Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

HB 1460

Brief Description: Closing the digital divide by establishing excise taxes on telecommunications services to fund the expansion of the universal service programs in Washington.

Sponsors: Representatives Gregerson, Taylor, Simmons, Johnson, J., 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.

Brief Summary of Bill

- Establishes the following programs: Senior Call-Check Service and Notification Program; Washington Lifeline Program; Universal Teleconnect Service Program; Digital Equity Opportunity Grant Program; and Digital Equity Planning Grant Program.
- Modifies the existing Universal Communications Services Account to create a Universal Services Account for receipt of revenues and expenditures of programs under the Act.
- Establishes a monthly $0.25 telephone and voice over Internet protocol tax on all switched access lines in the state.
- Establishes a monthly $0.25 Internet access tax imposed on all Internet access service subscriptions in the state.

Hearing Date: 2/8/21

Staff: Nick Tucker (786-7383).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Federal Universal Service Fund Programs.
The Federal Communications Commission (FCC) Universal Service Fund (USF) is used to implement programs related to "universal service," which is the principle that all Americans should have access to communications services and which was a cornerstone of the federal Communications Act of 1934 that established the FCC.

The federal Telecommunication Act of 1996 expanded the traditional goal of universal service to include increased access to both telecommunications and advanced for all consumers at just, reasonable, and affordable rates. The FCC established four programs within the FCC to implement the statute. These programs include: Connect America Fund for rural areas (previously High-Cost Support); Lifeline for low-income consumers; E-rate for schools and libraries; and Rural Health Care program.

Federal Lifeline Program.
The federal Lifeline Program provides a discount on phone service for qualifying low-income consumers. The discount is provided to subscribers on monthly telephone service, broadband Internet service, or bundled voice-broadband packages purchased from participating wireline or wireless providers. The program provides up to a $9.25 monthly discount on service for eligible low-income subscribers and up to $34.25 per month for those on tribal lands. Eligibility is determined based on income, participation in certain federal assistance programs, and other factors.

Federal E-rate Program.
The federal E-rate program provides funding to schools and libraries to assist those institutions with obtaining affordable broadband. Discounts for support depend on the level of poverty and whether the school or library is located in an urban or rural area. The discounts range from 20 percent to 90 percent of the costs of eligible services. E-rate program funding is based on demand up to an annual Commission-established cap of $4.15 billion.

Community Technology Opportunity Program.
The Community Technology Opportunity Program (CTOP) provided organizational and capacity-building support for community technology programs throughout the state. A portion of the CTOP funds were distributed through a competitive grant program. The grants were to be used by community technology programs to: provide training and skill-building opportunities; access to hardware and software; internet connectivity; digital media literacy; assistance in the adoption of information and communication technologies in low-income and underserved areas of the state; and development of locally relevant content and delivery of vital services through technology. The account used to fund the CTOP was repealed in 2011.

Universal Communications Services Program.
The Universal Communications Services (UCS) program was established in 2014 to provide temporary direct support to Washington's smaller incumbent communications service providers during certain changes in federal funding. In 2019, the purpose of the UCS program was expanded to include the provision, enhancement, and maintenance of broadband services.

Universal Communication Services Account.
The Universal Communication Services account is a nonappropriated account in the custody of the State Treasurer. Revenues to the account consist of any moneys deposited in the account by the legislature and any penalties or other recoveries received under the state universal communications services program. Expenditures from the account may only be made for purposes of the Universal Communications Services program and Utilities and Transportation Commission expenses related to the program. Expenditures from the account must be authorized by the secretary of the commission or their designee. The account is subject to allotment procedures and the account expires July 1, 2025.

Taxation.
The state Legislature has the power to levy taxes. Major taxes levied by the state include: retail sales and use tax; real estate excise tax; business and occupation tax; public utility tax; and property tax. Additionally, the state levies a variety of other taxes including: rental car tax; soft drinks syrup tax; telephone taxes; marijuana excise tax; and vapor products tax. For some taxes, the Legislature has limited the use of revenues raised from the tax to fund specific programs or activities.

