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**SUBSTITUTE HOUSE BILL 1460**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** House Finance (originally sponsored by Representatives Gregerson, Taylor, Simmons, J. Johnson, Lekanoff, Santos, Slatter, Dolan, Peterson, Callan, Ormsby, Morgan, Bateman, Bergquist, Ramel, Thai, Valdez, Pollet, Lovick, Macri, Chopp, Hackney, Ortiz-Self, Riccelli, Kloba, and Harris-Talley)

AN ACT Relating to closing the digital divide by establishing excise taxes on telecommunications services to fund the expansion of the universal service programs in Washington; amending RCW 43.330.530, 43.330.532, 43.330.534, and 43.330.412; adding new sections to chapter 80.36 RCW; adding a new section to chapter 43.330 RCW; creating a new section; prescribing penalties; and providing an effective date.

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

**PART 1**

**SENIOR CALL-CHECK SERVICE AND NOTIFICATION PROGRAM**

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

(1) The department shall establish and administer a senior call-check service and notification program to eligible participants.

(2) The program established under subsection (1) of this section consists of a telephone call made or received each day at a regularly scheduled time by the department or the department's designee to the residence of an eligible participant to verify that the participant is able to receive notifications and answer the telephone or place a call from the telephone. A senior call-check service and notification includes:

(a) A live telephone call placed by an eligible participant or received by an eligible participant at a regularly scheduled time each day;

(b) If the eligible participant does not answer or place the regularly scheduled call and the department designs the program to require this action, one or more automated or live telephone calls to the eligible participant;

(c) If the eligible participant does not answer a call under (b) of this subsection, an additional automated or live telephone call to notify the person of record whose name has been provided to the department; and

(d) A notification to the eligible participant regarding information that the department has determined to be relevant.

(3) The department must ensure the program services under subsection (2) of this section and program information, including sign-up and marketing materials, are language accessible.

(4) The department may contract with a private vendor or nonprofit organization to provide the senior call-check service and notification required under this section.

(5) The department may adopt rules as necessary to implement the program.

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

(a) "Department" means the department of social and health services.

(b) "Eligible participant" means a resident of the state who is at least 65 years old.

(c) "Person of record" includes a local government agency, or other person or entity designated by the department, that chooses to participate in the program.

(d) "Program" means the senior call-check service and notification program established in this section.

**PART 2**

**WASHINGTON BROADBAND ASSISTANCE PROGRAM**

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

The definitions in this section apply throughout this section and sections 202 and 203 of this act unless the context clearly requires otherwise.

(1) "Department" means the department of social and health services.

(2) "Eligible voice and broadband services" means those services deemed eligible for reduced cost by the commission pursuant to section 203 of this act.

(3) "Line" means an access line, service to an activated wireless handset, or service to an internet connection used as a substitute for a traditional telecommunications connection.

(4) "Low-income" means households as defined by the department, provided that the definition may not exceed the higher of 80 percent of area median household income or 200 percent of the federal poverty level, adjusted for household size.

(5) "Program" means the Washington broadband assistance program established in section 202 of this act.

(6) "Telecommunications provider" means any person or entity who provides eligible voice or broadband services.

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

(1) The Washington broadband assistance program is established within the department to provide low-income persons with reduced rates for eligible voice and broadband services. For the purposes of this section, "broadband" has the same definition as in RCW 43.330.530.

(2) A telecommunications provider providing eligible voice and broadband services to the public must provide those services to low-income persons at a reduced rate as determined by the commission.

(3) When enrolling new customers, a company providing voice and broadband services must inform customers of the program established under this section and persons eligible for other services provided by the department that may be eligible for reduced rates on eligible voice and broadband services.

(4) Upon enrolling low-income persons in the program, the company shall submit to the department such information as specified by the department for purposes of verifying the eligibility of those persons to receive services at reduced costs.

(5) The department shall verify the eligibility of customers to participate in the program, and notify the company whether a customer is eligible. The department shall reimburse each company the balance of the price charged.

(6) A customer may not request a bill assistance on more than one line. A company may not provide assistance under this program to any person unless the department has certified that the customer is not receiving assistance on another line or from any other telecommunications provider.

(7) If a company becomes aware that a customer is receiving assistance on more than one line or from more than one company, it must provide notice and take action to terminate the customer's enrollment in the program and notify the department of such termination.

(8) The department may promulgate rules to implement this section.

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

The commission shall establish annually by rule those services, including prepaid services, which are eligible for inclusion in the Washington broadband assistance program established in section 202 of this act and the amount of assistance to be provided to customers. In determining the rate of assistance to be provided, the commission shall consider the number of low-income customers expected to participate, the price of eligible voice and broadband services, other assistance programs available to customers, and other facts and circumstances that may bear on the reasonableness of assistance levels. The commission may by order exclude a company from the program if it determines the costs charged by the company to be excessive or the quality of service or customer service to be poor.

