
SENATE BILL 5935

State of Washington 65th Legislature 2017 1st Special Session

By Senators Sheldon and Carlyle

1 AN ACT Relating to enhancing consumer access, affordability, and
2 quality of broadband and advanced telecommunications services;
3 amending RCW 80.36.630, 80.36.650, 80.36.660, 80.36.670, 80.36.680,
4 80.36.690, 53.08.370, and 53.08.380; amending 2013 2nd sp.s. c 8 s
5 212 (uncodified); adding a new section to chapter 35.99 RCW; adding
6 new sections to chapter 43.06 RCW; adding new sections to chapter
7 43.330 RCW; adding a new section to chapter 82.32 RCW; creating new
8 sections; repealing RCW 43.330.400, 43.330.403, 43.330.406,
9 43.330.409, 43.330.412, 43.330.415, 43.330.418, and 43.330.421; and
10 providing expiration dates.

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

12 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.99
13 RCW to read as follows:

14 (1)(a) It is the policy of the state to promote the efficient
15 deployment of microcells, small cell facilities, and small cell
16 networks, as defined in RCW 80.36.375, infrastructure by offering
17 predictability for wireless service providers so communities across
18 the state have access to wireless communications technologies and
19 create a framework for the deployment of wireless communications
20 services. It is also the policy of the state that cities and towns
21 maintain sufficient authority to manage the public rights-of-way for

1 the health, safety, and welfare of their citizens and the general
2 public.

3 (b) It is the intent of the legislature that cities and towns may
4 require personal wireless service providers seeking to deploy
5 microcells, small cell facilities, or small cell network
6 infrastructure to obtain a master permit under RCW 35.99.030.
7 Additionally, a city or town may require a wireless service provider
8 to obtain a use permit to enter and use the specified right-of-way
9 for the purpose of installing, maintaining, repairing, or removing
10 identified small cell network facilities.

11 (c) The legislature intends to expedite the issuance of master
12 permits and use permits, as provided under (b) of this subsection,
13 by: Exempting microcells, small cell facilities, and small cell
14 network infrastructure from general land use requirements; and
15 requiring cities and towns to adopt small cell network-specific
16 ordinances with design standards. The legislature intends for these
17 design standards to provide the public and personal wireless service
18 providers with greater predictability.

19 (2) Except as provided for in subsection (10) of this section,
20 within nine months of the effective date of this section, cities and
21 towns with a population greater than twenty thousand, and within
22 twelve months of the effective date of this section, cities and towns
23 with a population of five thousand to twenty thousand, shall enact a
24 small cell facility deployment ordinance establishing a process for
25 issuing master permits for microcells, small cell facilities, and
26 small cell networks under this chapter.

27 (3)(a) A city or town with an adopted small cell facility
28 deployment ordinance may not require a wireless service provider
29 proposing to site a microcell, small cell facility, or small cell
30 network infrastructure exclusively on existing poles or structures to
31 apply for a conditional use permit, or other general land use permit
32 or approval, unless the proposal: Would require a new pole; is
33 outside the scope of any approved master permit; or does not meet the
34 established design standards.

35 (b) A city or town may require a small cell facility proposed to
36 be located on one or more new poles to obtain a conditional use
37 permit or such other general land use permit or approval as the city
38 or town determines is appropriate.

39 (4) A small cell facility deployment ordinance must outline the
40 standards that personal wireless service providers are required to

1 follow in seeking a master permit to deploy microcells, small cell
2 facilities, and small cell networks as defined in RCW 80.36.375.

3 (5) The ordinance must treat service providers in a competitively
4 neutral and nondiscriminatory manner.

5 (6) The ordinance may provide design standards applicable to any
6 master permit issued under RCW 35.99.030 for a microcell, small cell
7 facility, or small cell network, subject to the following:

8 (a) Design standards must be feasible, reasonable, and objective.

9 (b) Design standards must be nondiscriminatory, consistent with
10 47 U.S.C. Sec. 253(c).

11 (c) The small cell facility ordinance may include pictorial
12 representation of the adopted design standards.

13 (7) The ordinance must identify any additional public hearings or
14 meetings required prior to the approval of a master permit.

15 (8) The ordinance must include a fee schedule outlining master
16 permit and use permit fees. The fee schedule:

17 (a) Must allow the city or town to recover at least the actual
18 costs of processing master permits and use permits;

19 (b) May allow the city or town to recover at least the actual
20 costs associated with the development of the small cell facility
21 deployment ordinance amortized over the first five years following
22 adoption of the ordinance;

23 (c) May allow a permit applicant to pay an additional fee for
24 expedited permit processing if the city has deployed such a process.
25 This provision is not intended to require jurisdictions to create an
26 expedited permitting process when one does not already exist;

27 (d) May require the permit applicant to pay fair market rent or
28 compensation if the master permit proposes to deploy microcells,
29 small cell facilities, or small cell networks on city or town-owned
30 poles.

