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HOUSE BILL 1373

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State of Washington

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**By** Representatives Wylie, Smith, Doglio, Vick, Maycumber, Blake, Frame, Orcutt, Springer, Chandler, Pollet, MacEwen, DeBolt, Kloba, Griffey, Tarleton, Walsh, Dent, Fey, Slatter, Schmick, Morris, Dye, Fitzgibbon, Sullivan, Appleton, Paul, Chapman, and Valdez

Read first time 01/21/19. Referred to Committee on Innovation, Technology & Economic Development.

1 AN ACT Relating to the universal communications services program;  
2 amending RCW 80.36.610, 80.36.630, 80.36.650, 80.36.660, 80.36.670,  
3 80.36.680, 80.36.690, and 80.36.700; amending 2013 2nd sp.s. c 8 s  
4 212 (uncodified); repealing RCW 80.36.620; providing an effective  
5 date; providing expiration dates; and declaring an emergency.

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

7 **Sec. 1.** RCW 80.36.610 and 1998 c 337 s 2 are each amended to  
8 read as follows:

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

1 adopt rules to preserve and advance universal service under section  
2 254(f) of the federal act do not take effect until the legislature  
3 has approved a state universal service program.

4 (2) The legislature intends that under the future universal  
5 service program established in this state:

6 (a) Every telecommunications carrier that provides intrastate  
7 telecommunications services shall contribute, on an equitable and  
8 nondiscriminatory basis, to the preservation and advancement of  
9 universal service in the state;

10 (b) The contributions shall be competitively and technologically  
11 neutral; and

12 (c) The universal service program to be established in accordance  
13 with RCW 80.36.600 shall not be inconsistent with the requirements of  
14 47 U.S.C. Sec. 254.

15 (3) This section expires July 1, 2030.

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

18 (1) The definitions in this section apply throughout this section  
19 and RCW 80.36.650 through 80.36.690 and 80.36.610 unless the context  
20 clearly requires otherwise.

21 (a) "Basic residential service" means those services set out in  
22 47 C.F.R. Sec. 54.101(a) (~~((+2011))~~), as it existed on the effective  
23 date of this section, and mandatory extended area service approved by  
24 the commission.

25 (b) "Basic telecommunications services" means the following  
26 services:

27 (i) Single-party service;

28 (ii) Voice grade access to the public switched network;

29 (iii) Support for local usage;

30 (iv) Dual tone multifrequency signaling (touch-tone);

31 (v) Access to emergency services (911);

32 (vi) Access to operator services;

33 (vii) Access to interexchange services;

34 (viii) Access to directory assistance; and

35 (ix) Toll limitation services.

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

1        (d) "Communications provider" means a provider of communications  
2 services that assigns a working telephone number to a final consumer  
3 for intrastate wireline or wireless communications services or  
4 interconnected voice over internet protocol service, and includes  
5 local exchange carriers.

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

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

10       ~~((f))~~ (g) "Incumbent public network" means the network  
11 established by incumbent local exchange carriers for the delivery of  
12 communications services to customers that is used by communications  
13 providers for origination or termination of communications services  
14 by or to customers.

15       ~~((g))~~ (h) "Interconnected voice over internet protocol service"  
16 means an interconnected voice over internet protocol service that:  
17 ~~((a)–[(i)])~~ (i) Enables real-time, two-way voice communications;  
18 ~~((b)–[(ii)])~~ (ii) requires a broadband connection from the user's  
19 location; ~~((c)–[(iii)])~~ (iii) requires internet protocol-compatible  
20 customer premises equipment; and ~~((d)–[(iv)])~~ (iv) permits users  
21 generally to receive calls that originate on the public network and  
22 to terminate calls to the public network.

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

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

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

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

33       (2) This section expires July 1, ~~((2020))~~ 2030.

