
SENATE BILL 5422

State of Washington

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By Senator Ericksen

Read first time 01/30/13. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to telecommunications tax parity; amending RCW
2 82.14B.040, 82.14B.042, 82.14B.030, 82.14B.200, 80.36.430, and
3 43.20A.725; and reenacting and amending RCW 82.14B.020 and 82.08.0289.

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

5 **Sec. 101.** RCW 82.14B.020 and 2010 1st sp.s. c 19 s 2 are each
6 reenacted and amended to read as follows:

7 As used in this chapter:

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

10 (2) "Emergency services communication system" means a multicounty
11 or countywide communications network, including an enhanced 911
12 emergency communications system, which provides rapid public access for
13 coordinated dispatching of services, personnel, equipment, and
14 facilities for police, fire, medical, or other emergency services.

15 ((+2)) (3) "Enhanced 911 emergency communications system" means a
16 public communications system consisting of a network, database, and on-
17 premises equipment that is accessed by dialing or accessing 911 and
18 that enables reporting police, fire, medical, or other emergency
19 situations to a public safety answering point. The system includes the

1 capability to selectively route incoming 911 voice or data to the
2 appropriate public safety answering point that operates in a defined
3 911 service area and the capability to automatically display the name,
4 address, and telephone number of incoming 911 voice or data at the
5 appropriate public safety answering point. "Enhanced 911 emergency
6 communications system" includes the modernization to next generation
7 911 systems.

8 ((+3)) (4) "Interconnected voice over internet protocol service"
9 has the same meaning as provided by the federal communications
10 commission in 47 C.F.R. Sec. 9.3 on January 1, 2009, or a subsequent
11 date determined by the department.

12 ((+4)) (5) "Interconnected voice over internet protocol service
13 line" means an interconnected voice over internet protocol service that
14 offers an active telephone number or successor dialing protocol
15 assigned by a voice over internet protocol provider to a voice over
16 internet protocol service customer that has inbound and outbound
17 calling capability, which can directly access a public safety answering
18 point when such a voice over internet protocol service customer has a
19 place of primary use in the state.

20 ((+5)) (6) "Local exchange company" has the meaning ascribed to it
21 in RCW 80.04.010.

22 ((+6)) (7) "Place of primary use" means the street address
23 representative of where the subscriber's use of the radio access line
24 or interconnected voice over internet protocol service line occurs,
25 which must be:

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

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

30 ((+7)) (8) "Prepaid wireless telecommunications service" means a
31 telecommunications service that provides the right to use mobile
32 wireless service as well as other nontelecommunications services
33 including the download of digital products delivered electronically,
34 content, and ancillary services, which must be paid for in full in
35 advance and sold in predetermined units or dollars.

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

1 ~~((+8))~~ (10) "Radio access line" means the telephone number
2 assigned to or used by a subscriber for two-way local wireless voice
3 service available to the public for hire from a radio communications
4 service company. Radio access lines include, but are not limited to,
5 radio-telephone communications lines used in cellular telephone
6 service, personal communications services, and network radio access
7 lines, or their functional and competitive equivalent. Radio access
8 lines do not include lines that provide access to one-way signaling
9 service, such as paging service, or to communications channels suitable
10 only for data transmission, or to nonlocal radio access line service,
11 such as wireless roaming service, or to a private telecommunications
12 system.

13 ~~((+9))~~ (11) "Radio communications service company" has the meaning
14 ascribed to it in RCW 80.04.010, except that it does not include radio
15 paging providers. It does include those persons or entities that
16 provide commercial mobile radio services, as defined by 47 U.S.C. Sec.
17 332(d)(1), and both facilities-based and nonfacilities-based resellers.

18 ~~((+10))~~ (12) "Retail transaction" means the purchase of prepaid
19 wireless telecommunications service from a seller for any purpose other
20 than resale.

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

23 (14)(a) "Subscriber" means, except as provided otherwise in (b) of
24 this subsection, the retail purchaser of telecommunications service, a
25 competitive telephone service, or interconnected voice over internet
26 protocol service.

27 ~~((+11))~~ (b) The term "subscriber" does not include a consumer, as
28 defined in this section.

29 (15) "Switched access line" means the telephone service line which
30 connects a subscriber's main telephone(s) or equivalent main
31 telephone(s) to the local exchange company's switching office.