31 (9) A small cell facility deployment ordinance may include the
32 following provisions, at the discretion of the city or town:
33 Standards for the installation of microcells, small cell facilities,
34 and small cell networks, as defined in RCW 80.36.375, on city or
35 town-owned structures located outside of the right-of-way. The
36 standards may include requirements for fair market rent, other
37 compensation, and other terms and conditions for these installations.

38 (10) A city or town that, as of the effective date of this
39 section, has previously adopted an ordinance governing the siting of
40 small cell network infrastructure is not required to adopt a small

1 cell facility deployment ordinance as otherwise required under
2 subsection (2) of this section.

3 (11) A small cell facility deployment ordinance enacted as
4 required by this section has no effect on previously adopted
5 franchises, permits, or agreements for microcells, small cell
6 facilities, or small cell networks deployments made or entered into
7 by any city or town.

8 (12) Nothing in this section limits a city or town from issuing
9 master permits or use permits in accordance with other provisions of
10 this chapter.

11 (13) Nothing in this section may be construed as creating a duty
12 on cities or towns with a population less than five thousand.
13 However, cities with a population of less than five thousand may
14 adopt a small cell facility deployment ordinance and the provisions
15 under subsection (2) of this section.

16 NEW SECTION. **Sec. 2.** The legislature finds that:

17 (1) The federal communications commission has adopted a national
18 broadband plan that includes recommendations directed to federal,
19 state, and local governments, including recommendations to:

20 (a) Design policies to ensure robust competition and maximizing
21 consumer welfare, innovation, and investment;

22 (b) Ensure efficient allocation and management of assets that
23 government controls or influences, such as poles and rights-of-way,
24 to encourage network upgrades and competitive entry;

25 (c) Reform current universal service mechanisms to support
26 deployment in high-cost areas; ensuring that low-income Americans can
27 afford broadband; and supporting efforts to boost adoption and
28 utilization; and

29 (d) Reform laws, policies, standards, and incentives to maximize
30 the benefits of broadband in sectors that government influences
31 significantly, such as public education, health care, and government
32 operations;

33 (2) The federal communications commission has also adopted a goal
34 that all of the country's households have affordable access to actual
35 download speeds of at least twenty-five megabits per second and
36 actual upload speeds of at least three megabits per second; that a
37 majority of households have access to speeds of one hundred fifty
38 megabits, respectively; and that every community should have
39 affordable access to at least one gigabit per second broadband

1 service to anchor institutions such as schools, hospitals, and
2 government buildings;

3 (3) These national goals are appropriate for Washington state;

4 (4) Extensive investments have been made by the
5 telecommunications industry and the public sector, as well as
6 policies and programs adopted to provide affordable broadband
7 services throughout the state, that will provide a foundation to
8 build a comprehensive statewide framework for additional actions
9 needed to advance state's broadband goals.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.06
11 RCW to read as follows:

12 (1) The governor's office on broadband access is created. The
13 office shall serve as the coordinating body for public and private
14 efforts to ensure statewide broadband access and deployment and is
15 responsible for all matters regarding the adoption of statewide
16 broadband access and deployment.

17 (2) The office on broadband access shall:

18 (a) Coordinate with communities, public and private entities, and
19 consumer-owned and investor-owned utilities to develop strategies and
20 plans for deployment of broadband infrastructure and access to
21 broadband services;

22 (b) Review existing broadband initiatives, policies, and public
23 and private investments and make comprehensive recommendations, as
24 required under section 4(4) of this act, to advance the state's
25 broadband access goals;

26 (c) Update the state's goals and standards for broadband service
27 as technological advances becomes available as determined under
28 section 4(4)(a) of this act;

29 (d) Coordinate the reports, work plan, and recommendations to the
30 legislature, as required under section 4(5) of this act.

31 (3) When developing plans or strategies for broadband deployment,
32 the office on broadband access must consider:

33 (a) Partnerships between communities, nonprofit organizations,
34 consumer-owned and investor-owned utilities, and public and private
35 entities;

36 (b) Funding opportunities that provide for the coordination of
37 public, private, state, and federal funds for the purposes of making
38 broadband-capable infrastructure or broadband services available to
39 underserved or unserved areas of the state;

1 (c) Barriers to the adoption of broadband service;

2 (d) Unserved or underserved populations in the state; and

3 (e) Recommendations from selected broadband deployment
4 partnership initiative projects as required under section 5(4) of
5 this act.

