

**2SHB 1746** - S COMM AMD

By Committee on Environment, Energy & Technology

**NOT CONSIDERED 05/17/2023**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds and declares that:

4 (1) Broadband consumers and state funders require a detailed and  
5 accurate picture of fixed broadband infrastructure and availability  
6 in order to ensure limited resources are deployed to maximum  
7 advantage in achieving the goal of ubiquitous statewide coverage.

8 (2) The maps compiled by the federal communications commission  
9 have historically lacked location specific information and glossed  
10 over gaps in coverage.

11 (3) Improving these maps can result in direct benefits for  
12 consumers, allowing users to have a one-stop-shop to search for their  
13 address and find information about which internet service providers  
14 offer service at the location, the broadband technologies they offer,  
15 and the maximum download and upload speeds they advertise for each  
16 technology.

17 (4) This greater transparency will create market pressures on  
18 internet providers to improve their coverage and will also help  
19 policymakers more accurately target investments to expand broadband  
20 to unserved and underserved areas and close the digital divide.

21 Therefore, it is the intent of the legislature to incentivize  
22 broader participation by those who own and operate broadband  
23 infrastructure in the state, whether or not they serve retail end-  
24 users, in improving mapping data, by establishing an expectation that  
25 entities who apply for state funding for broadband projects, or seek  
26 to influence state funding by objecting to the grant of an award, are  
27 providing key data to federal and state efforts.

28 **Sec. 2.** RCW 43.155.160 and 2022 c 201 s 1 are each amended to  
29 read as follows:

1 (1) The board, in collaboration with the office, shall establish  
2 a competitive grant and loan program to award funding to eligible  
3 applicants in order to promote the expansion of access to broadband  
4 service in unserved areas of the state.

5 (2)(a) Grants and loans may be awarded under this section to  
6 assist in funding acquisition, installation, and construction of  
7 middle mile and last mile infrastructure that supports broadband  
8 services and to assist in funding strategic planning for deploying  
9 broadband service in unserved areas.

10 (b) The board may choose to fund all or part of an application  
11 for funding, provided that the application meets the requirements of  
12 subsection (11) of this section.

13 (3) Eligible applicants for grants and loans awarded under this  
14 section include:

15 (a) Local governments;

16 (b) Tribes;

17 (c) Nonprofit organizations;

18 (d) Cooperative associations;

19 (e) Multiparty entities comprised of public entity members;

20 (f) Limited liability corporations organized for the purpose of  
21 expanding broadband access; and

22 (g) Incorporated businesses or partnerships.

23 (4)(a) The board shall develop administrative procedures  
24 governing the preapplication and award process. The board shall act  
25 as fiscal agent for the program and is responsible for receiving and  
26 reviewing applications and awarding funds under this section.

27 (b) At least sixty days prior to the first day preapplications  
28 may be submitted each fiscal year, the board must publish on its  
29 website the specific criteria and any quantitative weighting scheme  
30 or scoring system that the board will use to evaluate or rank  
31 applications and award funding.

32 (c) The board may maintain separate accounting in the statewide  
33 broadband account created in RCW 43.155.165 as the board deems  
34 necessary to carry out the purposes of this section.

35 (d) The board must provide a method for the allocation of loans,  
36 grants, provision of technical assistance, and interest rates under  
37 this section.

38 (5) An applicant for a grant or loan under this section must  
39 provide the following information on the preapplication:

1 (a) The location and description of the project, including  
2 detailed end-user location address information for each passing;

3 (b) Evidence regarding the unserved nature of the community in  
4 which the project is to be located;

5 (c) Evidence that proposed infrastructure will be capable of  
6 scaling to greater download and upload speeds;

7 (d) The number of households (~~passed~~) that will gain access to  
8 broadband service as a result of the project or whose broadband  
9 service will be upgraded as a result of the project;

10 (e) Evidence that before submission of the application, the  
11 applicant contacted, in writing, all entities providing broadband  
12 service near the proposed project area to ask each broadband service  
13 provider's plan to upgrade broadband service in the project area to  
14 speeds that meet or exceed the state's definition for broadband  
15 service as defined in RCW 43.330.530, within the time frame specified  
16 in the proposed grant or loan activities;

17 (f) If applicable, the broadband service providers' written  
18 responses to the inquiry made under (e) of this subsection;

19 (g) The proposed geographic broadband service area and the  
20 proposed broadband speeds in the form and manner prescribed by the  
21 board;

22 (h) Evidence of community support for the project; and

23 (i) Any additional information requested by the board.