32 **Sec. 102.** RCW 82.14B.040 and 2010 1st sp.s. c 19 s 6 are each
33 amended to read as follows:

34 Subject to the enactment into law of the 2013 amendments to RCW
35 82.08.0289 in section 201 of this act, the 2013 amendments to RCW
36 80.36.430 in section 301 of this act, and the 2013 amendments to RCW
37 43.20A.725 in section 302 of this act:

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

2 (a) The state enhanced 911 excise tax and the county enhanced 911
3 excise tax on switched access lines must be collected from the
4 subscriber by the local exchange company providing the switched access
5 line.

6 ~~((+2))~~ (b) The state enhanced 911 excise tax and the county
7 enhanced 911 excise tax on radio access lines must be collected from
8 the subscriber by the radio communications service company, including
9 those companies that resell radio access lines, providing the radio
10 access line to the subscriber, and the seller of prepaid wireless
11 telecommunications service.

12 ~~((+3))~~ (c) The state and county enhanced 911 excise taxes on
13 interconnected voice over internet protocol service lines must be
14 collected from the subscriber by the interconnected voice over internet
15 protocol service company providing the interconnected voice over
16 internet protocol service line to the subscriber.

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

19 (2)(a) The state enhanced 911 excise tax and the county enhanced
20 911 excise tax must be collected by the seller of a prepaid wireless
21 telecommunications service for each retail transaction occurring in
22 this state at the point of sale. Such tax must be collected from those
23 persons who are taxable by the state under chapter 82.08 RCW. For
24 purposes of this subsection (2), the retail transaction occurs in this
25 state if it is sourced to this state under the provisions of RCW
26 82.32.520(3)(c).

27 (b) All administrative provisions in chapters 82.08 and 82.32 RCW
28 applicable to sales taxes are also applicable to the administration,
29 levy, collection, and remittance of the tax imposed under this
30 subsection (2).

31 (c) The department must transfer all tax proceeds remitted by a
32 seller under this subsection (2) as provided in RCW 82.14B.030.

33 (d) When practicable, the amount of the tax imposed under this
34 subsection (2) must be separately stated on an invoice, receipt, or
35 other similar document that is provided to the consumer by the seller.
36 When a separate disclosure to the consumer is not practicable, the
37 seller may prominently display a sign notifying consumers of the tax.

1 **Sec. 103.** RCW 82.14B.042 and 2010 1st sp.s. c 19 s 7 are each
2 amended to read as follows:

3 Subject to the enactment into law of the 2013 amendments to RCW
4 82.08.0289 in section 201 of this act, the 2013 amendments to RCW
5 80.36.430 in section 301 of this act, and the 2013 amendments to RCW
6 43.20A.725 in section 302 of this act:

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

8 (a) The state and county enhanced 911 excise taxes imposed by this
9 chapter must be paid by the subscriber or consumer to the local
10 exchange company providing the switched access line, the radio
11 communications service company providing the radio access line, the
12 seller of prepaid wireless telecommunications service, or the
13 interconnected voice over internet protocol service company providing
14 the interconnected voice over internet protocol service line. Each
15 local exchange company, each radio communications service company, each
16 seller of prepaid wireless telecommunications service, and each
17 interconnected voice over internet protocol service company must
18 collect from the subscriber the full amount of the taxes payable. The
19 state and county enhanced 911 excise taxes required by this chapter to
20 be collected by a company are deemed to be held in trust by the company
21 until paid to the department. Any local exchange company, radio
22 communications service company, seller of prepaid wireless
23 telecommunications service, or interconnected voice over internet
24 protocol service company that appropriates or converts the tax
25 collected to its own use or to any use other than the payment of the
26 tax to the extent that the money collected is not available for payment
27 on the due date as prescribed in this chapter is guilty of a gross
28 misdemeanor((-));

29 ((+2)) (b) If any local exchange company, radio communications
30 service company, seller of prepaid wireless telecommunications service,
31 or interconnected voice over internet protocol service company fails to
32 collect the state or county enhanced 911 excise tax or, after
33 collecting the tax, fails to pay it to the department in the manner
34 prescribed by this chapter, whether such failure is the result of its
35 own act or the result of acts or conditions beyond its control, the
36 company is personally liable to the state for the amount of the tax,
37 unless the company has taken from the buyer in good faith

1 documentation, in a form and manner prescribed by the department,
2 stating that the buyer is not a subscriber or consumer or is otherwise
3 not liable for the state or county enhanced 911 excise tax(~~(-)~~);

