
SENATE BILL 5911

State of Washington

63rd Legislature

2013 Regular Session

By Senators Ericksen and Schoesler

Read first time 04/15/13. Referred to Committee on Ways & Means.

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, 43.20A.725,
3 80.36.610, and 82.08.020; reenacting and amending RCW 82.14B.020 and
4 82.08.0289; adding new sections to chapter 80.36 RCW; creating new
5 sections; repealing RCW 80.36.600, 82.72.010, 82.72.020, 82.72.030,
6 82.72.040, 82.72.050, 82.72.060, 82.72.070, and 82.72.080; prescribing
7 penalties; providing effective dates; providing an expiration date; and
8 declaring an emergency.

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

10 **PART I**
11 **TAX PARITY**

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

14 As used in this chapter:

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

17 (2) "Emergency services communication system" means a multicounty
18 or countywide communications network, including an enhanced 911

1 emergency communications system, which provides rapid public access for
2 coordinated dispatching of services, personnel, equipment, and
3 facilities for police, fire, medical, or other emergency services.

4 ((+2)) (3) "Enhanced 911 emergency communications system" means a
5 public communications system consisting of a network, database, and on-
6 premises equipment that is accessed by dialing or accessing 911 and
7 that enables reporting police, fire, medical, or other emergency
8 situations to a public safety answering point. The system includes the
9 capability to selectively route incoming 911 voice or data to the
10 appropriate public safety answering point that operates in a defined
11 911 service area and the capability to automatically display the name,
12 address, and telephone number of incoming 911 voice or data at the
13 appropriate public safety answering point. "Enhanced 911 emergency
14 communications system" includes the modernization to next generation
15 911 systems.

16 ((+3)) (4) "Interconnected voice over internet protocol service"
17 has the same meaning as provided by the federal communications
18 commission in 47 C.F.R. Sec. 9.3 on January 1, 2009, or a subsequent
19 date determined by the department.

20 ((+4)) (5) "Interconnected voice over internet protocol service
21 line" means an interconnected voice over internet protocol service that
22 offers an active telephone number or successor dialing protocol
23 assigned by a voice over internet protocol provider to a voice over
24 internet protocol service customer that has inbound and outbound
25 calling capability, which can directly access a public safety answering
26 point when such a voice over internet protocol service customer has a
27 place of primary use in the state.

28 ((+5)) (6) "Local exchange company" has the meaning ascribed to it
29 in RCW 80.04.010.

30 ((+6)) (7) "Place of primary use" means the street address
31 representative of where the subscriber's use of the radio access line
32 or interconnected voice over internet protocol service line occurs,
33 which must be:

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

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

1 ~~((7))~~ (8) "Prepaid wireless telecommunications service" means a
2 telecommunications service that provides the right to use mobile
3 wireless service as well as other nontelecommunications services
4 including the download of digital products delivered electronically,
5 content, and ancillary services, which must be paid for in full in
6 advance and sold in predetermined units or dollars.

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

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

21 ~~((9))~~ (11) "Radio communications service company" has the meaning
22 ascribed to it in RCW 80.04.010, except that it does not include radio
23 paging providers. It does include those persons or entities that
24 provide commercial mobile radio services, as defined by 47 U.S.C. Sec.
25 332(d)(1), and both facilities-based and nonfacilities-based resellers.

26 ~~((10))~~ (12) "Retail transaction" means the purchase of prepaid
27 wireless telecommunications service from a seller for any purpose other
28 than resale.

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

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

35 ~~((11))~~ (15) "Switched access line" means the telephone service
36 line which connects a subscriber's main telephone(s) or equivalent main
37 telephone(s) to the local exchange company's switching office.

1 **Sec. 102.** RCW 82.14B.040 and 2010 1st sp.s. c 19 s 6 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 202 of this act, the 2013 amendments to RCW
5 80.36.430 in section 203 of this act, and the 2013 amendments to RCW
6 43.20A.725 in section 204 of this act:

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

8 (a) The state enhanced 911 excise tax and the county enhanced 911
9 excise tax on switched access lines must be collected from the
10 subscriber by the local exchange company providing the switched access
11 line.

12 ~~((+2))~~ (b) The state enhanced 911 excise tax and the county
13 enhanced 911 excise tax on radio access lines must be collected from
14 the subscriber by the radio communications service company, including
15 those companies that resell radio access lines, providing the radio
16 access line to the subscriber, and the seller of prepaid wireless
17 telecommunications service.

18 ~~((+3))~~ (c) The state and county enhanced 911 excise taxes on
19 interconnected voice over internet protocol service lines must be
20 collected from the subscriber by the interconnected voice over internet
21 protocol service company providing the interconnected voice over
22 internet protocol service line to the subscriber.

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

25 (2)(a) The state and county enhanced 911 excise tax must be
26 collected from the consumer by the seller of a prepaid wireless
27 telecommunications service for each retail transaction occurring in
28 this state.