24 (6) An applicant for a grant or loan under this section must  
25 provide the following information on the application:

26 (a) The final location and description of the project;

27 (b) Evidence that the proposed infrastructure will be capable of  
28 scaling to greater download and upload speeds;

29 (c) The number of households passed that will gain access to  
30 broadband service as a result of the project or whose broadband  
31 service will be upgraded as a result of the project;

32 (d) The estimated cost of retail services to end users  
33 facilitated by a project;

34 (e) The proposed actual download and upload speeds experienced by  
35 end users;

36 (f) Evidence of significant community institutions that will  
37 benefit from the proposed project;

38 (g) Anticipated economic, educational, health care, or public  
39 safety benefits created by the project;

1 (h) If available, a description of the applicant's user adoption  
2 assistance program and efforts to promote the use of newly available  
3 broadband services created by the project;

4 (i) The estimated total cost of the project;

5 (j) Other sources of funding for the project that will supplement  
6 any grant or loan award;

7 (k) A demonstration of the project's long-term sustainability,  
8 including the applicant's financial soundness, organizational  
9 capacity, and technical expertise;

10 (l) A strategic plan to maintain long-term operation of the  
11 infrastructure;

12 (m) If applicable, documentation describing the outcome of the  
13 broadband service providers' written responses to the inquiry made  
14 prior to or during the preapplication phase; and

15 (n) Any additional information requested by the board.

16 (7)(a) The board shall publish on its website for at least 30  
17 days the proposed geographic broadband service area and the proposed  
18 broadband speeds for each proposed broadband project submitted in the  
19 preapplication period.

20 (b) The board shall, within three business days following the  
21 close of the preapplication cycle, publish on its website  
22 preapplications as described in subsection (5) of this section.

23 (c) The board shall set an objection period of at least 30 days.

24 (8)(a) Any existing broadband service provider near the proposed  
25 project area that has submitted broadband mapping data outlined in  
26 section 4 of this act to the federal communications commission within  
27 the previous year may submit in writing to the board an objection to  
28 a proposed broadband project. An objection must contain information  
29 demonstrating that:

30 (i) The project would result in overbuild, meaning that the  
31 objecting provider currently provides, or has begun construction to  
32 provide, broadband service to end users in the proposed project area  
33 at speeds equal to or greater than the speeds contained in the  
34 definition of broadband in RCW 43.330.530(~~((+2))~~) (4); or

35 (ii) The objecting provider commits to complete construction of  
36 broadband infrastructure and provide broadband service to end users  
37 in the proposed project area at speeds equal to or greater than the  
38 speeds contained in the definition of broadband in RCW  
39 43.330.530(~~((+2))~~) (4), no later than twenty-four months after the

1 date awards are made under this section for the grant and loan cycle  
2 under which the preapplication was submitted.

3 (b) Objections submitted to the board under this subsection must  
4 be certified by affidavit.

5 (c) The board may evaluate the information submitted under this  
6 section by the objecting provider and must consider it in making a  
7 determination on the proposed broadband project objected to. The  
8 board may request clarification or additional information. The board  
9 may choose to not fund a project if the board determines that the  
10 objecting provider's commitment to provide broadband service that  
11 meets the requirements of (a) of this subsection in the proposed  
12 project area is credible. In assessing the commitment, the board may  
13 consider whether the objecting provider has or will provide a bond,  
14 letter of credit, or other indicia of financial commitment  
15 guaranteeing the project's completion.

16 (d) If the board denies funding to an applicant as a result of a  
17 broadband service provider's objection made under this section, and  
18 the broadband service provider does not fulfill its commitment to  
19 provide broadband service in the project area, then for the following  
20 two grant and loan cycles, the board is prohibited from denying  
21 funding to an applicant on the basis of a challenge by the same  
22 broadband service provider, unless the board determines that the  
23 broadband service provider's failure to fulfill the provider's  
24 commitment was the result of factors beyond the broadband service  
25 provider's control. The board is not prohibited from denying funding  
26 to an applicant for reasons other than an objection by the same  
27 broadband service provider.

28 (e) An applicant or broadband service provider that objected to  
29 the application may request a debriefing conference regarding the  
30 board's decision on the application. Requests for debriefing must be  
31 coordinated by the office and must be submitted in writing in  
32 accordance with procedures specified by the office.

33 (f) Confidential business and financial information submitted by  
34 an objecting provider under this subsection is exempt from disclosure  
35 under chapter 42.56 RCW.