6 (4)(a) The office on broadband access must establish a
7 competitive grant program to assist qualified local governments and
8 public entities, including public utility districts, port districts,
9 and local jurisdictions, to deploy broadband services in unserved and
10 underserved areas of the state.

11 (b) Eligible uses of grant funds must be prioritized as follows:

12 (i) Countywide or subcounty strategic planning for deploying
13 broadband services in unserved and underserved areas of the state;

14 (ii) Broadband deployment partnership initiative projects as
15 determined under section 5 of this act;

16 (iii) Technical analysis to address barriers and interoperability
17 between private and public infrastructure; and

18 (iv) Assistance to public and private partnerships deploying
19 broadband infrastructure between areas with broadband service and
20 unserved or underserved areas of the state.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.06
22 RCW to read as follows:

23 (1) The broadband access task force is created to assist the
24 governor's office on broadband access created in section 3 of this
25 act for the purpose of reviewing existing broadband initiatives,
26 policies, and public and private investments and providing a
27 comprehensive set of recommendations to advance the state's broadband
28 deployment, services, and access goals.

29 (2) The task force must be appointed by the governor and include
30 the following:

31 (a) Three members representing the telecommunications industry,
32 with one from a:

33 (i) Local exchange company that serves at or more than two
34 percent of the access lines in the state;

35 (ii) Local exchange company that serves less than two percent of
36 the access lines; and

37 (iii) Cable television service;

38 (b) One member representing tribes, who must be invited to serve
39 on the task force;

1 (c) One member representing cities;
2 (d) One member representing counties;
3 (e) One member representing port districts;
4 (f) One member representing public utility districts;
5 (g) One member representing the data center and information
6 technology industry;
7 (h) One member representing higher education and research
8 institutions;
9 (i) One member representing digital literacy advocacy
10 organizations;
11 (j) One member representing emergency management agencies;
12 (k) One member representing a local economic development council
13 or a statewide nonprofit association representative;
14 (l) The director of the office of the state chief information
15 officer or the director's designee;
16 (m) The chair of the utilities and transportation commission or
17 the chair's designee; and
18 (n) The task force chair, who must be selected by the governor.
19 (3) The office of the state chief information officer and the
20 department of commerce shall cooperate in staffing the task force and
21 providing information regarding telecommunications services provided
22 to state agencies.
23 (4)(a) The task force shall review:
24 (i) Current initiatives and programs in the state as well as the
25 status of implementation of recommendations from previous broadband
26 access reports;
27 (ii) State, local, and industry programs throughout the country
28 that illustrate best practices in the provision of broadband access
29 and that incorporate performance-based measures;
30 (iii) Technology development, financial, regulatory, tax policy,
31 and infrastructure siting challenges that the state must address to
32 accomplish the goals set out in subsection (1) of this section;
33 (iv) The actions necessary to develop and maintain a detailed
34 inventory of the deployment of broadband services, including
35 monitoring and tracking the availability of broadband services and
36 internet speeds across the state, with an emphasis upon identifying
37 and assessing progress made towards achieving goals of the federal
38 communications commission for internet speeds in unserved and
39 underserved areas;

1 (v) Developing standards for defining levels of service for
2 broadband access, including unserved and underserved areas, and a
3 recommended process to revise these standards as technological
4 advances are made and services are expanded;

5 (vi) Public sector and telecommunications industry actions to
6 bring sustainable broadband access to rural areas that are unserved
7 or underserved; and

8 (vii) The necessary elements of a comprehensive state broadband
9 access plan, which includes a geographic analysis of service needs
10 and recommends the public and private sector interests that should
11 participate in developing and maintaining the plan.

12 (b)(i) The task force shall review charges:

13 (A) For pole attachments that include, but are not limited to:
14 Recognizing the value of locally regulated utility infrastructure;
15 considers a consistent cost-based formula for calculating fair, just,
16 reasonable, and sufficient rates to ensure predictability and
17 consistency; ensures rates do not subsidize licensees; and the
18 impacts of unauthorized attachments; and

19 (B) For installation of other telecommunications facilities and
20 equipment on public property and within public rights-of-way.

21 (ii) The task force must also perform a review of the standards
22 and formulas applicable under RCW 54.04.045 and 35.21.455, rules of
23 the utilities and transportation commission, rules of the federal
24 communications commission, and recommended by the American public
25 power association.