29 (b) The department must transfer all tax proceeds remitted by a
30 seller under this subsection (2) as provided in RCW 82.14B.030 (2) and
31 (6).

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

35 (d) A retail seller of a prepaid wireless telecommunications
36 service may retain five cents of the excise tax specified in RCW
37 82.14B.030(6)(a)(ii) that is collected from each transaction.

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

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

8 Subject to the enactment into law of the 2013 amendments to RCW
9 82.08.0289 in section 202 of this act, the 2013 amendments to RCW
10 80.36.430 in section 203 of this act, and the 2013 amendments to RCW
11 43.20A.725 in section 204 of this act:

12 (1) The state and county enhanced 911 excise taxes imposed by this
13 chapter must be paid:

14 (a) By the subscriber to the local exchange company providing the
15 switched access line, the radio communications service company
16 providing the radio access line, or the interconnected voice over
17 internet protocol service company providing the interconnected voice
18 over internet protocol service line((-)); or

19 (b) By the consumer to the seller of prepaid wireless
20 telecommunications service;

21 (2) Each local exchange company, each radio communications service
22 company, (~~and~~) each interconnected voice over internet protocol
23 service company, and each seller of prepaid wireless telecommunications
24 service must collect from the subscriber the full amount of the taxes
25 payable. The state and county enhanced 911 excise taxes required by
26 this chapter to be collected by a company, or seller of prepaid
27 wireless telecommunications service, are deemed to be held in trust by
28 the company or seller until paid to the department. Any local exchange
29 company, radio communications service company, seller of prepaid
30 wireless telecommunications service, or interconnected voice over
31 internet protocol service company that appropriates or converts the tax
32 collected to its own use or to any use other than the payment of the
33 tax to the extent that the money collected is not available for payment
34 on the due date as prescribed in this chapter is guilty of a gross
35 misdemeanor((-));

36 ((+2)) (3) If any local exchange company, radio communications
37 service company, seller of prepaid wireless telecommunications service,

1 or interconnected voice over internet protocol service company fails to
2 collect the state or county enhanced 911 excise tax or, after
3 collecting the tax, fails to pay it to the department in the manner
4 prescribed by this chapter, whether such failure is the result of its
5 own act or the result of acts or conditions beyond its control, the
6 company or seller is personally liable to the state for the amount of
7 the tax, unless the company or seller has taken from the buyer in good
8 faith documentation, in a form and manner prescribed by the department,
9 stating that the buyer is not a subscriber or consumer or is otherwise
10 not liable for the state or county enhanced 911 excise tax(~~(-)~~);

11 ~~((+3))~~ (4) The amount of tax, until paid by the subscriber to the
12 local exchange company, the radio communications service company, the
13 interconnected voice over internet protocol service company, or to the
14 department, or until paid by the consumer to the seller of prepaid
15 wireless telecommunications service, or to the department, constitutes
16 a debt from the subscriber to the company, or from the consumer to the
17 seller. Any company or seller that fails or refuses to collect the tax
18 as required with intent to violate the provisions of this chapter or to
19 gain some advantage or benefit, either direct or indirect, and any
20 subscriber or consumer who refuses to pay any tax due under this
21 chapter is guilty of a misdemeanor. The state and county enhanced 911
22 excise taxes required by this chapter to be collected by the local
23 exchange company, radio communications service company, or
24 interconnected voice over internet protocol service company must be
25 stated separately on the billing statement that is sent to the
26 subscriber(~~(-)~~); and

27 ~~((+4))~~ (5) If a subscriber has failed to pay to the local exchange
28 company, radio communications service company, or interconnected voice
29 over internet protocol service company or a consumer has failed to pay
30 the seller of prepaid wireless telecommunications service, the state or
31 county enhanced 911 excise taxes imposed by this chapter and the
32 company or seller has not paid the amount of the tax to the department,
33 the department may, in its discretion, proceed directly against the
34 subscriber or consumer for collection of the tax, in which case a
35 penalty of ten percent may be added to the amount of the tax for
36 failure of the subscriber or consumer to pay the tax to the company or
37 seller, regardless of when the tax is collected by the department. Tax
38 under this chapter is due as provided under RCW 82.14B.061.

1 **Sec. 104.** RCW 82.14B.030 and 2010 1st sp.s. c 19 s 3 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 202 of this act, the 2013 amendments to RCW
5 80.36.430 in section 203 of this act, and the 2013 amendments to RCW
6 43.20A.725 in section 204 of this act:

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

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

20 (i) By subscribers whose place of primary use is located within the
21 county in an amount not exceeding seventy cents per month for each
22 radio access line under this subsection (2)(a)(i); and

23 (ii) By consumers whose retail transaction occurs within the county
24 in an amount not exceeding seventy cents per retail transaction. The
25 amount of tax must be uniform for each (~~radio access line~~) retail
26 transaction under this subsection (2)(a)(ii).