36 (9)(a) In evaluating applications and awarding funds, the board  
37 shall give priority to applications that are constructed in areas  
38 identified as unserved.

39 (b) In evaluating applications and awarding funds, the board may  
40 give priority to applications that:

1 (i) Provide assistance to public-private partnerships deploying  
2 broadband infrastructure from areas currently served with broadband  
3 service to areas currently lacking access to broadband services;

4 (ii) Demonstrate project readiness to proceed;

5 (iii) Construct infrastructure that is open access, meaning that  
6 during the useful life of the infrastructure, service providers may  
7 use network services and facilities at rates, terms, and conditions  
8 that are not discriminatory or preferential between providers, and  
9 employing accountable interconnection arrangements published and  
10 available publicly;

11 (iv) Are submitted by tribal governments whose reservations are  
12 in rural and remote areas where reliable and efficient broadband  
13 services are unavailable to many or most residents;

14 (v) Bring broadband service to tribal lands, particularly to  
15 rural and remote tribal lands or areas servicing rural and remote  
16 tribal entities;

17 (vi) Are submitted by tribal governments in rural and remote  
18 areas that have spent significant amounts of tribal funds to address  
19 the problem but cannot provide necessary broadband services without  
20 either additional state support, additional federal support, or both;

21 (vii) Serve economically distressed areas of the state as the  
22 term "distressed area" is defined in RCW 43.168.020;

23 (viii) Offer new or substantially upgraded broadband service to  
24 important community anchor institutions including, but not limited  
25 to, libraries, educational institutions, public safety facilities,  
26 and health care facilities;

27 (ix) Facilitate the use of telemedicine and electronic health  
28 records, especially in deliverance of behavioral health services and  
29 services to veterans;

30 (x) Provide technical support and train residents, businesses,  
31 and institutions in the community served by the project to utilize  
32 broadband service;

33 (xi) Include a component to actively promote the adoption of  
34 newly available broadband services in the community;

35 (xii) Provide evidence of strong support for the project from  
36 citizens, government, businesses, and community institutions;

37 (xiii) Provide access to broadband service to a greater number of  
38 unserved households and businesses, including farms;

39 (xiv) Utilize equipment and technology demonstrating greater  
40 longevity of service;

1 (xv) Seek the lowest amount of state investment per new location  
2 served and leverage greater amounts of funding for the project from  
3 other private and public sources;

4 (xvi) Include evidence of a customer service plan;

5 (xvii) Consider leveraging existing broadband infrastructure and  
6 other unique solutions;

7 (xviii) Benefit public safety and fire preparedness; (~~or~~)

8 (xix) Are submitted by applicants who have submitted broadband  
9 mapping data to the federal communications commission as outlined in  
10 section 4 of this act within the previous year; or

11 (xx) Demonstrate other priorities as the board, in collaboration  
12 with the office, may prescribe by rule.

13 (c) The board shall endeavor to award funds under this section to  
14 qualified applicants in all regions of the state.

15 (d) The board shall consider affordability and quality of service  
16 to end users in making a determination on any application.

17 (e) The board, in collaboration with the office, may develop  
18 additional rules for eligibility, project preapplications, project  
19 applications, the associated objection process, and funding priority,  
20 as provided under this subsection and subsections (3), (5), (6), (7),  
21 and (8) of this section.

22 (f) The board, in collaboration with the office, may adopt rules  
23 for a voluntary nonbinding mediation between incumbent providers and  
24 applicants to the grant and loan program created in this section.

25 (10) To ensure a grant or loan to a private entity under this  
26 section primarily serves the public interest and benefits the public,  
27 any such grant or loan must be conditioned on a guarantee that the  
28 asset or infrastructure to be developed will be maintained for public  
29 use for a period of at least fifteen years.

30 (11)(a) No funds awarded under this section may fund more than  
31 fifty percent of the total cost of the project, except as provided in  
32 (b) of this subsection.

33 (b) The board may choose to fund up to ninety percent of the  
34 total cost of a project in financially distressed areas as the term  
35 "distressed area" is defined in RCW 43.168.020, and in areas  
36 identified as Indian country as the term "Indian country" is defined  
37 in WAC 458-20-192.

38 (c) Funds awarded to a single project under this section must not  
39 exceed two million dollars, except that the board may choose to fund

1 projects qualifying for the exception in (b) of this subsection up  
2 to, but not to exceed, five million dollars.