**PART 3**

**UNIVERSAL TELECONNECT SERVICE PROGRAM**

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

The definitions in this section apply throughout this section and section 302 of this act unless the context clearly requires otherwise.

(1) "Basic telecommunications services" means the following services:

(a) Single-party service;

(b) Voice grade access to the public switched network;

(c) Support for local usage;

(d) Dual tone multifrequency signaling (touch-tone);

(e) Access to emergency services (911);

(f) Access to operator services;

(g) Access to interexchange services;

(h) Access to directory assistance; and

(i) Toll limitation services.

(2) "Broadband service" means any service providing advanced telecommunications capability, including internet access and access to high quality voice, data, graphics, or video.

(3) "E-rate discount" means an actual discount under the e-rate program, or a representative discount figure as determined by the commission.

(4) "E-rate program" means the federal universal service e-rate program as provided in 47 C.F.R. Sec. 54 and administered by the schools and libraries division of the universal service administrative company.

(5) "Office" means the statewide broadband office established under RCW 43.330.532.

(6) "Program" means the universal teleconnect service program created in section 302 of this act.

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

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

(1) A state universal teleconnect service program is established. The office shall develop, implement, and administer the program for the purpose of providing discounted rates for telecommunications services to qualifying K-12 schools, community colleges, libraries, community-based and public hospitals, community-based and public health clinics, and community organizations. The office must coordinate with the office of the superintendent of public instruction in developing and implementing the program.

(2) Eligible applicants to receive discounted rates under the program include, but are not limited to, all customers eligible to receive discounts for telecommunications services under the e-rate program administered by the schools and libraries division of the universal service administrative company that also apply for discounts on telecommunications services provided in subsection (1) of this section.

(3) The discount developed under subsection (1) of this section must:

(a) Be a minimum of a 50 percent discount to program participants for broadband services;

(b) Be a minimum of a 25 percent discount to program participants for basic telecommunications services; and

(c) Be applied after applying an e-rate discount. The office shall first apply an e-rate discount, regardless of whether the customer has applied for an e-rate discount or has been approved, if the customer, in the determination of the office, meets the eligibility requirements for an e-rate discount.

(4) In establishing a discount under the program, the office must give priority to bridging the digital divide by encouraging expanded access to state-of-the-art technologies for rural, inner city, low-income, and disabled residents of Washington.

(5) The office must adopt rules to implement this section.

**PART 4**

**DIGITAL EQUITY OPPORTUNITY PROGRAM**

**Sec.**  RCW 43.330.530 and 2019 c 365 s 2 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW 43.330.532 through 43.330.538 unless the context clearly requires otherwise.

(1)(a) "Advanced telecommunications capability" means, without regard to any transmission media or technology, high-speed, switched, broadband telecommunications capability that enables users to originate and receive high quality voice, data, graphics, and video telecommunications using any technology.

(b) "Advanced telecommunications capability" does not include access to a technology that delivers transmission speeds below the minimum download and upload speeds provided in the definition of broadband in this section.

(2) "Aging individual" means an individual 60 years of age or older.

(3) "Board" means the public works board established in RCW 43.155.030.

((~~(2)~~)) (4) "Broadband" or "broadband service" means any service providing advanced telecommunications capability and internet access with transmission speeds that, at a minimum, provide ((~~twenty-five~~)) 25 megabits per second download and three megabits per second upload.

((~~(3)~~)) (5) "Broadband adoption" means the process by which an individual obtains daily access to the internet:

(a) At a speed, quality, and capacity necessary for the individual to accomplish common tasks, such that the access qualifies as an advanced telecommunications capability;

(b) Providing individuals with the digital skills necessary to participate online; and

(c) On a device connected to the internet and other advanced telecommunications services via a secure and convenient network.

(6) "Broadband infrastructure" means networks of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services to end users.

((~~(4)~~)) (7) "Department" means the department of commerce.

((~~(5)~~)) (8) "Digital equity" means the condition in which individuals and communities in Washington have the information technology capacity that is needed for full participation in society and the economy.

(9)(a) "Digital inclusion" means the activities that are necessary to ensure that all individuals in Washington have access to, and the use of, affordable information and communication technologies including, but not limited to:

(i) Reliable broadband internet service;

(ii) Internet-enabled devices that meet the needs of the user; and

(iii) Applications and online content designed to enable and encourage self-sufficiency, participation, and collaboration.

(b) "Digital inclusion" also includes obtaining access to digital literacy training, the provision of quality technical support, and obtaining basic awareness of measures to ensure online privacy and cybersecurity.