27 (b) The county must provide notice of the tax to all radio
28 communications service companies serving in the county at least sixty
29 days in advance of the date on which the first payment is due. The tax
30 imposed under this section must be remitted to the department by radio
31 communications service companies, (~~including those companies~~) and
32 sellers of prepaid wireless telecommunications services, including
33 those companies and sellers that resell radio access lines, on a tax
34 return provided by the department. The tax must be deposited in the
35 county enhanced 911 excise tax account as provided in RCW 82.14B.063.

36 (3)(a) The legislative authority of a county may impose a county
37 enhanced 911 excise tax on the use of interconnected voice over
38 internet protocol service lines in an amount not exceeding seventy

1 cents per month for each interconnected voice over internet protocol
2 service line. The amount of tax must be uniform for each line and must
3 be levied on no more than the number of voice over internet protocol
4 service lines on an account that are capable of simultaneous
5 unrestricted outward calling to the public switched telephone network.

6 (b) The interconnected voice over internet protocol service company
7 must use the place of primary use of the subscriber to determine which
8 county's enhanced 911 excise tax applies to the service provided to the
9 subscriber.

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

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

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

22 (4) Counties imposing a county enhanced 911 excise tax must provide
23 an annual update to the enhanced 911 coordinator detailing the
24 proportion of their county enhanced 911 excise tax that is being spent
25 on:

26 (a) Efforts to modernize their existing enhanced 911 communications
27 system; and

28 (b) Enhanced 911 operational costs.

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

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

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

5 (ii) By consumers whose retail transaction occurs within the state
6 in an amount not exceeding thirty cents per retail transaction. The
7 tax must be uniform for each ((radio access line)) retail transaction
8 under this subsection (6)(a)(ii).

9 (b) The tax imposed under this section must be remitted to the
10 department by radio communications service companies, and sellers of
11 prepaid wireless telecommunications service, including those companies
12 and sellers that resell radio access lines, on a tax return provided by
13 the department. Tax proceeds must be deposited by the treasurer in the
14 enhanced 911 account created in RCW 38.52.540. The tax imposed under
15 this section is not subject to the state sales and use tax or any local
16 tax.

17 (7) For purposes of the state and county enhanced 911 excise tax
18 imposed by subsections (2) and (6) of this section, the retail
19 transaction is deemed to occur at the location where the transaction is
20 sourced to under RCW 82.32.520(3)(c).

21 (8) A state enhanced 911 excise tax is imposed on all
22 interconnected voice over internet protocol service lines in the state.
23 The amount of tax may not exceed twenty-five cents per month for each
24 interconnected voice over internet protocol service line whose place of
25 primary use is located in the state. The amount of tax must be uniform
26 for each line and must be levied on no more than the number of voice
27 over internet protocol service lines on an account that are capable of
28 simultaneous unrestricted outward calling to the public switched
29 telephone network. The tax imposed under this subsection must be
30 remitted to the department by interconnected voice over internet
31 protocol service companies on a tax return provided by the department.
32 Tax proceeds must be deposited by the treasurer in the enhanced 911
33 account created in RCW 38.52.540.

34 ~~((+8))~~ (9) For calendar year 2011, the taxes imposed by
35 subsections (5) and ~~((+7))~~ (8) of this section must be set at their
36 maximum rate. By August 31, 2011, and by August 31st of each year
37 thereafter, the state enhanced 911 coordinator must recommend the level
38 for the next year of the state enhanced 911 excise tax imposed by

1 subsections (5) and (~~(7)~~) (8) of this section, based on a systematic
2 cost and revenue analysis, to the utilities and transportation
3 commission. The commission must by the following October 31st
4 determine the level of the state enhanced 911 excise taxes imposed by
5 subsections (5) and (~~(7)~~) (8) of this section for the following year.

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

8 Subject to the enactment into law of the 2013 amendments to RCW
9 82.08.0289 in section 202 of this act, the 2013 amendments to RCW
10 80.36.430 in section 203 of this act, and the 2013 amendments to RCW
11 43.20A.725 in section 204 of this act:

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

21 (2) If a seller, local exchange company, radio communications
22 service company, or interconnected voice over internet protocol service
23 company does not receive documentation, in a form and manner prescribed
24 by the department, stating that the buyer is not a subscriber,
25 consumer, or is otherwise not liable for the tax at the time of the
26 sale, have such documentation on file at the time of the sale, or
27 obtain such documentation from the buyer within a reasonable time after
28 the sale, the seller, local exchange company, radio communications
29 service company, or interconnected voice over internet protocol service
30 company remains liable for the tax as provided in RCW 82.14B.042,
31 unless the seller, local exchange company, radio communications service
32 company, or interconnected voice over internet protocol service company
33 can demonstrate facts and circumstances according to rules adopted by
34 the department that show the sale was properly made without payment of
35 the state or county enhanced 911 excise tax.

36 (3) The penalty imposed by RCW 82.32.291 may not be assessed on
37 state or county enhanced 911 excise taxes due but not paid as a result

1 of the improper use of documentation stating that the buyer is not a
2 subscriber or consumer or is otherwise not liable for the state or
3 county enhanced 911 excise tax. This subsection does not prohibit or
4 restrict the application of other penalties authorized by law.