26 (c) The task force shall review and assess:

27 (i) The public governmental sector as a consumer of
28 telecommunications services as well as a host for telecommunications
29 infrastructure on public property and recommendations for receiving
30 adequate public benefit in the provision of acquiring these services
31 and hosting this infrastructure; and

32 (ii) The effectiveness of existing federal, state, and local
33 funding programs to assist in deployment, including the connect
34 America fund, the state's community technology opportunity program,
35 funding provided by the state's community economic revitalization
36 board, and other programs.

37 (5) The governor shall appoint the task force by September 30,
38 2017. The task force must submit the following to the
39 telecommunications committees of the senate and house of
40 representatives:

1 (a) A work plan by November 30, 2017;

2 (b) A progress report by April 1, 2018, and, if available, in
3 coordination with reports as required under RCW 43.105.369(7); and

4 (c) A final report with findings and recommendations for
5 statewide deployment of broadband service in unserved and underserved
6 areas, as well as other necessary administrative and legislative
7 actions by November 15, 2018.

8 (6) The task force may form a subcommittee to review pole
9 attachment issues as provided under subsection (4)(b) of this
10 section, or other subcommittees as necessary to complete its duties.

11 (7) This section expires July 1, 2019.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.06
13 RCW to read as follows:

14 (1)(a) The broadband deployment partnership initiative is created
15 for the purpose of initiating and fostering partnerships between
16 entities that facilitate deployment of broadband to enhance and
17 expand broadband services in underserved and unserved areas of the
18 state. The broadband deployment partnership initiative may include
19 wholesale, retail, or other telecommunications services projects that
20 bring broadband infrastructure or broadband services to unserved or
21 underserved areas of the state.

22 (b) By November 1, 2017, the governor's office on broadband
23 access, in consultation with the department of commerce and the
24 utilities and transportation commission, must present a list of
25 prioritized broadband deployment partnership initiative projects to
26 the governor based on evaluation criteria under subsection (2) of
27 this section.

28 (2) The governor's office on broadband access created in section
29 3 of this act, in consultation with the department of commerce and
30 the utilities and transportation commission, must evaluate and
31 prioritize broadband deployment partnership initiative project
32 applications that:

33 (a) Will deploy broadband services to underserved or unserved
34 areas by December 1, 2018;

35 (b) Coordinates public, private, state, and federal funds or
36 other funds, for deployment of broadband services in underserved and
37 unserved areas of the state;

38 (c) Demonstrates an opportunity or potential for economic
39 development growth;

1 (d) Collaborates with public and private partners to address
2 unmet needs, specific purposes, and needs of service of the
3 community; or

4 (e) Will establish a sustainable initiative in a large rural
5 geographic area.

6 (3) By December 1, 2017, the governor shall choose two projects,
7 one to an eligible applicant east of the crest of the Cascade
8 mountains and one to an eligible applicant west of the crest of the
9 Cascade mountains.

10 (4) By December 1, 2018, recipients of funding for broadband
11 deployment partnership initiative projects must provide to the
12 governor's office on broadband access created in section 3 of this
13 act recommendations for:

14 (a) Effective and efficient use of public funds;

15 (b) Model business plans that include approaches for partnerships
16 and strategies to meet varying community needs and network
17 management; and

18 (c) State policies for continuing deployment of broadband
19 services beyond the broadband deployment partnership initiative
20 project.

21 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.330
22 RCW to read as follows:

23 (1) The department must implement and administer a competitive
24 grant program to assist qualified local governments and public
25 entities, including public utility districts, port districts, and
26 local jurisdictions, to deploy broadband services in underserved and
27 unserved areas of the state, as required under section 3(4) of this
28 act.

29 (2)(a) The department must develop rules for grant eligibility
30 and as necessary to implement and administer a grant program under
31 section 3(4) of this act.

32 (b) The obligation of the department to make grant payments is
33 contingent upon the availability of the amount of money available for
34 this purpose as required under section 3(4) of this act.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.32
36 RCW to read as follows:

37 (1) The department shall:

1 (a) Estimate the amount of taxes paid under chapters 82.08 and
2 82.12 RCW associated with federal funds received by
3 telecommunications service providers for making broadband-capable
4 infrastructure available to unserved or underserved areas of the
5 state;

6 (b) Instruct the state treasurer to deposit the estimated amounts
7 in (a) of this subsection into the broadband access account created
8 section 8 of this act.

9 (2) A person receiving federal funding for the purposes of making
10 broadband-capable infrastructure available to underserved or unserved
11 areas of the state must notify the department of the amount of
12 federal funding received for this purpose.