3 (12) The board shall have such rights of recovery in the event of  
4 default in payment or other breach of financing agreement as may be  
5 provided in the agreement or otherwise by law.

6 (13) The community economic revitalization board shall facilitate  
7 the timely transmission of information and documents from its  
8 broadband program to the board in order to effectuate an orderly  
9 transition.

10 (14)(a) Subject to rules promulgated by the board, the board may  
11 make low-interest or interest-free loans or grants to eligible  
12 applicants for emergency public works broadband projects. While  
13 developing rules, the board shall consider prioritizing broadband  
14 infrastructure projects that replace existing infrastructure impacted  
15 by an emergency, as described in (b) of this subsection.

16 (b) Emergency public works broadband projects include  
17 construction, repair, reconstruction, replacement, rehabilitation, or  
18 improvement to critical broadband infrastructure that has been made  
19 necessary by a natural disaster or damaged by unforeseen events. To  
20 ensure limited resources are provided as efficiently as possible, the  
21 board shall grant priority to emergency public works projects that  
22 replace existing infrastructure of the provider whose facilities were  
23 damaged by the unforeseen event and shall not provide funds to a new  
24 provider to overbuild the existing provider. The loans or grants may  
25 be used to help fund all or part of an emergency public works  
26 broadband infrastructure project less any reimbursement from any of  
27 the following sources: (i) Federal disaster or emergency funds,  
28 including funds from the federal emergency management agency; (ii)  
29 state disaster or emergency funds; (iii) insurance settlements; and  
30 (iv) litigation.

31 (c) Eligible applicants for grants and loans awarded under this  
32 subsection are the same as those described in subsection (3) of this  
33 section.

34 (15) The definitions in RCW 43.330.530 apply throughout this  
35 section unless the context clearly requires otherwise.

36 (16) For purposes of this section, a "proposed broadband project"  
37 means a project that has been submitted as a preapplication to the  
38 public works board.



1       **Sec. 3.** RCW 43.330.534 and 2022 c 265 s 303 are each amended to  
2 read as follows:

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

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

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

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

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

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

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

23       (g) Assist in developing accurate mapping of broadband  
24 infrastructure in accordance with section 4 of this act.

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

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

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

34       (c) Barriers to the deployment, adoption, and utilization of  
35 broadband service, including affordability of service and project  
36 coordination logistics; and

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

1 (3) The office may assist applicants for the grant and loan  
2 program created in RCW 43.155.160, the digital equity opportunity  
3 program created in RCW 43.330.412, and the digital equity planning  
4 grant program created in RCW 43.330.5393 with seeking federal funding  
5 or matching grants and other grant opportunities for deploying or  
6 increasing adoption of broadband services.

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

11 (5) The office shall coordinate an outreach effort to hard-to-  
12 reach communities and low-income communities across the state to  
13 provide information about broadband programs available to consumers  
14 of these communities. The outreach effort must include, but is not  
15 limited to, providing information to applicable communities about the  
16 federal lifeline program and other low-income broadband benefit  
17 programs. The outreach effort must be reviewed by the office of  
18 equity annually. The office may contract with other public or private  
19 entities to conduct outreach to communities as provided under this  
20 subsection.

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

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.330  
28 RCW to read as follows:

29 (1) The office must make reasonable efforts to improve federal  
30 mapping data. The office must:

31 (a) Maintain a license from the federal communications commission  
32 for broadband deployment data, serviceable location fabric, and any  
33 associated data layers that comprise the national broadband map  
34 prepared pursuant to the broadband deployment accuracy and  
35 technological availability act, 47 U.S.C. Sec. 641 et seq., as it  
36 existed on the effective date of this section;

37 (b) Review and analyze the mapping information obtained under  
38 license with the federal communications commission and consult with  
39 stakeholders to identify deficiencies, discrepancies, and gaps; and

1 (c) Inform covered entities that they must submit the data  
2 identified in (a) of this subsection to the federal communications  
3 commission, on the dates specified by the federal communications  
4 commission, and in such manner and format as specified by the  
5 commission.

6 (2) The office may contract with a private entity or third-party  
7 consultant to investigate and verify the availability of broadband  
8 infrastructure and services in locations of the state where  
9 discrepancies, deficiencies, or gaps have been identified by the  
10 office, a resident, a business, an organization, a unit of local  
11 government, a tribe, or a broadband action team, regarding the status  
12 of an area or location, including community anchor institutions, as  
13 served, unserved, or underserved, within the federal broadband map  
14 and any state map, if developed. The office is encouraged to use  
15 information collected under this subsection to submit bulk challenges  
16 to the national broadband map.