34       **Sec. 3.** RCW 80.36.650 and 2016 c 145 s 1 are each amended to  
35 read as follows:

36       (1) A state universal communications services program is  
37 established. The program is established to protect public safety and  
38 welfare under the authority of the state to regulate  
39 telecommunications under Article XII, section 19 of the state

1 Constitution. The purpose of the program is to support continued  
2 provision of basic telecommunications services under rates, terms,  
3 and conditions established by the commission (~~during the time over~~  
4 ~~which incumbent communications providers in the state are adapting to~~  
5 ~~changes in federal universal service fund and intercarrier~~  
6 ~~compensation support~~) and the provision, enhancement, and  
7 maintenance of broadband services, recognizing that historically, the  
8 incumbent public network functions to provide all communications  
9 services including, but not limited to, voice and broadband services.

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

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

27 (a) (i) The communications provider is: ~~((+i))~~ (A) An incumbent  
28 local exchange carrier serving fewer than forty thousand access lines  
29 in the state; or ~~((+ii))~~ (B) a radio communications service company  
30 providing wireless two-way voice communications service and broadband  
31 services to less than the equivalent of forty thousand access lines  
32 in the state. For purposes of determining the access line threshold  
33 in this subsection, the access lines or equivalents of all wireline  
34 affiliates must be counted as a single threshold, if the lines or  
35 equivalents are located in Washington;

36 ~~((+b))~~ (ii) The ~~((customers of the))~~ communications provider  
37 ~~((are at risk of rate instability or service interruptions or~~  
38 ~~cessations absent a distribution to the provider that will allow the~~  
39 ~~provider to maintain rates reasonably close to the benchmark))~~ has

1 adopted a plan to provide, enhance, or maintain broadband services in  
2 its service area; and

3 ~~((e))~~ (iii) The communications provider meets any other  
4 requirements established by the commission pertaining to the  
5 provision of communications services, including basic  
6 telecommunications services; or

7 (b) The communications provider demonstrates to the commission  
8 that the communications provider is able to provide the same or  
9 comparable services at the same or similar service quality standards  
10 at a lower price and: (i) Will provide communications services to all  
11 customers in the exchange or exchanges in which it will provide  
12 service; and (ii) submits to the commission's regulation of its  
13 service as if it is the incumbent local exchange company serving the  
14 exchange or exchanges for which it seeks distribution from the  
15 account.

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

25 (b) If the program does not have sufficient funds to fully fund  
26 the distribution formula set out in (a) of this subsection,  
27 distributions must be reduced on a pro rata basis using the amounts  
28 calculated for that year's program support as the basis of the pro  
29 rata calculation.

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

35 (5) The program is funded from amounts deposited by the  
36 legislature in the universal communications services account  
37 established in RCW 80.36.690. The commission must operate the program  
38 within amounts appropriated for this purpose and deposited in the  
39 account.

1 (6) The commission must periodically review the accounts and  
2 records of any communications provider that receives distributions  
3 under the program to ensure compliance with the program and monitor  
4 the providers' use of the funds.

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

10 (8) The program terminates on June 30, (~~(2019)~~) 2029, and no  
11 distributions may be made after that date.

12 (9) This section expires July 1, (~~(2020)~~) 2030.

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

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

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

22 (b) Operation of the universal communications services account  
23 established in RCW 80.36.690;

24 (c) Establishment of the (~~benchmark~~) criteria used to calculate  
25 distributions; and

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

29 (2) This section expires July 1, (~~(2020)~~) 2030.

30 **Sec. 5.** RCW 80.36.670 and 2013 2nd sp.s. c 8 s 205 are each  
31 amended to read as follows:

32 (1) In addition to any other penalties prescribed by law, the  
33 commission may impose penalties for failure to make or delays in  
34 making or filing any reports required by the commission for  
35 administration of the program. In addition, the commission may  
36 recover amounts determined to have been improperly distributed under  
37 RCW 80.36.650. For the purposes of this section, the provisions of  
38 RCW 80.04.380 through 80.04.405, inclusive, apply to all companies

1 that receive support from the universal communications services  
2 account created in RCW 80.36.690.

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

6 (3) Any amounts recovered under this section must be deposited in  
7 the universal communications services account created in RCW  
8 80.36.690.