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.330
14 RCW to read as follows:

15 (1) The broadband access account is created in the state
16 treasury. All receipts from section 7 of this act must be deposited
17 into the account. For the 2018 fiscal year, one million dollars from
18 the universal communications services account, created in RCW
19 80.36.690, must be deposited into the account. Moneys in the account
20 may be spent only after appropriation.

21 (2) Expenditures from the account may be used only for the
22 expansion of broadband access, including:

23 (a) Activities of the governor's office on broadband access in
24 section 3 of this act;

25 (b) The broadband access task force in section 4 of this act;

26 (c) Selected broadband deployment partnership initiative projects
27 under section 5 of this act; and

28 (d) Funding grants under section 6 of this act.

29 **Sec. 9.** RCW 80.36.630 and 2013 2nd sp.s. c 8 s 202 are each
30 amended to read as follows:

31 (1) The definitions in this section apply throughout this section
32 and RCW 80.36.650 through 80.36.690 and 80.36.610 unless the context
33 clearly requires otherwise.

34 (a) "Basic residential service" means those services set out in
35 47 C.F.R. Sec. 54.101(a) (2011), as it existed on the effective date
36 of this section, and mandatory extended area service approved by the
37 commission.

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

- 3 (i) Single-party service;
- 4 (ii) Voice grade access to the public switched network;
- 5 (iii) Support for local usage;
- 6 (iv) Dual tone multifrequency signaling (touch-tone);
- 7 (v) Access to emergency services (911);
- 8 (vi) Access to operator services;
- 9 (vii) Access to interexchange services;
- 10 (viii) Access to directory assistance; and
- 11 (ix) Toll limitation services.

12 (c) "Broadband service" means communications that provide
13 consumers advanced access to high quality voice, data, graphics, and
14 video offerings.

15 (d) "Communications provider" means a provider of communications
16 services that assigns a working telephone number to a final consumer
17 for intrastate wireline or wireless communications services or
18 interconnected voice over internet protocol service, and includes
19 local exchange carriers.

20 (~~(d)~~) (e) "Communications services" includes telecommunications
21 services and information services and any combination thereof.

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

24 (~~(f)~~) (g) "Incumbent public network" means the network
25 established by incumbent local exchange carriers for the delivery of
26 communications services to customers that is used by communications
27 providers for origination or termination of communications services
28 by or to customers.

29 (~~(g)~~) (h) "Interconnected voice over internet protocol service"
30 means an interconnected voice over internet protocol service that:
31 (~~(a)~~—~~[(i)]~~) (i) Enables real-time, two-way voice communications;
32 (~~(b)~~—~~[(ii)]~~) (ii) requires a broadband connection from the user's
33 location; (~~(c)~~—~~[(iii)]~~) (iii) requires internet protocol-compatible
34 customer premises equipment; and (~~(d)~~—~~[(iv)]~~) (iv) permits users
35 generally to receive calls that originate on the public network and
36 to terminate calls to the public network.

37 (~~(h)~~) (i) "Program" means the state universal communications
38 services program created in RCW 80.36.650.

39 (~~(i)~~) (j) "Telecommunications" has the same meaning as defined
40 in 47 U.S.C. Sec. 153(43).

1 (~~(j)~~) (k) "Telecommunications act of 1996" means the
2 telecommunications act of 1996 (P.L. 104-104, 110 Stat. 56).

3 (~~(k)~~) (l) "Working telephone number" means a north American
4 numbering plan telephone number, or successor dialing protocol, that
5 is developed for use in placing calls to or from the public network,
6 that enables a consumer to make or receive calls.

7 (2) This section expires July 1, (~~(2020)~~) 2021.

8 **Sec. 10.** RCW 80.36.650 and 2016 c 145 s 1 are each amended to
9 read as follows:

10 (1) A state universal communications services program is
11 established. The program is established to protect public safety and
12 welfare under the authority of the state to regulate
13 telecommunications under Article XII, section 19 of the state
14 Constitution. The purpose of the program is to support continued
15 provision of basic telecommunications services under rates, terms,
16 and conditions established by the commission during the time over
17 which incumbent communications providers in the state are adapting to
18 changes in federal universal service fund and intercarrier
19 compensation support.

20 (2) Under the program, eligible communications providers may
21 receive distributions from the universal communications services
22 account created in RCW 80.36.690 in exchange for the affirmative
23 agreement to provide continued services under the rates, terms, and
24 conditions established by the commission under this chapter for the
25 period covered by the distribution. The commission must implement and
26 administer the program under terms and conditions established in RCW
27 80.36.630 through 80.36.690. Expenditures for the program may not
28 exceed five million dollars per fiscal year; provided, however, that
29 if less than five million dollars is expended in any fiscal year, the
30 unexpended portion must be carried over to subsequent fiscal years
31 and, unless fully expended, must be available for program
32 expenditures in such subsequent fiscal years in addition to the five
33 million dollars allotted for each of those subsequent fiscal years.