17 (3) The office may not administer any state grants to a covered  
18 entity that has not complied with the requirements of this section  
19 during the calendar year in which noncompliance was determined and  
20 the following calendar year. However, nothing in this section shall  
21 be construed to affect a covered entity's eligibility for a grant  
22 from the office of solely federal dollars that have been appropriated  
23 through the state budget to the office.

24 (4) The office may only share data with other state agencies or  
25 with a contractor under an agreement that adheres to the provisions  
26 and requirements of RCW 39.26.340 and 39.34.240 as applicable. The  
27 office may not sell broadband mapping data submitted by covered  
28 entities. In exercising discretion to share submitted broadband  
29 mapping data with other state agencies, the office must consider how  
30 to afford such data the greatest confidentiality protections  
31 practicable.

32 (5) Subject to the availability of amounts appropriated for this  
33 specific purpose, the office may develop and maintain an independent  
34 state broadband map indicating the addresses of serviceable locations  
35 and capability of broadband service in this state.

36 (a) The office may contract with a private entity or third-party  
37 consultant to develop and maintain the state broadband map.

38 (b) Any contract entered into by the office and a private entity  
39 or third-party consultant for the purpose of developing and  
40 maintaining the state broadband map must specify that any mapping

1 data submitted or developed in accordance with this section for the  
2 purposes of identifying broadband serviceable locations,  
3 classifications of unserved, underserved, and served, or aggregated  
4 data and statistics on broadband availability by different geography  
5 types is not the property of the private entity or third-party  
6 consultant. Such contract must also prohibit the disclosure by the  
7 private entity or third-party consultant of any mapping data  
8 submitted to the office in accordance with this section and require  
9 the private entity or third-party consultant to only use submitted  
10 mapping data to effectuate the purposes of the contract.

11 (6) Subject to the availability of amounts appropriated for this  
12 specific purpose, the office may also conduct a detailed survey of  
13 broadband infrastructure owned or leased by state agencies and  
14 compile mapping data of broadband infrastructure owned or leased by  
15 the state. State agencies responding to a survey request from the  
16 office under this subsection must respond in a reasonable and timely  
17 manner, not to exceed 120 days. Fiber, cable, or other infrastructure  
18 routes and addresses reported to the office by state agencies are  
19 confidential and not subject to disclosure. In any survey request,  
20 the office may request of state agencies any information it deems  
21 reasonably necessary, including but not limited to:

22 (a) The routes along which state-owned fiber optic facilities are  
23 in place;

24 (b) The cost of maintaining that fiber optic infrastructure, if  
25 owned, or the price paid for the broadband infrastructure, if leased;  
26 and

27 (c) The leasing entity, if applicable.

28 (7) For the purpose of this section, the following definitions  
29 apply:

30 (a) "Covered entity" means a broadband service provider or other  
31 entity that owns or operates broadband infrastructure, including  
32 satellite infrastructure supporting end-user connections, in the  
33 state or offers their broadband infrastructure for sale or lease in  
34 the provision of broadband service.

35 (b) "State agency" means every state office, department,  
36 division, bureau, board, or commission.

37 (8) The office may adopt rules as necessary to carry out the  
38 provisions of this section.

1       **Sec. 5.** RCW 43.155.165 and 2019 c 365 s 8 are each amended to  
2 read as follows:

3       (1) The statewide broadband account is created in the state  
4 treasury. Moneys received from appropriations by the legislature, the  
5 proceeds of bond sales when authorized by the legislature, repayment  
6 of loans, or any other lawful source must be deposited into the  
7 account for uses consistent with this section. Moneys in the account  
8 may be spent only after appropriation.

9       (2) Expenditures from the account may be used only:

10       (a) For grant and loan awards made under RCW 43.155.160,  
11 including costs incurred by the board to administer RCW 43.155.160;

12       (b) To contract for data acquisition, a statewide broadband  
13 demand assessment, or gap analysis;

14       (c) To supplement revenues raised by bonds sold by local  
15 governments for broadband infrastructure development; (~~or~~)

16       (d) To provide for state match requirements under federal law;

17       (e) To improve accuracy of the national broadband map and submit  
18 challenges to the federal map; or

19       (f) To develop and maintain a statewide broadband map.

20       (3) The board must maintain separate accounting for any federal  
21 funds in the account.

22       (4) The definitions in RCW 43.330.530 apply throughout this  
23 section unless the context clearly requires otherwise.

