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**SENATE BILL 5935**

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**State of Washington 65th Legislature 2017 1st Special Session**

**By** Senators Sheldon and Carlyle

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

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

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

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

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

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

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

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

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

(4) A small cell facility deployment ordinance must outline the standards that personal wireless service providers are required to follow in seeking a master permit to deploy microcells, small cell facilities, and small cell networks as defined in RCW 80.36.375.

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

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

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

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

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

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

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

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

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

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

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

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

(10) A city or town that, as of the effective date of this section, has previously adopted an ordinance governing the siting of small cell network infrastructure is not required to adopt a small cell facility deployment ordinance as otherwise required under subsection (2) of this section.

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

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

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

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

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

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

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

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

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

(2) The federal communications commission has also adopted a goal that all of the country's households have affordable access to actual download speeds of at least twenty-five megabits per second and actual upload speeds of at least three megabits per second; that a majority of households have access to speeds of one hundred fifty megabits, respectively; and that every community should have affordable access to at least one gigabit per second broadband service to anchor institutions such as schools, hospitals, and government buildings;

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

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

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

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

(2) The office on broadband access shall:

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

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

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

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

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

(a) Partnerships between communities, nonprofit organizations, 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-capable infrastructure or broadband services available to underserved or unserved areas of the state;

(c) Barriers to the adoption of broadband service;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Cable television service;

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

(c) One member representing cities;

(d) One member representing counties;

(e) One member representing port districts;

(f) One member representing public utility districts;

(g) One member representing the data center and information technology industry;

(h) One member representing higher education and research institutions;

(i) One member representing digital literacy advocacy organizations;

(j) One member representing emergency management agencies;

(k) One member representing a local economic development council or a statewide nonprofit association representative;

(l) The director of the office of the state chief information officer or the director's designee;

(m) The chair of the utilities and transportation commission or the chair's designee; and

(n) The task force chair, who must be selected by the governor.

(3) The office of the state chief information officer and the department of commerce shall cooperate in staffing the task force and providing information regarding telecommunications services provided to state agencies.

(4)(a) The task force shall review:

(i) Current initiatives and programs in the state as well as the status of implementation of recommendations from previous broadband access reports;

(ii) State, local, and industry programs throughout the country that illustrate best practices in the provision of broadband access and that incorporate performance-based measures;

(iii) Technology development, financial, regulatory, tax policy, and infrastructure siting challenges that the state must address to accomplish the goals set out in subsection (1) of this section;

(iv) The actions necessary to develop and maintain a detailed inventory of the deployment of broadband services, including monitoring and tracking the availability of broadband services and internet speeds across the state, with an emphasis upon identifying and assessing progress made towards achieving goals of the federal communications commission for internet speeds in unserved and underserved areas;

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

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

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

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

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

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

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

(c) The task force shall review and assess:

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

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

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

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

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

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

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

(7) This section expires July 1, 2019.

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

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

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

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

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

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

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

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

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

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

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

(a) Effective and efficient use of public funds;

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

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

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

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

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

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

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

(1) The department shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Single-party service;

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

(iii) Support for local usage;

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

(v) Access to emergency services (911);

(vi) Access to operator services;

(vii) Access to interexchange services;

(viii) Access to directory assistance; and

(ix) Toll limitation services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The communications provider is: (i) An incumbent local exchange carrier serving fewer than forty thousand access lines in the state; or (ii) a radio communications service company providing wireless two-way voice communications service to less than the equivalent of forty thousand access lines in the state. For purposes of determining the access line threshold in this subsection, the access lines or equivalents of all affiliates must be counted as a single threshold, if the lines or equivalents are located in Washington;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

By December 1, ((~~2017~~)) 2019, and in compliance with RCW 43.01.036, the Washington utilities and transportation commission must report to the appropriate committees of the legislature, on the following: (1) Whether funding levels for each small telecommunications company have been adequate to maintain reliable universal service; (2) the future impacts on small telecommunications companies from the elimination of funding under this act; (3) the impacts on customer rates from the current level of funding and the future impacts when the funding terminates under this act; and (4) the impacts on line and service delivery investments when the funding is terminated under this act. The report must also include an analysis of the need for future program funding and recommendations on potential funding mechanisms to improve availability of communications services, including broadband service, in unserved and underserved areas. Commission expenses related to conducting all analysis in preparation of this report must be expended from the universal communications services account.

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

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

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

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

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

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

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

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

(2) ((~~A rural~~)) Except as provided in subsection (7) of this section, port districts providing wholesale telecommunications services under this section shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a ((~~rural~~)) port district offering such rates, terms, and conditions to an entity for wholesale telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

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

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

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

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

(7) A port district under this section may select a telecommunications company to operate all or a portion of the port district's telecommunications facilities. The company may be the exclusive provider of telecommunications services to end users under terms specified in the contract with the port district. For purposes of this section, "telecommunications company" means any for-profit entity owned by investors that sells telecommunications services to end users. Nothing in this subsection (7) is intended to limit or otherwise restrict any other authority provided by law.

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

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

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

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

(4) Nothing in this section shall be construed to affect the commission's authority and jurisdiction with respect to actions, proceedings, or orders permitted or contemplated for a state commission under the federal telecommunications act of 1996, P.L. 104-104 (110 Stat. 56).

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

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

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

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

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

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

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

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

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

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