9 (4) This section expires July 1, (~~2020~~) 2030.

10 **Sec. 6.** RCW 80.36.680 and 2013 2nd sp.s. c 8 s 206 are each  
11 amended to read as follows:

12 (1) The commission may delegate to the commission secretary or  
13 other staff the authority to resolve disputes and make other  
14 administrative decisions necessary to the administration and  
15 supervision of the program consistent with the relevant statutes and  
16 commission rules.

17 (2) This section expires July 1, (~~2020~~) 2030.

18 **Sec. 7.** RCW 80.36.690 and 2013 2nd sp.s. c 8 s 208 are each  
19 amended to read as follows:

20 (1) The universal communications services account is created in  
21 the custody of the state treasurer. Revenues to the account consist  
22 of moneys deposited in the account by the legislature and any  
23 penalties or other recoveries received pursuant to RCW 80.36.670.  
24 Expenditures from the account may be used only for the purposes of  
25 the universal communications services program established in RCW  
26 80.36.650 and commission expenses related to implementation and  
27 administration of RCW 80.36.630 through 80.36.690 and section 212,  
28 chapter 8, Laws of 2013 2nd sp. sess. Only the secretary of the  
29 commission or the secretary's designee may authorize expenditures  
30 from the account. The account is subject to allotment procedures  
31 under chapter 43.88 RCW, but an appropriation is not required for  
32 expenditures.

33 (2) This section expires July 1, (~~2020~~) 2030.

34 **Sec. 8.** RCW 80.36.700 and 2013 2nd sp.s. c 8 s 211 are each  
35 amended to read as follows:

36 (1) The universal communications services program established in  
37 RCW 80.36.630 through 80.36.690 terminates on June 30, (~~2019~~) 2029.

1 (2) This section expires July 1, (~~(2020)~~) 2030.

2 **Sec. 9.** 2013 2nd sp.s. c 8 s 212 (uncodified) is amended to read  
3 as follows:

4 (1) By December 1, (~~(2017)~~) 2028, and in compliance with RCW  
5 43.01.036, the Washington utilities and transportation commission  
6 (~~must~~) may report to the appropriate committees of the legislature,  
7 on the following: (~~(1)~~) (a) Whether funding levels for each small  
8 telecommunications company have been adequate to maintain reliable  
9 universal service; (~~(2)~~) (b) the future impacts on small  
10 telecommunications companies from the elimination of funding under  
11 this act; (~~(3)~~) (c) the impacts on customer rates from the current  
12 level of funding and the future impacts when the funding terminates  
13 under this act; and (~~(4)~~) (d) the impacts on line and service  
14 delivery investments when the funding is terminated under this act.  
15 The report may also include an analysis of the need for future  
16 program funding and recommendations on potential funding mechanisms  
17 to improve availability of communications services, including  
18 broadband service, in unserved and underserved areas. Commission  
19 expenses related to conducting all analysis in preparation of this  
20 report must be expended from the universal communication services  
21 account.

22 (2) The Washington utilities and transportation commission must  
23 initiate rule making to reform the state universal communications  
24 services program no later than ninety days following the effective  
25 date of this section. The rule making must address adding broadband  
26 as a supported service and, consistent with the size of the fund,  
27 establishing:

28 (a) Broadband provider eligibility;

29 (b) Service performance and buildout requirements for funding  
30 recipients;

31 (c) Support amounts for maintaining systems that meet federal or  
32 state broadband speed guidelines; and

33 (d) Methods to effectively and efficiently distribute program  
34 support to eligible providers.

35 NEW SECTION. **Sec. 10.** RCW 80.36.620 (Universal service program—  
36 Rules) and 1998 c 337 s 3 are each repealed.



1        NEW SECTION.    **Sec. 11.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 12.**    Section 1 of this act takes effect July  
6 1, 2020.

7        NEW SECTION.    **Sec. 13.**    Sections 2 through 10 of this act are  
8 necessary for the immediate preservation of the public peace, health,  
9 or safety, or support of the state government and its existing public  
10 institutions, and takes effect immediately.

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