5 **PART II**
6 **CONFORMING AMENDMENTS**

7 NEW SECTION. **Sec. 201.** (1) The legislature finds that the
8 department of revenue has consistently interpreted the phrase "a
9 residential class of telephone service" as it would have been
10 understood when the residential telephone service exemption was enacted
11 in 1983. The legislature further finds that in 1983, all telephone
12 service was divided into separate "local" and "toll" services for
13 "residential" and "business" classifications, as defined by regulatory
14 tariffs filed with the utilities and transportation commission. As a
15 result, the department of revenue has consistently restricted the
16 residential telephone service exemption in RCW 82.08.0289 to nontoll
17 telephone service provided under a residential customer regulatory
18 tariff. This includes traditional landline telephone service but
19 excludes cellular telephone service and voice over internet protocol
20 telephone service, which are not subject to regulatory tariffs.

21 (2) The legislature further finds that:

22 (a) The department of revenue's interpretation of the residential
23 telephone service exemption has been upheld by the board of tax appeals
24 but was rejected by the Thurston county superior court in a 2011
25 decision. In *Sprint Spectrum LP v. State of Washington Department of*
26 *Revenue*, Cause No. 10-2-02276-4, the Thurston county superior court
27 ruled that the taxpayer's sales of cellular telephone services to
28 nonbusiness customers qualified for the residential telephone service
29 exemption in RCW 82.08.0289. That decision was subsequently vacated by
30 agreement of the parties.

31 (b) Although this litigation did not result in any binding court
32 decision, and the department of revenue continues to interpret the
33 exemption as applying only to nontoll telephone service provided under
34 a regulatory tariff filed with the utilities and transportation
35 commission, the residential telephone service exemption will continue

1 to be the subject of litigation as other taxpayers claim entitlement to
2 the exemption for other services.

3 (c) Further litigation would be costly and could result in the
4 unintended expansion of the exemption to all telephone services that a
5 carrier treats as residential, such as cellular and voice over internet
6 protocol telephone service provided to nonbusiness customers, and to
7 long-distance service provided to residential customers for a flat
8 rate. This could result in extremely large and devastating revenue
9 impacts for the state and local governments.

10 (d) The mobile telecommunications sourcing provisions in RCW
11 82.32.520 render the sales tax exemption in RCW 82.08.0289 for mobile
12 telecommunications services provided to a customer whose place of
13 primary use is outside this state redundant.

14 (3) The legislature intends by this act to (a) reduce litigation
15 risk and associated costs, (b) prevent unexpected adverse fiscal
16 impacts that would result if a court were to broadly construe the
17 residential telephone service exemption, and (c) improve equity in the
18 sales taxation of telecommunications services.

19 (4) Therefore, this act is intended to:

20 (a) Clarify retroactively that, prior to this act, the residential
21 telephone service exemption in RCW 82.08.0289 has always applied only
22 to residential nontoll telephone service offered under a tariff filed
23 with the utilities and transportation commission, consistent with the
24 department of revenue's long-standing interpretation of the exemption;

25 (b) Allow fixed interconnected voice over internet protocol
26 telecommunications service as identified in this act to qualify for the
27 residential telephone service exemption for periods prior to the
28 effective date of this section; and

29 (c) Prospectively eliminate the exemptions in RCW 82.08.0289 for
30 residential telephone service, coin-operated telephone service, and
31 mobile telecommunications services provided to a customer whose place
32 of primary use is outside this state.

33 **Sec. 202.** RCW 82.08.0289 and 2007 c 6 s 1006 and 2007 c 6 s 1005
34 are each reenacted and amended to read as follows:

35 Subject to the enactment into law of the 2013 amendments to RCW
36 82.14B.040 in section 102 of this act, the 2013 amendments to RCW
37 82.14B.042 in section 103 of this act, the 2013 amendments to RCW

1 82.14B.030 in section 104 of this act, the 2013 amendments to RCW
2 82.14B.200 in section 105 of this act, the 2013 amendments to RCW
3 80.36.430 in section 203 of this act, and the 2013 amendments to RCW
4 43.20A.725 in section 204 of this act:

5 (1) Until the effective date of this section, the tax levied by RCW
6 82.08.020 (~~shall~~) does not apply to sales of:

7 (a) Local service;

8 (b) Coin-operated telephone service; and

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

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

14 (a) "Local service" means:

15 (i) Ancillary services and telecommunications service, as those
16 terms are defined in RCW 82.04.065, other than toll service, provided
17 to an individual subscribing to a residential class of telephone
18 service offered under a tariff required to be filed with the Washington
19 utilities and transportation commission under Title 80 RCW; and

20 (ii) Fixed interconnected voice over internet protocol service,
21 other than the nonlocal service allocation attributable to that
22 service, sold by a provider to an individual classified as residential
23 by that provider.