Summary of Bill:

Senior Call-Check Service and Notification Program.
The Department of Social and Health Services (DSHS) is directed to establish and administer a senior call-check service and notification program (call-check program). Any resident of the state who is at least 65 years of age is eligible to participate in the call-check program. The DSHS must ensure that the call-check program is language-accessible.

The call-check program consists of a regularly scheduled, daily telephone call to the residence of a participant to verify that the participant is able to receive notifications and answer or place a telephone call. The daily call may be made by the DSHS or a designee of the DSHS. If a participant does not answer or place a scheduled call, one or more additional live or automated calls may be placed to the participant. If a participant still does not answer the calls, an automated or live call is made to notify a designated local government agency or other person or entity as designated by the DSHS. The call-check program may also provide notifications to participants deemed to be relevant by the DSHS.

The DSHS is authorized to contract with a private vendor or nonprofit organization to provide the call-check program. The DSHS is authorized to adopt rules as necessary to implement the program.

Washington Lifeline Program.
The Utilities and Transportation Commission (UTC) is directed to establish, develop, implement, and administer a Washington Lifeline Program (Lifeline Program) to provide low-income customers reduced costs for eligible voice and broadband services. The reduced cost of service

provided in the Lifeline Program is provided by eligible telecommunications carriers as an adjustment (lifeline adjustment) to a customer's rate for voice and broadband technologies. The adjustment may only be provided on one line per customer.

The lifeline adjustment is as follows:

- If the lifeline base rate is $25 or less, the lifeline adjustment is $10.
- If the lifeline base rate is more than $25, the lifeline adjustment is the lesser of either the amount necessary to reduce the lifeline monthly rate to $15 or the maximum reimbursement available under 47 C.F.R. Sec. 54.403 plus $9.25.

The lifeline base rate must be determined by the UTC by rule. Various methods that the UTC may consider for determining this rate are provided in the Act.
For prepaid wireless service, the lifeline adjustment is the greater of the following:

- the number of minutes, using the lowest per minute rate offered by the provider, that equal or exceeds the value of the standard lifeline adjustment; or
- the number of minutes determined by the Federal Communications Commission to be an acceptable compliance plan provision for the provider.

Additional provisions outline the calculation of the lifeline adjustment for eligible residents of tribal lands.

Termination of the lifeline adjustment for a given customer follows the provisions of the federal program.

Carriers may only receive reimbursement for lifeline adjustments if it complies with all requirements of the federal program and the UTC may withhold reimbursements while investigating compliance. Partial month reimbursements follow the provisions of the federal program.

Carriers must annually report to the UTC the outreach efforts conducted by the carrier to increase participation in the program. The UTC must biennially report to the legislature an assessment of the Lifeline Program.

Carriers may counsel a customer that would otherwise be subject to disconnection to accept call limitations. Carriers may not do any of the following to a lifeline customer:

- charge a deposit for service if the customer voluntarily accepts call limitations;
- request that a customer pay in advance for more than one month; or
- disconnect the customer for nonpayment of toll charges.

Universal Teleconnect Service Program.
The State Broadband Office (SBO) is directed to establish, develop, implement, and administer a Universal Teleconnect Service Program (Teleconnect Program) for the purpose of providing discounted rates for telecommunications services to qualifying kindergarten through grade 12 schools, community colleges, libraries, community-based and public hospitals or health clinics,

and community organizations. The SBO is authorized to adopt rules as necessary to implement the program.

The discount provided under the Teleconnect Program must be a minimum 50 percent discount for broadband services and a minimum of a 25 percent discount for basic telecommunications services. The discount must be applied after applying the federal E-rate discount.

The SBO, in establishing a discount, 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 the state.

Digital Equity Opportunity Grant Program.
The Community Technology Opportunity Program, administered by the Department of Commerce (Commerce), is renamed to become the Digital Equity Opportunity Program (Opportunity Grant Program). The Opportunity Grant Program is created to advance broadband adoption and digital equity and inclusion through the state.