(10) "Digital literacy" means the skills associated with using technology to enable users to use information and communications technologies to find, evaluate, organize, create, and communicate information.

(11) "Last mile infrastructure" means broadband infrastructure that serves as the final connection from a broadband service provider's network to the end-use customer's on-premises telecommunications equipment.

((~~(6)~~)) (12) "Local government" includes cities, towns, counties, municipal corporations, public port districts, public utility districts, quasi-municipal corporations, special purpose districts, and multiparty entities comprised of public entity members.

((~~(7)~~)) (13) "Low-income" has the same meaning as provided in section 201 of this act.

(14) "Middle mile infrastructure" means broadband infrastructure that links a broadband service provider's core network infrastructure to last mile infrastructure.

((~~(8)~~)) (15) "Office" means the governor's statewide broadband office established in RCW 43.330.532.

((~~(9)~~)) (16) "Tribe" means any federally recognized Indian tribe whose traditional lands and territories included parts of Washington.

((~~(10)~~)) (17) "Underserved population" means:

(a) Individuals who live in low-income households;

(b) Aging individuals;

(c) Incarcerated individuals;

(d) Veterans;

(e) Individuals with disabilities;

(f) Individuals with a language barrier, including individuals who are English learners or who have low levels of literacy;

(g) Individuals who are members of a racial or ethnic minority group; and

(h) Individuals who primarily reside in a rural area.

(18) "Unserved areas" means areas of Washington in which households and businesses lack access to broadband service, as defined by the office, except that the state's definition for broadband service may not be actual speeds less than twenty-five megabits per second download and three megabits per second upload.

**Sec.**  RCW 43.330.532 and 2019 c 365 s 3 are each amended to read as follows:

(1) The governor's statewide broadband office is established. The director of the office must be appointed by the governor. The office may employ staff necessary to carry out the office's duties as prescribed by chapter 365, Laws of 2019, subject to the availability of amounts appropriated for this specific purpose.

(2) The purpose of the office is to encourage, foster, develop, and improve affordable, quality broadband within the state in order to:

(a) Drive job creation, promote innovation, improve economic vitality, and expand markets for Washington businesses;

(b) Serve the ongoing and growing needs of Washington's education systems, health care systems, public safety systems, industries and business, governmental operations, and citizens; and

(c) Improve broadband accessibility and adoption for unserved and underserved communities and populations.

**Sec.**  RCW 43.330.534 and 2019 c 365 s 4 are each amended to read as follows:

(1) The office has the power and duty to:

(a) Serve as the central broadband planning body for the state of Washington;

(b) Coordinate with local governments, tribes, public and private entities, nonprofit organizations, and consumer-owned and investor-owned utilities to develop strategies and plans promoting deployment of broadband infrastructure and greater broadband access, while protecting proprietary information;

(c) Review existing broadband initiatives, policies, and public and private investments;

(d) Develop, recommend, and implement a statewide plan to encourage cost-effective broadband access and to make recommendations for increased usage, particularly in rural and other unserved areas;

(e) Update the state's broadband goals and definitions for broadband service in unserved areas as technology advances, except that the state's definition for broadband service may not be actual speeds less than twenty-five megabits per second download and three megabits per second upload; and

(f) Encourage public-private partnerships to increase deployment and adoption of broadband services and applications.

(2) When developing plans or strategies for broadband deployment, the office must consider:

(a) Partnerships between communities, tribes, nonprofit organizations, local governments, consumer-owned and investor-owned utilities, and public and private entities;

(b) Funding opportunities that provide for the coordination of public, private, state, and federal funds for the purposes of making broadband infrastructure or broadband services available to rural and unserved areas of the state;

(c) Barriers to the deployment, adoption, and utilization of broadband service, including affordability of service; and

(d) Requiring minimum broadband service of twenty-five megabits per second download and three megabits per second upload speed, that is scalable to faster service.

(3) The office may assist applicants for the grant and loan programs created in RCW 43.155.160 and 43.330.412 and section 405 of this act with seeking federal funding or matching grants and other grant opportunities for deploying or increasing adoption of broadband services.

(4) The office may take all appropriate steps to seek and apply for federal funds for which the office is eligible, and other grants, and accept donations, and must deposit these funds in the statewide broadband account created in RCW 43.155.165.

(5) In carrying out its purpose, the office may collaborate with the utilities and transportation commission, the office of the chief information officer, the department of commerce, the community economic revitalization board, the public works board, the state librarian, and all other relevant state agencies.

**Sec.**  RCW 43.330.412 and 2011 1st sp.s. c 43 s 607 are each amended to read as follows:

The ((~~community technology~~)) digital equity opportunity program is created to ((~~support the efforts of community technology programs~~)) advance broadband adoption and digital equity and inclusion throughout the state. The ((~~community technology~~)) digital equity opportunity program must be administered by the department. The department may contract for services in order to carry out the department's obligations under this section.