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

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

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

37 (e) "Nonlocal service allocation" means the portion of the
38 provider's fixed interconnected voice over internet protocol service

1 attributable to the provider's nationwide nonlocal service activity as
2 determined using a method sanctioned by the federal communications
3 commission in FCC 06-94 and reported to the federal communications
4 commission for the same calendar quarter. If the provider does not
5 report any nonlocal service activity to the federal communications
6 commission, the full revenue derived from the fixed interconnected
7 voice over internet protocol service is deemed part of the nonlocal
8 service allocation.

9 (f) "Provider" means provider of a fixed interconnected voice over
10 internet protocol service that is subject to a franchise fee in this
11 state under the authority of 47 U.S.C. Sec. 542(a).

12 **Sec. 203.** RCW 80.36.430 and 2011 1st sp.s. c 50 s 968 are each
13 amended to read as follows:

14 Subject to the enactment into law of the 2013 amendments to RCW
15 82.14B.040 in section 102 of this act, the 2013 amendments to RCW
16 82.14B.042 in section 103 of this act, the 2013 amendments to RCW
17 82.14B.030 in section 104 of this act, the 2013 amendments to RCW
18 82.14B.200 in section 105 of this act, and the 2013 amendments to RCW
19 82.08.0289 in section 202 of this act:

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

1 ~~prior calendar year. The telephone assistance excise tax shall be~~
2 ~~separately identified on each ratepayer's bill as the "Washington~~
3 ~~telephone assistance program." All money collected from the telephone~~
4 ~~assistance excise tax shall be transferred to a telephone assistance~~
5 ~~fund administered by the department.)~~)

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

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

23 ~~((4) During the 2009-2011 and 2011-2013 biennia, the department~~
24 ~~shall enter into an agreement with the WIN 211 organization for~~
25 ~~operational support. During the 2011-2013 biennium, the department~~
26 ~~shall provide five hundred thousand dollars per fiscal year for this~~
27 ~~purpose.~~

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

31 **Sec. 204.** RCW 43.20A.725 and 2011 1st sp.s. c 50 s 944 are each
32 amended to read as follows:

33 Subject to the enactment into law of the 2013 amendments to RCW
34 82.14B.040 in section 102 of this act, the 2013 amendments to RCW
35 82.14B.042 in section 103 of this act, the 2013 amendments to RCW
36 82.14B.030 in section 104 of this act, the 2013 amendments to RCW

1 82.14B.200 in section 105 of this act, and the 2013 amendments to RCW
2 82.08.0289 in section 202 of this act:

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

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

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

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

1 telecommunications equipment vendors (~~shall~~) must be selected on the
2 basis of cost-effectiveness and utility to the greatest extent possible
3 under the program and technical specifications established by the
4 office.

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

13 (b) The office (~~shall~~) must perform its duties under this section
14 with the goal of achieving functional equivalency of access to and use
15 of telecommunications services similar to the enjoyment of access to
16 and use of such services experienced by an individual who does not have
17 a hearing or speech impairment only to the extent that funds are
18 available under the then-current rate and not otherwise held in reserve
19 or required for other purposes authorized by this 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. 205. The following acts or parts of acts are
35 each repealed:

36 (1) RCW 80.36.600 (Universal service program--Planning and

1 preparation--Commission's duties--Approval of legislature required--
2 Definitions) and 1999 c 372 s 16 & 1998 c 337 s 1;

3 (2) RCW 82.72.010 (Definitions) and 2007 c 6 s 1010 & 2004 c 254 s
4 3;

5 (3) RCW 82.72.020 (Authorization to administer telephone program
6 excise taxes) and 2004 c 254 s 4;

7 (4) RCW 82.72.030 (Collection of tax by local exchange company) and
8 2004 c 254 s 5;

9 (5) RCW 82.72.040 (Tax payment and collection requirements) and
10 2009 c 563 s 214 & 2004 c 254 s 6;

11 (6) RCW 82.72.050 (Administration of telephone program excise
12 taxes) and 2004 c 254 s 7;

13 (7) RCW 82.72.060 (Tax returns) and 2004 c 254 s 8;

14 (8) RCW 82.72.070 (Liability for payment of taxes) and 2009 c 563
15 s 215 & 2004 c 254 s 9; and

16 (9) RCW 82.72.080 (Liability for payment of taxes upon termination,
17 dissolution, or abandonment of business) and 2004 c 254 s 10.

18 **PART III**

19 **UNIVERSAL COMMUNICATIONS SERVICE PROGRAM**

20 NEW SECTION. **Sec. 301.** (1) The legislature finds that the state
21 and the public receive an important public benefit from communications
22 systems that enable as many consumers as possible to be connected to
23 the public network. Stable and ubiquitous communications services play
24 a crucial role in the protection of the public's physical and economic
25 safety and welfare.

26 (2) In legislation adopted in 1999, the legislature declared a
27 policy of support for universal communications services, subject to
28 legislative implementation. Recent changes in the communications
29 marketplace, including changes in access to federal universal services
30 funds, may expose the public to risk of disruption or cessation of
31 communications services and unstable rates for some customers,
32 particularly those in rural areas of the state, with resulting risks to
33 public safety and welfare. The legislature finds that the state has a
34 role in solving this problem under its authority to regulate
35 communications services providers as common carriers under Article XII,
36 section 19 of the state Constitution.