4 ~~((3))~~ (c) The amount of tax, until paid by the subscriber to the
5 local exchange company, the radio communications service company, the
6 interconnected voice over internet protocol service company, or to the
7 department, constitutes a debt from the subscriber to the company. Any
8 company that fails or refuses to collect the tax as required with
9 intent to violate the provisions of this chapter or to gain some
10 advantage or benefit, either direct or indirect, and any subscriber who
11 refuses to pay any tax due under this chapter is guilty of a
12 misdemeanor. The state and county enhanced 911 excise taxes required
13 by this chapter to be collected by the local exchange company, radio
14 communications service company, or interconnected voice over internet
15 protocol service company must be stated separately on the billing
16 statement that is sent to the subscriber(~~(-)~~); and

17 ~~((4))~~ (d) If a subscriber or consumer has failed to pay to the
18 local exchange company, radio communications service company, seller of
19 prepaid wireless telecommunications service, or interconnected voice
20 over internet protocol service company the state or county enhanced 911
21 excise taxes imposed by this chapter and the company has not paid the
22 amount of the tax to the department, the department may, in its
23 discretion, proceed directly against the subscriber or consumer for
24 collection of the tax, in which case a penalty of ten percent may be
25 added to the amount of the tax for failure of the subscriber or
26 consumer to pay the tax to the company, regardless of when the tax is
27 collected by the department. Tax under this chapter is due as provided
28 under RCW 82.14B.061.

29 (2) The state and county enhanced 911 excise taxes collected on the
30 retail transaction of a prepaid wireless telecommunications service
31 under RCW 82.14B.040(2), must be paid and collected as provided in RCW
32 82.14B.040(2).

33 **Sec. 104.** RCW 82.14B.030 and 2010 1st sp.s. c 19 s 3 are each
34 amended to read as follows:

35 Subject to the enactment into law of the 2013 amendments to RCW
36 82.08.0289 in section 201 of this act, the 2013 amendments to RCW

1 80.36.430 in section 301 of this act, and the 2013 amendments to RCW
2 43.20A.725 in section 302 of this act:

3 (1) The legislative authority of a county may impose a county
4 enhanced 911 excise tax on the use of switched access lines in an
5 amount not exceeding seventy cents per month for each switched access
6 line. The amount of tax must be uniform for each switched access line.
7 Each county must provide notice of the tax to all local exchange
8 companies serving in the county at least sixty days in advance of the
9 date on which the first payment is due. The tax imposed under this
10 subsection must be remitted to the department by local exchange
11 companies on a tax return provided by the department. The tax must be
12 deposited in the county enhanced 911 excise tax account as provided in
13 RCW 82.14B.063.

14 (2) The legislative authority of a county may also impose a county
15 enhanced 911 excise tax on the use of radio access lines: (a) By
16 subscribers whose place of primary use is located within the county in
17 an amount not exceeding seventy cents per month for each radio access
18 line; and (b) by consumers whose retail transaction occurs within the
19 county in an amount not exceeding seventy cents per retail transaction.
20 The amount of tax must be uniform for each radio access line. The
21 county must provide notice of the tax to all radio communications
22 service companies serving in the county at least sixty days in advance
23 of the date on which the first payment is due. The tax imposed under
24 this section must be remitted to the department by radio communications
25 service companies, including those companies that resell radio access
26 lines and sellers of prepaid wireless telecommunications services, on
27 a tax return provided by the department. The tax must be deposited in
28 the county enhanced 911 excise tax account as provided in RCW
29 82.14B.063.

30 (3)(a) The legislative authority of a county may impose a county
31 enhanced 911 excise tax on the use of interconnected voice over
32 internet protocol service lines in an amount not exceeding seventy
33 cents per month for each interconnected voice over internet protocol
34 service line. The amount of tax must be uniform for each line and must
35 be levied on no more than the number of voice over internet protocol
36 service lines on an account that are capable of simultaneous
37 unrestricted outward calling to the public switched telephone network.

1 (b) The interconnected voice over internet protocol service company
2 must use the place of primary use of the subscriber to determine which
3 county's enhanced 911 excise tax applies to the service provided to the
4 subscriber.

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

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

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

17 (4) Counties imposing a county enhanced 911 excise tax must provide
18 an annual update to the enhanced 911 coordinator detailing the
19 proportion of their county enhanced 911 excise tax that is being spent
20 on:

21 (a) Efforts to modernize their existing enhanced 911 communications
22 system; and

23 (b) Enhanced 911 operational costs.

24 (5) A state enhanced 911 excise tax is imposed on all switched
25 access lines in the state. The amount of tax may not exceed twenty-
26 five cents per month for each switched access line. The tax must be
27 uniform for each switched access line. The tax imposed under this
28 subsection must be remitted to the department by local exchange
29 companies on a tax return provided by the department. Tax proceeds
30 must be deposited by the treasurer in the enhanced 911 account created
31 in RCW 38.52.540.