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

36 (a) The communications provider is: (i) An incumbent local
37 exchange carrier serving fewer than forty thousand access lines in
38 the state; or (ii) a radio communications service company providing
39 wireless two-way voice communications service to less than the

1 equivalent of forty thousand access lines in the state. For purposes
2 of determining the access line threshold in this subsection, the
3 access lines or equivalents of all affiliates must be counted as a
4 single threshold, if the lines or equivalents are located in
5 Washington;

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

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

13 (4)(a) Distributions to eligible communications providers are
14 based on a benchmark established by the commission. The benchmark is
15 the rate the commission determines to be a reasonable amount
16 customers should pay for basic residential service provided over the
17 incumbent public network. However, if an incumbent local exchange
18 carrier is charging rates above the benchmark for the basic
19 residential service, that provider may not seek distributions from
20 the fund for the purpose of reducing those rates to the benchmark.

21 (b) To receive a distribution under the program, an eligible
22 communications provider must affirmatively consent to continue
23 providing communications services to its customers under rates,
24 terms, and conditions established by the commission pursuant to this
25 chapter for the period covered by the distribution.

26 (5) The program is funded from amounts deposited by the
27 legislature in the universal communications services account
28 established in RCW 80.36.690. The commission must operate the program
29 within amounts appropriated for this purpose and deposited in the
30 account.

31 (6) The commission must periodically review the accounts and
32 records of any communications provider that receives distributions
33 under the program to ensure compliance with the program and monitor
34 the providers' use of the funds.

35 (7) The commission must establish an advisory board, consisting
36 of a reasonable balance of representatives from different types of
37 stakeholders, including but not limited to communications providers
38 and consumers, to advise the commission on any rules and policies
39 governing the operation of the program.

1 (8) The program terminates on June 30, (~~2019~~) 2020, and no
2 distributions may be made after that date.

3 (9) This section expires July 1, (~~2020~~) 2021.

4 **Sec. 11.** RCW 80.36.660 and 2013 2nd sp.s. c 8 s 204 are each
5 amended to read as follows:

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

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

13 (b) Operation of the universal communications services account
14 established in RCW 80.36.690;

15 (c) Establishment of the benchmark used to calculate
16 distributions; and

17 (d) Readoption, amendment, or repeal of any existing rules
18 adopted pursuant to RCW 80.36.610 and 80.36.620 as necessary to be
19 consistent with RCW 80.36.630 through 80.36.690 and 80.36.610.

20 (2) This section expires July 1, (~~2020~~) 2021.

21 **Sec. 12.** RCW 80.36.670 and 2013 2nd sp.s. c 8 s 205 are each
22 amended to read as follows:

23 (1) In addition to any other penalties prescribed by law, the
24 commission may impose penalties for failure to make or delays in
25 making or filing any reports required by the commission for
26 administration of the program. In addition, the commission may
27 recover amounts determined to have been improperly distributed under
28 RCW 80.36.650. For the purposes of this section, the provisions of
29 RCW 80.04.380 through 80.04.405, inclusive, apply to all companies
30 that receive support from the universal communications services
31 account created in RCW 80.36.690.

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

35 (3) Any amounts recovered under this section must be deposited in
36 the universal communications services account created in RCW
37 80.36.690.

38 (4) This section expires July 1, (~~2020~~) 2021.

1 **Sec. 13.** RCW 80.36.680 and 2013 2nd sp.s. c 8 s 206 are each
2 amended to read as follows:

3 (1) The commission may delegate to the commission secretary or
4 other staff the authority to resolve disputes and make other
5 administrative decisions necessary to the administration and
6 supervision of the program consistent with the relevant statutes and
7 commission rules.

8 (2) This section expires July 1, (~~2020~~) 2021.

9 **Sec. 14.** RCW 80.36.690 and 2013 2nd sp.s. c 8 s 208 are each
10 amended to read as follows:

11 (1) The universal communications services account is created in
12 the custody of the state treasurer. Revenues to the account consist
13 of moneys deposited in the account by the legislature and any
14 penalties or other recoveries received pursuant to RCW 80.36.670.
15 Except as provided under section 8 of this act, until July 1, 2020,
16 expenditures from the account may be used only for the purposes of
17 the universal communications services program established in RCW
18 80.36.650 and commission expenses related to implementation and
19 administration of the provisions of RCW 80.36.620 through 80.36.690,
20 and section 212, chapter 8, Laws of 2013 2nd sp. sess. For fiscal
21 year 2018, one million dollars must be transferred to the broadband
22 access account created in section 8 of this act. Only the secretary
23 of the commission or the secretary's designee may authorize
24 expenditures from the account. The account is subject to allotment
25 procedures under chapter 43.88 RCW, but an appropriation is not
26 required for expenditures.