1 (3) For these reasons, the legislature intends to establish a
2 temporary program of assistance for universal communications services.
3 The purpose of the program is to protect safety and welfare by
4 supporting continued provision of basic telecommunications services at
5 stable rates under agreements subject to the supervision of the
6 utilities and transportation commission.

7 NEW SECTION. **Sec. 302.** A new section is added to chapter 80.36
8 RCW to read as follows:

9 The definitions in this section apply throughout this section and
10 sections 303 through 309 of this act unless the context clearly
11 requires otherwise.

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

15 (2) "Basic telecommunications services" means the following
16 services:

- 17 (a) Single-party service;
- 18 (b) Voice grade access to the public switched network;
- 19 (c) Support for local usage;
- 20 (d) Dual tone multifrequency signaling (touch-tone);
- 21 (e) Access to emergency services (911);
- 22 (f) Access to operator services;
- 23 (g) Access to interexchange services;
- 24 (h) Access to directory assistance; and
- 25 (i) Toll limitation services.

26 (3) "Communications provider" means a provider that provides a
27 working telephone number to a final consumer for intrastate wireline or
28 wireless communications services or interconnected voice over internet
29 protocol service, and includes local exchange carriers.

30 (4) "Communications services" includes telecommunications services
31 and information services and any combination thereof.

32 (5) "Incumbent local exchange carrier" has the same meaning as set
33 forth in 47 U.S.C. Sec. 251(h).

34 (6) "Incumbent public network" means the network established by
35 incumbent local exchange carriers for the delivery of communications
36 services to customers that is used by communications providers for

1 origination or termination of communications services by or to
2 customers.

3 (7) "Interconnected voice over internet protocol service" means an
4 interconnected voice over internet protocol service that: (a) Enables
5 real-time, two-way voice communications; (b) requires a broadband
6 connection from the user's location; (c) requires internet protocol-
7 compatible customer premises equipment; and (d) permits users generally
8 to receive calls that originate on the public network and to terminate
9 calls to the public network.

10 (8) "Program" means the state universal communications services
11 program created in section 303 of this act.

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

14 (10) "Telecommunications act of 1996" means the telecommunications
15 act of 1996 (P.L. 104-104, 110 Stat. 56).

16 (11) "Working telephone number" means a north American numbering
17 plan telephone number, or successor dialing protocol, that is developed
18 for use in placing calls to or from the public network, that enables a
19 consumer to make or receive calls.

20 NEW SECTION. **Sec. 303.** A new section is added to chapter 80.36
21 RCW to read as follows:

22 (1) A state universal communications services program is
23 established. The program is established to protect public safety and
24 welfare under the authority of the state to regulate telecommunications
25 under Article XII, section 19 of the state Constitution. The purpose
26 of the program is to support continued provision of basic
27 telecommunications services under rates established by the commission
28 during the time in which communications providers in the state are
29 adapting to changes in federal universal service fund and intercarrier
30 compensation support.

31 (2) Under the program, eligible communications providers may
32 receive distributions from the universal communications services
33 account created in section 308 of this act in exchange for the
34 affirmative agreement to provide continued services under the rates,
35 terms, and conditions established by the commission under this chapter
36 for the period covered by the distribution. Disbursements from the
37 account may not exceed the following amounts: Five million dollars in

1 fiscal year one, four million dollars in fiscal year two, three million
2 dollars in fiscal year three, two million dollars in fiscal year four,
3 and one million dollars in fiscal year five. The commission must
4 implement and administer the program under terms and conditions
5 established in sections 302 through 308 of this act.

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

8 (a) The communications provider is: (i) An incumbent local
9 exchange carrier serving fewer than forty thousand access lines in the
10 state; or (ii) a radio communications service company providing
11 wireless two-way voice communications service to less than the
12 equivalent of forty thousand access lines in the state. For purposes
13 of determining the access line threshold, the access lines or
14 equivalents of all affiliates must be counted as one threshold;

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

19 (c) The communications provider meets any other criteria
20 established by the commission.

21 (4)(a) Distributions to eligible communications providers are based
22 on a benchmark established by the commission. The benchmark is the
23 rate the commission determines to be a reasonable amount customers
24 should pay for basic residential service provided over the incumbent
25 public network. However, if an incumbent local exchange carrier is
26 charging rates above the benchmark for the basic residential service,
27 that provider may not seek distributions from the fund for the purpose
28 of reducing those rates to the benchmark.

29 (b) To receive a distribution under the program, the recipient
30 provider must affirmatively consent to continue providing
31 communications services to its customers under rates, terms, and
32 conditions established by the commission pursuant to this chapter for
33 the period covered by the distribution.