24       **Sec. 6.** RCW 42.56.270 and 2022 c 201 s 2 and 2022 c 16 s 28 are  
25 each reenacted and amended to read as follows:

26       The following financial, commercial, and proprietary information  
27 is exempt from disclosure under this chapter:

28       (1) Valuable formulae, designs, drawings, computer source code or  
29 object code, and research data obtained by any agency within five  
30 years of the request for disclosure when disclosure would produce  
31 private gain and public loss;

32       (2) Financial information supplied by or on behalf of a person,  
33 firm, or corporation for the purpose of qualifying to submit a bid or  
34 proposal for (a) a ferry system construction or repair contract as  
35 required by RCW 47.60.680 through 47.60.750; (b) highway construction  
36 or improvement as required by RCW 47.28.070; or (c) alternative  
37 public works contracting procedures as required by RCW 39.10.200  
38 through 39.10.905;

1 (3) Financial and commercial information and records supplied by  
2 private persons pertaining to export services provided under chapters  
3 43.163 and 53.31 RCW, and by persons pertaining to export projects  
4 under RCW 43.23.035;

5 (4) Financial and commercial information and records supplied by  
6 businesses or individuals during application for loans or program  
7 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
8 43.168 RCW and RCW 43.155.160, or during application for economic  
9 development loans or program services provided by any local agency;

10 (5) Financial information, business plans, examination reports,  
11 and any information produced or obtained in evaluating or examining a  
12 business and industrial development corporation organized or seeking  
13 certification under chapter 31.24 RCW;

14 (6) Financial and commercial information supplied to the state  
15 investment board by any person when the information relates to the  
16 investment of public trust or retirement funds and when disclosure  
17 would result in loss to such funds or in private loss to the  
18 providers of this information;

19 (7) Financial and valuable trade information under RCW 51.36.120;

20 (8) Financial, commercial, operations, and technical and research  
21 information and data submitted to or obtained by the clean Washington  
22 center in applications for, or delivery of, program services under  
23 chapter 70.95H RCW;

24 (9) Financial and commercial information requested by the public  
25 stadium authority from any person or organization that leases or uses  
26 the stadium and exhibition center as defined in RCW 36.102.010;

27 (10)(a) Financial information, including but not limited to  
28 account numbers and values, and other identification numbers supplied  
29 by or on behalf of a person, firm, corporation, limited liability  
30 company, partnership, or other entity related to an application for a  
31 horse racing license submitted pursuant to RCW 67.16.260(1)(b),  
32 cannabis producer, processor, or retailer license, liquor license,  
33 gambling license, or lottery retail license;

34 (b) Internal control documents, independent auditors' reports and  
35 financial statements, and supporting documents: (i) Of house-banked  
36 social card game licensees required by the gambling commission  
37 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted  
38 by tribes with an approved tribal/state compact for class III gaming;

39 (c) Valuable formulae or financial or proprietary commercial  
40 information records received during a consultative visit or while

1 providing consultative services to a licensed cannabis business in  
2 accordance with RCW 69.50.561;

3 (11) Proprietary data, trade secrets, or other information that  
4 relates to: (a) A vendor's unique methods of conducting business; (b)  
5 data unique to the product or services of the vendor; or (c)  
6 determining prices or rates to be charged for services, submitted by  
7 any vendor to the department of social and health services or the  
8 health care authority for purposes of the development, acquisition,  
9 or implementation of state purchased health care as defined in RCW  
10 41.05.011;

11 (12)(a) When supplied to and in the records of the department of  
12 commerce:

13 (i) Financial and proprietary information collected from any  
14 person and provided to the department of commerce pursuant to RCW  
15 43.330.050(8);

16 (ii) Financial or proprietary information collected from any  
17 person and provided to the department of commerce or the office of  
18 the governor in connection with the siting, recruitment, expansion,  
19 retention, or relocation of that person's business and until a siting  
20 decision is made, identifying information of any person supplying  
21 information under this subsection and the locations being considered  
22 for siting, relocation, or expansion of a business; and

23 (iii) Financial or proprietary information collected from any  
24 person and provided to the department of commerce pursuant to RCW  
25 43.31.625 (3)(b) and (4);

26 (b) When developed by the department of commerce based on  
27 information as described in (a)(i) of this subsection, any work  
28 product is not exempt from disclosure;

29 (c) For the purposes of this subsection, "siting decision" means  
30 the decision to acquire or not to acquire a site;