32 (6) A state enhanced 911 excise tax is imposed on all radio access
33 lines used: (a) By subscribers whose place of primary use is located
34 within the state in an amount of twenty-five cents per month for each
35 radio access line; and (b) by consumers whose retail transaction occurs
36 within the state in an amount not exceeding twenty-five cents per
37 retail transaction. The tax must be uniform for each radio access
38 line. The tax imposed under this section must be remitted to the

1 department by radio communications service companies, including those
2 companies that resell radio access lines, on a tax return provided by
3 the department. Tax proceeds must be deposited by the treasurer in the
4 enhanced 911 account created in RCW 38.52.540. The tax imposed under
5 this section is not subject to the state sales and use tax or any local
6 tax.

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

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

30 **Sec. 105.** RCW 82.14B.200 and 2010 1st sp.s. c 19 s 12 are each
31 amended to read as follows:

32 Subject to the enactment into law of the 2013 amendments to RCW
33 82.08.0289 in section 201 of this act, the 2013 amendments to RCW
34 80.36.430 in section 301 of this act, and the 2013 amendments to RCW
35 43.20A.725 in section 302 of this act:

36 (1) Unless a seller, local exchange company, radio communications
37 service company, or interconnected voice over internet protocol service

1 company has taken from the buyer documentation, in a form and manner
2 prescribed by the department, stating that the buyer is not a
3 subscriber, consumer, or is otherwise not liable for the tax, the
4 burden of proving that a sale of the use of a switched access line,
5 radio access line, or interconnected voice over internet protocol
6 service line was not a sale to a subscriber, consumer, or was not
7 otherwise subject to the tax is upon the person who made the sale.

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

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

29 **Sec. 201.** RCW 82.08.0289 and 2007 c 6 s 1006 and 2007 c 6 s 1005
30 are each reenacted and amended to read as follows:

31 Subject to the enactment into law of the 2013 amendments to RCW
32 82.14B.040 in section 102 of this act, the 2013 amendments to RCW
33 82.14B.042 in section 103 of this act, the 2013 amendments to RCW
34 82.14B.030 in section 104 of this act, the 2013 amendments to RCW
35 82.14B.200 in section 105 of this act, the 2013 amendments to RCW
36 80.36.430 in section 301 of this act, and the 2013 amendments to RCW
37 43.20A.725 in section 302 of this act:

1 (1) The tax levied by RCW 82.08.020 shall not apply to sales of(~~(+~~
2 ~~(a) Local service;~~
3 ~~(b) Coin-operated telephone service;~~ and
4 ~~(c)~~) mobile telecommunications services, including any toll
5 service, provided to a customer whose place of primary use is outside
6 this state.

7 (2)(a) The definitions in RCW 82.04.065, as well as the
8 definition(~~(s)~~) in this subsection, apply to this section.

9 (~~((a) "Local service" means ancillary services and
10 telecommunications service, as those terms are defined in RCW
11 82.04.065, other than toll service, provided to an individual
12 subscribing to a residential class of telephone service.))~~)

13 (b) "Toll service" does not include customer access line charges
14 for access to a toll calling network.

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

18 **Sec. 301.** RCW 80.36.430 and 2011 1st sp.s. c 50 s 968 are each
19 amended to read as follows:

20 Subject to the enactment into law of the 2013 amendments to RCW
21 82.14B.040 in section 102 of this act, the 2013 amendments to RCW
22 82.14B.042 in section 103 of this act, the 2013 amendments to RCW
23 82.14B.030 in section 104 of this act, the 2013 amendments to RCW
24 82.14B.200 in section 105 of this act, and the 2013 amendments to RCW
25 82.08.0289 in section 201 of this act:

26 (1) The Washington telephone assistance program shall be funded by
27 (~~(a telephone assistance excise tax on all switched access lines)~~) the
28 legislature by means of a biennial general fund appropriation to the
29 department and by funds from any federal government or other programs
30 for this purpose. (~~(Switched access lines are defined in RCW~~
31 ~~82.14B.020. The telephone assistance excise tax shall be applied~~
32 ~~equally to all residential and business access lines not to exceed~~
33 ~~fourteen cents per month. The department shall submit an approved~~
34 ~~annual budget for the Washington telephone assistance program to the~~
35 ~~department of revenue no later than March 1st prior to the beginning of~~
36 ~~each fiscal year. The department of revenue shall then determine the~~
37 ~~amount of telephone assistance excise tax to be placed on each switched~~