27 (2) This section expires July 1, (~~2020~~) 2021.

28 **Sec. 15.** 2013 2nd sp.s. c 8 s 212 (uncodified) is amended to
29 read as follows:

30 By December 1, (~~2017~~) 2019, and in compliance with RCW
31 43.01.036, the Washington utilities and transportation commission
32 must report to the appropriate committees of the legislature, on the
33 following: (1) Whether funding levels for each small
34 telecommunications company have been adequate to maintain reliable
35 universal service; (2) the future impacts on small telecommunications
36 companies from the elimination of funding under this act; (3) the
37 impacts on customer rates from the current level of funding and the
38 future impacts when the funding terminates under this act; and (4)

1 the impacts on line and service delivery investments when the funding
2 is terminated under this act. The report must also include an
3 analysis of the need for future program funding and recommendations
4 on potential funding mechanisms to improve availability of
5 communications services, including broadband service, in unserved and
6 underserved areas. Commission expenses related to conducting all
7 analysis in preparation of this report must be expended from the
8 universal communications services account.

9 NEW SECTION. Sec. 16. The legislature finds that:

10 (1) Adequate access to telecommunications facilities and
11 services, comparable to those offered in urban areas, is essential to
12 the economic well-being of communities in rural Washington state.

13 (2) Many communities, particularly in rural areas, do not have
14 adequate access to telecommunications facilities and services.

15 (3) Specifying that port districts in these areas have authority
16 to enter into contracts to attract private telecommunications
17 companies may help to create a sufficient market for the provision of
18 adequate retail telecommunications services.

19 **Sec. 17.** RCW 53.08.370 and 2000 c 81 s 7 are each amended to
20 read as follows:

21 (1) A rural port district in existence on June 8, 2000, (~~may~~)
22 and port districts located in counties with a population less than
23 seven hundred thousand are eligible to construct, purchase, acquire,
24 develop, finance, lease, license, handle, provide, add to, contract
25 for, interconnect, alter, improve, repair, operate, and maintain any
26 telecommunications facilities within or without the district's limits
27 utilizing unlit optical fiber for the following purposes:

28 (a) For the district's own use; and

29 (b) For the provision of wholesale telecommunications services
30 within or without the district's limits. Nothing in this subsection
31 shall be construed to authorize (~~rural~~) eligible port districts to
32 provide telecommunications services to end users.

33 (2) (~~A rural~~) Except as provided in subsection (7) of this
34 section, port districts providing wholesale telecommunications
35 services under this section shall ensure that rates, terms, and
36 conditions for such services are not unduly or unreasonably
37 discriminatory or preferential. Rates, terms, and conditions are
38 discriminatory or preferential when a (~~rural~~) port district

1 offering such rates, terms, and conditions to an entity for wholesale
2 telecommunications services does not offer substantially similar
3 rates, terms, and conditions to all other entities seeking
4 substantially similar services.

5 (3) When a (~~rural~~) port district establishes a separate utility
6 function for the provision of wholesale telecommunications services
7 under this section, it shall account for any and all revenues and
8 expenditures related to its wholesale telecommunications facilities
9 and services separately from revenues and expenditures related to its
10 internal telecommunications operations. Any revenues received from
11 the provision of wholesale telecommunications services must be
12 dedicated to the utility function that includes the provision of
13 wholesale telecommunications services for costs incurred to build and
14 maintain the telecommunications facilities until such time as any
15 bonds or other financing instruments executed after June 8, 2000, and
16 used to finance the telecommunications facilities are discharged or
17 retired.

18 (4) When a (~~rural~~) port district establishes a separate utility
19 function for the provision of wholesale telecommunications services
20 under this section, all telecommunications services rendered by the
21 separate function to the district for the district's internal
22 telecommunications needs shall be charged at its true and full value.
23 A (~~rural~~) port district may not charge its nontelecommunications
24 operations rates that are preferential or discriminatory compared to
25 those it charges entities purchasing wholesale telecommunications
26 services.

27 (5) A (~~rural~~) port district under this section shall not
28 exercise powers of eminent domain to acquire telecommunications
29 facilities or contractual rights held by any other person or entity
30 to telecommunications facilities.

