**5935-S2 AMS SHOR S5297.1 - NOT FOR FLOOR USE**

**2SSB 5935** - S AMD TO S AMD (S-5126.1/18) **664**

By Senator Short

**NOT ADOPTED 02/14/2018**

On page 14, line 9 of the amendment, after "July 1," strike "2020" and insert "((~~2020~~)) 2025"

Beginning on page 14, line 10 of the amendment, strike all of section 13 and insert the following:

"**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)(i) The communications provider is: ((~~(i)~~)) (A) An incumbent local exchange carrier serving fewer than forty thousand access lines in the state; or ((~~(ii)~~)) (B) 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)~~)) (ii) 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~~)) criteria; and

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

(b) The provider demonstrates to the commission that the provider is able to provide the same or comparable services at the same or similar service quality standards at a lower price.

(4) A communications provider that previously received funding under subsection (3) of this section, and that demonstrates to the satisfaction of the commission that it will continue to provide adequate service, must be given priority for funding over other providers applying for funding.

(5)(a) Distributions to eligible communications providers are based on ((~~a benchmark~~)) criteria 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)~~)) (6) 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)~~)) (7) 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)~~)) (8) 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)~~)) (9) The program terminates on June 30, ((~~2019~~)) 2024, and no distributions may be made after that date.

((~~(9)~~)) (10) This section expires July 1, ((~~2020~~)) 2025."

On page 16, line 21 of the amendment, after "July 1," strike "2020" and insert "((~~2020~~)) 2025"

On page 16, line 24 of the amendment, after "((~~2017~~))" strike "2019" and insert "2024"

On page 17, after line 2 of the amendment, insert the following:

"**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~~)) 2025.

**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~~)) 2025.

**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~~)) 2025.

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

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

(2) This section expires July 1, ((~~2020~~)) 2025."

Renumber the remaining sections consecutively and correct any internal references accordingly.

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By Senator Short

**NOT ADOPTED 02/14/2018**

On page 26, line 29 of the title amendment, after "80.36.690," strike "and 53.08.370" and insert "53.08.370, 80.36.660, 80.36.670, 80.36.680, and 80.36.700"

On page 27, line 2 of the title amendment, after "providing" strike "an expiration date" and insert "expiration dates"

EFFECT: Extends the USF program until 2025; allows the commission to designate additional providers as eligible to receive distributions from the universal communications services account if they can demonstrate they can provide the same or comparable services at the same or similar service quality standards at a lower price. Gives priority to previously qualified communications providers.