The Opportunity Grant Program must provide support to community technology programs throughout the state for the purpose of: evaluating the impact and efficacy of activities supported by grants awarded under the covered programs; and developing, cataloging, disseminating, and promoting the exchange of best practices, in order to achieve digital equity.

The competitive grant program is expanded to provide grants to advance digital equity and digital inclusion. The grant program is further modified to require 10 percent of matching funds and to specify that Commerce may not give preference to urban areas over rural areas or give priority for greater population density.

Digital Equity Planning Grant Program.
Commerce is directed to establish a Digital Equity Planning Grant Program (Planning Grant Program) to 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.

Commerce is authorized to adopt rules as necessary to implement the program and is directed to develop criteria for the contents of digital equity plans.

Applications must be made to Commerce to be eligible to receive a grant under the program. Commerce must evaluate and rank applications using both objective and subjective criteria. Priority must be given for applications accompanied by express support from certain nonprofit organizations, public development authorities, federally recognized Indian tribes, or other certain community partners. Commerce may not give preference to urban areas over rural areas or give priority for greater population density.

Universal Services Account.

The Universal Communication Services account is renamed as the Universal Services Account (Account). Moneys in the Account may only be spent after appropriation.
All receipts from the telephone and voice over internet protocol tax and the internet access tax must be deposited in the Account. Additionally, any penalties or other recoveries received under the state universal communications services program, or any other source directed to the Account must be deposited in the Account.

Expenditures from the Account may be used only for: the Universal Communications Services Program; the Call-Check Program; the Lifeline Program; the Teleconnect Program; the Opportunity Grant Program; and the Planning Grant Program.

Telephone & Voice Over Internet Protocol Tax.
An additional $0.25 monthly tax is imposed on all wired telephone, cellular telephone, and voice over Internet protocol lines (Telephone and VoIP Tax). The Telephone and VoIP Tax does not apply to any activity that the state is prohibited from taxing under the Washington State Constitution or the Constitution or laws of the United States. The Department of Revenue (DOR) is authorized to adopt rules as necessary to implement the tax.

The Telephone and VoIP Tax is paid by the subscriber or consumer and must be collected by the company providing the service or the seller. Once collected, the taxes are deemed to be held in trust by the company or seller. The company or seller is personally liable for the amount of the tax, unless the company or seller has taken documentation stating that the subscriber or consumer is not otherwise liable for the tax. Any subscriber or consumer who refuses to pay the Telephone and VoIP Tax, or any company or seller who refuses to collect the tax, is guilty of a misdemeanor.

The Telephone and VoIP Tax is subject to the DOR's general administrative provisions provided in chapter 82.32 RCW, with some exceptions. Additional administrative provisions related to the collection, payment, and remittance of the tax are included.

Internet Access Tax.
An additional $0.25 monthly tax is imposed on all Internet access service subscriptions (Internet Access Tax). The Department of Revenue (DOR) is authorized to adopt rules as necessary to implement the tax.

The Internet Access Tax is paid by the subscriber or consumer and must be collected by the Internet access service provider or seller. Once collected, the taxes are deemed to be held in trust by the provider. The provider or seller is personally liable for the amount of the tax, unless the provider or seller has taken documentation stating that the subscriber or consumer is not otherwise liable for the tax. Any subscriber or consumer who refuses to pay the Internet Access Tax, or any provider or seller who refuses to collect the tax, is guilty of a misdemeanor.

The Telephone and VoIP Tax is subject to the DOR's general administrative provisions provided in chapter 82.32 RCW, with some exceptions. Additional administrative provisions related to the collection, payment, and remittance of the tax are included.

Miscellaneous Provisions.
The secretaries or directors of the DSHS, the UTC, and the SBO, may take the necessary steps to ensure that the provisions of the act are implemented by the relevant effective dates.

A severability clause is included.

Appropriation: None.

Fiscal Note: Requested on February 1, 2021.

Effective Date: The bill takes effect July 1, 2022, except for the provisions related to the telephone and voice over Internet protocol tax and the Internet access tax, which take effect October 1, 2021.