1 ~~access line and shall inform local exchange companies and the utilities~~
2 ~~and transportation commission of this amount no later than May 1st.~~
3 ~~The department of revenue shall determine the amount of telephone~~
4 ~~assistance excise tax by dividing the total of the program budget~~
5 ~~funded by the telephone assistance excise tax, as submitted by the~~
6 ~~department, by the total number of switched access lines in the prior~~
7 ~~calendar year. The telephone assistance excise tax shall be separately~~
8 ~~identified on each ratepayer's bill as the "Washington telephone~~
9 ~~assistance program." All money collected from the telephone assistance~~
10 ~~excise tax shall be transferred to a telephone assistance fund~~
11 ~~administered by the department.))~~

12 (2) Local exchange companies shall bill the fund for their expenses
13 incurred in offering the telephone assistance program, including
14 administrative and program expenses. The department shall disburse the
15 money to the local exchange companies. The department is exempted from
16 having to conclude a contract with local exchange companies in order to
17 effect this reimbursement. The department shall recover its
18 administrative costs from the fund. The department may specify by rule
19 the range and extent of administrative and program expenses that will
20 be reimbursed to local exchange companies.

21 (3) The department shall enter into an agreement with the
22 department of commerce for an amount not to exceed eight percent of the
23 prior fiscal year's total revenue for the administrative and program
24 expenses of providing community service voice mail services. The
25 community service voice mail service may include toll-free lines in
26 community action agencies through which recipients can access their
27 community service voice mailboxes at no charge.

28 ~~((4) During the 2009-2011 and 2011-2013 biennia, the department~~
29 ~~shall enter into an agreement with the WIN 211 organization for~~
30 ~~operational support. During the 2011-2013 biennium, the department~~
31 ~~shall provide five hundred thousand dollars per fiscal year for this~~
32 ~~purpose.~~

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

36 **Sec. 302.** RCW 43.20A.725 and 2011 1st sp.s. c 50 s 944 are each
37 amended to read as follows:

1 Subject to the enactment into law of the 2013 amendments to RCW
2 82.14B.040 in section 102 of this act, the 2013 amendments to RCW
3 82.14B.042 in section 103 of this act, the 2013 amendments to RCW
4 82.14B.030 in section 104 of this act, the 2013 amendments to RCW
5 82.14B.200 in section 105 of this act, and the 2013 amendments to RCW
6 82.08.0289 in section 201 of this act:

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

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

26 (3) The telecommunications relay service and equipment distribution
27 program may operate in such a manner as to provide communications
28 transmission opportunities that are capable of incorporating new
29 technologies that have demonstrated benefits consistent with the intent
30 of this chapter and are in the best interests of the citizens of this
31 state.

32 (4) The office shall administer and control the award of money to
33 all parties incurring costs in implementing and maintaining
34 telecommunications services, programs, equipment, and technical support
35 services according to this section. The relay service contract shall
36 be awarded to an individual company registered as a telecommunications
37 company by the utilities and transportation commission, to a group of
38 registered telecommunications companies, or to any other company or

1 organization determined by the office as qualified to provide relay
2 services, contingent upon that company or organization being approved
3 as a registered telecommunications company prior to final contract
4 approval. The relay system providers and telecommunications equipment
5 vendors shall be selected on the basis of cost-effectiveness and
6 utility to the greatest extent possible under the program and technical
7 specifications established by the office.

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

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

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

1 revenue shall determine the amount of telecommunications relay service
2 excise tax to be collected in the following fiscal year by dividing the
3 total of the program budget, as submitted by the office, by the total
4 number of switched access lines in the prior calendar year, as reported
5 to the department of revenue under chapter 82.14B RCW, and shall not
6 exercise any further oversight of the program under this subsection
7 other than administering the collection of the telecommunications relay
8 service excise tax as provided in RCW 82.72.010 through 82.72.090. The
9 telecommunications relay service excise tax shall not exceed nineteen
10 cents per month per access line. The telecommunications relay service
11 excise tax shall be separately identified on each ratepayer's bill with
12 the following statement: "Funds federal ADA requirement." All
13 proceeds from the telecommunications relay service excise tax shall be
14 put into a fund to be administered by the office through the
15 department. During the 2009-2011 and 2011-2013 fiscal biennia, the
16 funds may also be used to provide individualized employment services
17 and employment-related counseling to people with disabilities, and
18 technical assistance to employers about the employment of people with
19 disabilities. "Switched access line" has the meaning provided in RCW
20 82.14B.020)) the legislature by means of a biennial general fund
21 appropriation to the department for the purposes of the program.

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

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

--- END ---