission's expenses that are not otherwise recovered through
27 fees in implementing the act(~~(, -but-new-fees-or-assessments-charged~~
28 ~~telecommunications-carriers-to-either-establish-a-state-program-or-to~~
29 ~~adopt-rules-to-preserve-and-advance-universal-service-under-section~~
30 ~~254(f)-of-the-federal-act-do-not-take-effect-until-the-legislature-has~~
31 ~~approved-a-state-universal-service-program-~~

32 (~~2~~) The legislature intends that under the future universal service
33 program established in this state:

34 (~~a~~) - Every telecommunications carrier that provides intrastate
35 telecommunications services shall contribute, on an equitable and
36 nondiscriminatory basis, to the preservation and advancement of
37 universal service in the state;

1 NEW SECTION. **Sec. 302.** Sections 201 through 206, 208, 209, and
2 211 of this act take effect July 1, 2014.

3 NEW SECTION. **Sec. 303.** Section 209 of this act expires July 1,
4 2020.

5 NEW SECTION. **Sec. 304.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

--- END ---