31 (d) If there is no written contact for a period of sixty days to  
32 the department of commerce from a person connected with siting,  
33 recruitment, expansion, retention, or relocation of that person's  
34 business, information described in (a)(ii) of this subsection will be  
35 available to the public under this chapter;

36 (13) Financial and proprietary information submitted to or  
37 obtained by the department of ecology or the authority created under  
38 chapter 70A.500 RCW to implement chapter 70A.500 RCW;

39 (14) Financial, commercial, operations, and technical and  
40 research information and data submitted to or obtained by the life

1 sciences discovery fund authority in applications for, or delivery  
2 of, grants under RCW 43.330.502, to the extent that such information,  
3 if revealed, would reasonably be expected to result in private loss  
4 to the providers of this information;

5 (15) Financial and commercial information provided as evidence to  
6 the department of licensing as required by RCW 19.112.110 or  
7 19.112.120, except information disclosed in aggregate form that does  
8 not permit the identification of information related to individual  
9 fuel licensees;

10 (16) Any production records, mineral assessments, and trade  
11 secrets submitted by a permit holder, mine operator, or landowner to  
12 the department of natural resources under RCW 78.44.085;

13 (17)(a) Farm plans developed by conservation districts, unless  
14 permission to release the farm plan is granted by the landowner or  
15 operator who requested the plan, or the farm plan is used for the  
16 application or issuance of a permit;

17 (b) Farm plans developed under chapter 90.48 RCW and not under  
18 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject  
19 to RCW 42.56.610 and 90.64.190;

20 (18) Financial, commercial, operations, and technical and  
21 research information and data submitted to or obtained by a health  
22 sciences and services authority in applications for, or delivery of,  
23 grants under RCW 35.104.010 through 35.104.060, to the extent that  
24 such information, if revealed, would reasonably be expected to result  
25 in private loss to providers of this information;

26 (19) Information gathered under chapter 19.85 RCW or RCW  
27 34.05.328 that can be identified to a particular business;

28 (20) Financial and commercial information submitted to or  
29 obtained by the University of Washington, other than information the  
30 university is required to disclose under RCW 28B.20.150, when the  
31 information relates to investments in private funds, to the extent  
32 that such information, if revealed, would reasonably be expected to  
33 result in loss to the University of Washington consolidated endowment  
34 fund or to result in private loss to the providers of this  
35 information;

36 (21) Market share data submitted by a manufacturer under RCW  
37 70A.500.190(4);

38 (22) Financial information supplied to the department of  
39 financial institutions, when filed by or on behalf of an issuer of  
40 securities for the purpose of obtaining the exemption from state



1 securities registration for small securities offerings provided under  
2 RCW 21.20.880 or when filed by or on behalf of an investor for the  
3 purpose of purchasing such securities;

4 (23) Unaggregated or individual notices of a transfer of crude  
5 oil that is financial, proprietary, or commercial information,  
6 submitted to the department of ecology pursuant to RCW  
7 90.56.565(1)(a), and that is in the possession of the department of  
8 ecology or any entity with which the department of ecology has shared  
9 the notice pursuant to RCW 90.56.565;

10 (24) Financial institution and retirement account information,  
11 and building security plan information, supplied to the liquor and  
12 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and  
13 69.50.345, when filed by or on behalf of a licensee or prospective  
14 licensee for the purpose of obtaining, maintaining, or renewing a  
15 license to produce, process, transport, or sell cannabis as allowed  
16 under chapter 69.50 RCW;

17 (25) Cannabis transport information, vehicle and driver  
18 identification data, and account numbers or unique access identifiers  
19 issued to private entities for traceability system access, submitted  
20 by an individual or business to the liquor and cannabis board under  
21 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and  
22 69.50.345 for the purpose of cannabis product traceability.  
23 Disclosure to local, state, and federal officials is not considered  
24 public disclosure for purposes of this section;

25 (26) Financial and commercial information submitted to or  
26 obtained by the retirement board of any city that is responsible for  
27 the management of an employees' retirement system pursuant to the  
28 authority of chapter 35.39 RCW, when the information relates to  
29 investments in private funds, to the extent that such information, if  
30 revealed, would reasonably be expected to result in loss to the  
31 retirement fund or to result in private loss to the providers of this  
32 information except that (a) the names and commitment amounts of the  
33 private funds in which retirement funds are invested and (b) the  
34 aggregate quarterly performance results for a retirement fund's  
35 portfolio of investments in such funds are subject to disclosure;