31 (6) Except as otherwise specifically provided, a (~~rural~~) port
32 district may exercise any of the powers granted to it under this
33 title and other applicable laws in carrying out the powers authorized
34 under this section. Nothing in chapter 81, Laws of 2000 limits any
35 existing authority of a rural port district under this title.

36 (7) A port district under this section may select a
37 telecommunications company to operate all or a portion of the port
38 district's telecommunications facilities. The company may be the
39 exclusive provider of telecommunications services to end users under
40 terms specified in the contract with the port district. For purposes

1 of this section, "telecommunications company" means any for-profit
2 entity owned by investors that sells telecommunications services to
3 end users. Nothing in this subsection (7) is intended to limit or
4 otherwise restrict any other authority provided by law.

5 **Sec. 18.** RCW 53.08.380 and 2000 c 81 s 9 are each amended to
6 read as follows:

7 (1) A person or entity that has requested wholesale
8 telecommunications services from a rural port district or port
9 district as identified in RCW 53.08.370(1) may petition the
10 commission under the procedures set forth in RCW 80.04.110 (1)
11 through (3) if it believes the district's rates, terms, and
12 conditions are unduly or unreasonably discriminatory or preferential,
13 except as provided in RCW 53.08.370. The person or entity shall
14 provide the district notice of its intent to petition the commission
15 and an opportunity to review within thirty days the rates, terms, and
16 conditions as applied to it prior to submitting its petition. In
17 determining whether a district is providing discriminatory or
18 preferential rates, terms, and conditions, the commission may
19 consider such matters as service quality, technical feasibility of
20 connection points on the district's telecommunications facilities,
21 time of response to service requests, system capacity, and other
22 matters reasonably related to the provision of wholesale
23 telecommunications services. If the commission, after notice and
24 hearing, determines that a rural port district's rates, terms, and
25 conditions are unduly or unreasonably discriminatory or preferential,
26 it shall issue a final order finding noncompliance with this section
27 and setting forth the specific areas of apparent noncompliance. An
28 order imposed under this section shall be enforceable in any court of
29 competent jurisdiction.

30 (2) The commission may order a rural port district or port
31 district as identified in RCW 53.08.370(1) to pay a share of the
32 costs incurred by the commission in adjudicating or enforcing this
33 section.

34 (3) Without limiting other remedies at law or equity, the
35 commission and prevailing party may also seek injunctive relief to
36 compel compliance with an order.

37 (4) Nothing in this section shall be construed to affect the
38 commission's authority and jurisdiction with respect to actions,
39 proceedings, or orders permitted or contemplated for a state

1 commission under the federal telecommunications act of 1996, P.L.
2 104-104 (110 Stat. 56).

3 NEW SECTION. **Sec. 19.** The following acts or parts of acts are
4 each repealed:

5 (1) RCW 43.330.400 (Broadband mapping account—Federal broadband
6 data improvement act funding—Coordination of broadband mapping
7 activities) and 2011 1st sp.s. c 43 s 603 & 2009 c 509 s 2;

8 (2) RCW 43.330.403 (Reporting availability of high-speed internet
9 —Survey of high-speed internet infrastructure owned or leased by
10 state agencies—Geographic information system map—Rules) and 2011 1st
11 sp.s. c 43 s 604 & 2009 c 509 s 3;

12 (3) RCW 43.330.406 (Procurement of geographic information system
13 map—Accountability and oversight structure—Application of public
14 records act) and 2011 1st sp.s. c 43 s 605 & 2009 c 509 s 4;

15 (4) RCW 43.330.409 (Broadband mapping, deployment, and adoption—
16 Reports) and 2011 1st sp.s. c 43 s 606 & 2009 c 509 s 5;

17 (5) RCW 43.330.412 (Community technology opportunity program—
18 Administration—Grant program) and 2011 1st sp.s. c 43 s 607, 2009 c
19 509 s 6, & 2008 c 262 s 6;

20 (6) RCW 43.330.415 (Washington community technology opportunity
21 account) and 2011 1st sp.s. c 43 s 608, 2009 c 509 s 8, & 2008 c 262
22 s 8;

23 (7) RCW 43.330.418 (Broadband deployment and adoption—Governor's
24 actions—Oversight and implementation by the department) and 2011 1st
25 sp.s. c 43 s 609 & 2009 c 509 s 9; and

26 (8) RCW 43.330.421 (Advisory group on digital inclusion and
27 technology planning) and 2011 1st sp.s. c 43 s 610 & 2009 c 509 s 10.

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