34 (5) The program is funded from amounts deposited by the legislature
35 in the universal communications services account established in section
36 308 of this act. The commission must operate the program within
37 amounts appropriated for this purpose and deposited in the account.

1 (6) The commission must implement the program through a contract
2 with a neutral third-party administrator. The administrator must be
3 selected through a competitive process and its activities are subject
4 to oversight by the commission. The commission establishes and
5 approves the budget and program expenses. The commission may authorize
6 disbursements to the administrator from the universal communications
7 services account established in section 308 of this act.

8 (7) The commission, directly or through the administrator, must
9 periodically review the accounts and records of any communications
10 provider that receives distributions under the program to ensure
11 compliance with the program and monitor the providers' use of the
12 funds.

13 (8) The commission may establish an advisory board, consisting of
14 a reasonable balance of representatives from different types of
15 communications providers and consumers, to advise the commission on
16 selecting and overseeing the administrator of the program.

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

19 NEW SECTION. **Sec. 304.** A new section is added to chapter 80.36
20 RCW to read as follows:

21 To implement the program, the commission must adopt rules for the
22 following purposes:

23 (1) Operation of the program, including criteria for eligibility
24 for distributions and identification of any reports or data that must
25 be filed with the commission;

26 (2) Operation of the universal communications services account
27 established in section 308 of this act;

28 (3) Criteria for election of the independent third-party
29 administrator;

30 (4) Establishment of the benchmark used to calculate distributions;

31 (5) Readoption, amendment, or repeal of any existing rules adopted
32 pursuant to RCW 80.36.610 and 80.36.620 as necessary to be consistent
33 with sections 302 through 309 of this act.

34 NEW SECTION. **Sec. 305.** A new section is added to chapter 80.36
35 RCW to read as follows:

36 (1) In addition to any other penalties prescribed by law, the

1 commission may impose penalties for failure to make or delays in making
2 or filing any reports required by the commission for administration of
3 the program. In addition, the commission may recover amounts
4 determined to have been improperly distributed under section 303 of
5 this act. For the purposes of this section, the provisions of RCW
6 80.04.380 through 80.04.405, inclusive, apply to all companies that
7 receive support from the universal communications services account
8 created in section 308 of this act.

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

12 (3) Any amounts recovered under this section must be deposited in
13 the universal communications services account created in section 308 of
14 this act.

15 NEW SECTION. **Sec. 306.** A new section is added to chapter 80.36
16 RCW to read as follows:

17 The commission may delegate to the commission secretary or other
18 staff the authority to resolve disputes, approve expenses of the
19 administrator, and make other administrative decisions necessary to the
20 administration and supervision of the program consistent with the
21 relevant statutes and commission rules.

22 NEW SECTION. **Sec. 307.** A new section is added to chapter 80.36
23 RCW to read as follows:

24 The commission must adopt rules to implement this act prior to July
25 1, 2014, to ensure that this act is implemented in a timely manner.

26 NEW SECTION. **Sec. 308.** A new section is added to chapter 80.36
27 RCW to read as follows:

28 The universal communications services account is created in the
29 custody of the state treasurer. Revenues to the account consist of
30 moneys deposited in the account by the legislature and any penalties or
31 other recoveries received pursuant to section 305 of this act.
32 Expenditures from the account may be used only for the purposes of the
33 universal communications services program established in section 303 of
34 this act. Only the secretary of the commission or the secretary's

1 designee may authorize expenditures from the account. The account is
2 subject to allotment procedures under chapter 43.88 RCW, but an
3 appropriation is not required for expenditures.

4 **Sec. 309.** RCW 80.36.610 and 1998 c 337 s 2 are each amended to
5 read as follows:

6 ~~((1))~~ The commission is authorized to take actions, conduct
7 proceedings, and enter orders as permitted or contemplated for a state
8 commission under the ~~((federal))~~ telecommunications act of 1996~~((, P.L.~~
9 ~~104-104 (110 Stat. 56), but the commission's authority to either~~
10 ~~establish a new state program or to adopt new rules to preserve and~~
11 ~~advance universal service under section 254(f) of the federal act is~~
12 ~~limited to the actions expressly authorized by RCW 80.36.600)).~~ The
13 commission may establish by rule fees to be paid by persons seeking
14 commission action under the ~~((federal))~~ telecommunications act of 1996,
15 and by parties to proceedings under that act, to offset in whole or
16 part the commission's expenses that are not otherwise recovered through
17 fees in implementing the act~~((, but new fees or assessments charged~~
18 ~~telecommunications carriers to either establish a state program or to~~
19 ~~adopt rules to preserve and advance universal service under section~~
20 ~~254(f) of the federal act do not take effect until the legislature has~~
21 ~~approved a state universal service program.~~

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

24 ~~(a) Every telecommunications carrier that provides intrastate~~
25 ~~telecommunications services shall contribute, on an equitable and~~
26 ~~nondiscriminatory basis, to the preservation and advancement of~~
27 ~~universal service in the state;~~

28 ~~(b) The contributions shall be competitively and technologically~~
29 ~~neutral; and~~