(1) In implementing the ((~~community technology~~)) digital equity opportunity program the director must, to the extent funds are appropriated for this purpose:

(a) Provide organizational and capacity building support to community technology programs throughout the state((~~, and identify and facilitate the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. No~~)) and additional support for the purpose of:

(i) Evaluating the impact and efficacy of activities supported by grants awarded under the covered programs; and

(ii) Developing, cataloging, disseminating, and promoting the exchange of best practices, with respect to and independent of the covered programs, in order to achieve digital equity. After July 1, 2023, no more than ((~~fifteen~~)) 15 percent of funds received by the director for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to ((~~provide training~~)) advance digital equity and digital inclusion by providing:

(i) Training and skill-building opportunities; ((~~access~~))

(ii) Access to hardware and software; ((~~internet~~))

(iii) Internet connectivity; ((~~digital~~))

(iv) Digital media literacy training; ((~~assistance~~))

(v) Assistance in the adoption of information and communication technologies ((~~in~~)) for low-income and underserved ((~~areas~~)) populations of the state; and ((~~development~~))

(vi) Development of locally relevant content and delivery of vital services through technology.

(2) Grant applicants must:

(a) Provide evidence that the applicant is a nonprofit entity or a public entity that is working in partnership with a nonprofit entity;

(b) Define the geographic area or population to be served;

(c) Include in the application the results of a needs assessment addressing, in the geographic area or among the population to be served: The impact of inadequacies in technology access or knowledge, barriers faced, and services needed;

(d) Explain in detail the strategy for addressing the needs identified and an implementation plan including objectives, tasks, and benchmarks for the applicant and the role that other organizations will play in assisting the applicant's efforts;

(e) Provide evidence of matching funds and resources, which are equivalent to at least ((~~one-quarter~~)) 10 percent of the grant amount committed to the applicant's strategy;

(f) Provide evidence that funds applied for, if received, will be used to provide effective delivery of community technology services in alignment with the goals of this program and to increase the applicant's level of effort beyond the current level; and

(g) Comply with such other requirements as the director establishes.

(3) The director may use no more than ((~~ten~~)) 10 percent of funds received for the ((~~community technology~~)) digital equity opportunity program to cover administrative expenses.

(4) The director must establish expected program outcomes for each grant recipient and must require grant recipients to provide an annual accounting of program outcomes.

(5) No grant under the digital equity opportunity program created under this section may be awarded based on a formula or criteria that give preference to urban areas over rural areas, including the use of criteria that afford increased weight the greater the density of population.

NEW SECTION. **Sec.**  A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to the availability of funds appropriated for this purpose, the department shall establish a digital equity planning grant program.

(2) This program shall provide grants to local governments, institutions of higher education, or other entities who have entered into an agreement with a local government, to fund the development of a digital equity plan for a discrete geographic region of the state. Priority must be given for grant applications accompanied by express support from community or neighborhood-based nonprofit organizations, public development authorities, federally recognized Indian tribes in the state, or other community partners and partners from the categories of institutions outlined in RCW 43.330.421. Only the director or the director's designee may authorize expenditures.

(3) An applicant must submit an application to the department in order to be eligible for funding under this section.

(4) The department must evaluate and rank applications using objective criteria such as the number of underserved population served and subjective criteria such as the degree of support and engagement evidenced by the community who will be served.

(5) No planning grant under this section may be awarded based on a formula or criteria that give preference to urban areas over rural areas, including the use of criteria that afford increased weight the greater the density of population.

(6) The department shall develop criteria for what the digital equity plans must include.

(7) The department may adopt rules to implement this section.

**PART 5**

**DIGITAL EQUITY ACCOUNT**

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

(1) The digital equity account is created in the state treasury. Moneys in the account may be spent only after appropriation.

(2) Any amounts appropriated by the legislature to the account, or any other source directed to the account, must be deposited into the account.

(3) The legislature may appropriate moneys in the account only for the purposes of:

(a) Section 101 of this act, the senior call-check service and notification program;

(b) Section 202 of this act, the Washington broadband assistance program;

(c) Section 302 of this act, the state universal teleconnect service program;

(d) RCW 43.330.412, the digital equity opportunity program; and

(e) Section 405 of this act, the digital equity planning grant program.

**PART 6**

**MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec.**  The secretary of the department of social and health services, the chair of the utilities and transportation commission, the director of the department of commerce, and the director of the statewide broadband office, or any of his or her designees, may take any actions necessary to ensure that the provisions of this act are implemented on the dates identified in section 602 of this act.

NEW SECTION. **Sec.**  Sections 101 through 501 of this act take effect July 1, 2022.

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

**--- END ---**