36 (27) Proprietary financial, commercial, operations, and technical  
37 and research information and data submitted to or obtained by the  
38 liquor and cannabis board in applications for cannabis research  
39 licenses under RCW 69.50.372, or in reports submitted by cannabis

1 research licensees in accordance with rules adopted by the liquor and  
2 cannabis board under RCW 69.50.372;

3 (28) Trade secrets, technology, proprietary information, and  
4 financial considerations contained in any agreements or contracts,  
5 entered into by a licensed cannabis business under RCW 69.50.395,  
6 which may be submitted to or obtained by the state liquor and  
7 cannabis board;

8 (29) Financial, commercial, operations, and technical and  
9 research information and data submitted to or obtained by the Andy  
10 Hill cancer research endowment program in applications for, or  
11 delivery of, grants under chapter 43.348 RCW, to the extent that such  
12 information, if revealed, would reasonably be expected to result in  
13 private loss to providers of this information;

14 (30) Proprietary information filed with the department of health  
15 under chapter 69.48 RCW;

16 (31) Records filed with the department of ecology under chapter  
17 70A.515 RCW that a court has determined are confidential valuable  
18 commercial information under RCW 70A.515.130; (~~and~~)

19 (32) Unaggregated financial, proprietary, or commercial  
20 information submitted to or obtained by the liquor and cannabis board  
21 in applications for licenses under RCW 66.24.140 or 66.24.145, or in  
22 any reports or remittances submitted by a person licensed under RCW  
23 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis  
24 board under chapter 66.08 RCW; and

25 (33) Trade secrets and financial and commercial information and  
26 records including, but not limited to, fiber, cable, or other  
27 infrastructure routes and addresses, supplied by businesses to the  
28 statewide broadband office to assist the office in developing and  
29 maintaining the state broadband map in accordance with section 4 of  
30 this act.

31 NEW SECTION. Sec. 7. The following acts or parts of acts are  
32 each repealed:

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

36 (2) RCW 43.330.403 (Reporting availability of high-speed internet  
37 —Survey of high-speed internet infrastructure owned or leased by

1 state agencies—Geographic information system map—Rules) and 2011 1st  
2 sp.s. c 43 s 604 & 2009 c 509 s 3;

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

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

8 NEW SECTION. **Sec. 8.** Section 2 of this act takes effect January  
9 1, 2024."

**2SHB 1746** - S COMM AMD

By Committee on Environment, Energy & Technology

**NOT CONSIDERED 05/17/2023**

10 On page 1, line 1 of the title, after "map;" strike the remainder  
11 of the title and insert "amending RCW 43.155.160, 43.330.534, and  
12 43.155.165; reenacting and amending RCW 42.56.270; adding a new  
13 section to chapter 43.330 RCW; creating a new section; repealing RCW  
14 43.330.400, 43.330.403, 43.330.406, and 43.330.409; and providing an  
15 effective date."

EFFECT: (1) Adds an intent section.

(2) Specifies any existing provider near a proposed project area may submit an objection to the project if it has submitted specified broadband data to the Federal Communications Commission (FCC), rather than the Statewide Broadband Office (SBO), within the previous year.

(3) Authorizes the Public Works Board (PWB) to prioritize applications that have submitted broadband mapping data to the FCC, rather than the SBO.

(4) Revises SBO's powers and duties by authorizing it to assist in developing accurate mapping of broadband infrastructure, rather than to develop and maintain a state broadband map and participate in federal broadband mapping.

(5) Removes the specification that Commerce, including the SBO, is the single eligible entity in the state for purposes of the federal broadband mapping activities.

(6) Removes the requirement for the SBO to develop and maintain a state broadband map.

(7) Requires the SBO to make certain efforts to improve federal mapping, including maintaining a license from the FCC for broadband deployment data and informing covered entities that they must submit mapping data to the FCC.

(8) Encourages, rather than requires, the SBO to use information collected to submit bulk challenges to the national broadband map.

(9) Removes the requirement for covered entities to submit data concerning broadband deployment to the SBO.

(10) Authorizes the SBO, subject to appropriations, to develop and maintain an independent state broadband map indicating the addresses of serviceable locations and capability of broadband service in Washington.

(11) Removes SBO authority to consult other state agencies and incorporate other data sources into the state broadband map.

(12) Specifies expenditures in the Statewide Broadband Account may also be used to improve accuracy of the national broadband map and submit challenges to the federal map.

(13) Provides an effective date of January 1, 2024, for the section amending the Public Works Board's competitive grant and loan program.

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