30 ~~(c) The universal service program to be established in accordance~~
31 ~~with RCW 80.36.600 shall not be inconsistent with the requirements of~~
32 ~~47 U.S.C. Sec. 254)).~~

33 **PART IV**
34 **SALES TAX PROVISIONS**

1 **Sec. 401.** RCW 82.08.020 and 2011 c 171 s 120 are each amended to
2 read as follows:

3 (1) Except as provided in subsection (6) of this section, there is
4 levied and collected a tax equal to six and five-tenths percent of the
5 selling price on each retail sale in this state of:

6 (a) Tangible personal property, unless the sale is specifically
7 excluded from the RCW 82.04.050 definition of retail sale;

8 (b) Digital goods, digital codes, and digital automated services,
9 if the sale is included within the RCW 82.04.050 definition of retail
10 sale;

11 (c) Services, other than digital automated services, included
12 within the RCW 82.04.050 definition of retail sale;

13 (d) Extended warranties to consumers; and

14 (e) Anything else, the sale of which is included within the RCW
15 82.04.050 definition of retail sale.

16 (2) There is levied and collected an additional tax on each retail
17 car rental, regardless of whether the vehicle is licensed in this
18 state, equal to five and nine-tenths percent of the selling price. The
19 revenue collected under this subsection must be deposited in the
20 multimodal transportation account created in RCW 47.66.070.

21 (3) Beginning July 1, 2003, there is levied and collected an
22 additional tax of three-tenths of one percent of the selling price on
23 each retail sale of a motor vehicle in this state, other than retail
24 car rentals taxed under subsection (2) of this section. The revenue
25 collected under this subsection must be deposited in the multimodal
26 transportation account created in RCW 47.66.070.

27 (4) For purposes of subsection (3) of this section, "motor vehicle"
28 has the meaning provided in RCW 46.04.320, but does not include farm
29 tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181,
30 off-road vehicles as defined in RCW 46.04.365, nonhighway vehicles as
31 defined in RCW 46.09.310, and snowmobiles as defined in RCW 46.04.546.

32 (5) Beginning on December 8, 2005, 0.16 percent of the taxes
33 collected under subsection (1) of this section must be dedicated to
34 funding comprehensive performance audits required under RCW 43.09.470.
35 The revenue identified in this subsection must be deposited in the
36 performance audits of government account created in RCW 43.09.475.

37 (6)(a) Beginning July 1, 2013, the rate of tax for persons
38 providing "competitive telephone services," "telecommunication

1 services," or "ancillary services" as those terms are defined in RCW
2 82.04.065, must be the rate of tax determined by the department as
3 prescribed in (b) of this subsection.

4 (b) Beginning with the rate of tax in subsection (1) of this
5 section, the department must make adjustments to that rate based upon
6 the effects of this act, including the provisions in Part I of this
7 act, as they apply to competitive telephone services, telecommunication
8 services, or ancillary services, so that the overall effect to the
9 general fund of the state will result in revenue neutrality. In making
10 this calculation the department must consider all increases or
11 decreases in revenues as well as required expenditures. The department
12 must make this determination by October 1, 2013.

13 (7) The taxes imposed under this chapter apply to successive retail
14 sales of the same property.

15 ~~((+7))~~ (8) The rates provided in this section apply to taxes
16 imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

17 **PART V**

18 **MISCELLANEOUS PROVISIONS**

19 NEW SECTION. Sec. 501. The repeals in section 205 of this act do
20 not affect any existing right acquired or liability or obligation
21 incurred under the statutes repealed or under any rule or order adopted
22 under them nor does it affect any proceedings instituted under them.

23 NEW SECTION. Sec. 502. For services affected by the expiration of
24 the exemption for local service under RCW 82.08.0289(1) that cover a
25 billing period starting before and ending after the effective date of
26 section 202 of this act, RCW 82.08.064(3)(a) is deemed to apply, and
27 retail sales tax will apply to the first billing period starting on or
28 after the effective date of section 202 of this act.

29 NEW SECTION. Sec. 503. Section 202 of this act applies
30 prospectively as well as retroactively to tax periods open for
31 assessment or refund of taxes under RCW 82.32.050 or 82.32.060,
32 including any refund claims or disputed assessments pending before the
33 department of revenue, board of tax appeals, or any court of law.

1 NEW SECTION. **Sec. 504.** In accordance with Article VIII, section
2 5 of the state Constitution, section 202 of this act does not authorize
3 refunds of sales tax validly collected.

4 NEW SECTION. **Sec. 505.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 506.** (1) Except as provided otherwise in this
9 section, this act is necessary for the immediate preservation of the
10 public peace, health, or safety, or support of the state government and
11 its existing public institutions, and takes effect July 1, 2013.

12 (2) Part I of this act takes effect January 1, 2014.

13 (3) Except for section 307 of this act, Part III of this act takes
14 effect July 1, 2014.

15 NEW SECTION. **Sec. 507.** Part III of this act expires July 1, 2020.

--- END ---