

# SENATE BILL REPORT

## ESSB 5811

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As Passed Senate, March 15, 1999

**Title:** An act relating to the implementation of the federal telecommunications act of 1996.

**Brief Description:** Creating a program to advance universal telecommunications service.

**Sponsors:** Senate Committee on Energy, Technology & Telecommunications (originally sponsored by Senators Brown, Prentice and Kohl-Welles).

**Brief History:**

**Committee Activity:** Energy, Technology & Telecommunications: 2/16/99, 3/2/99 [DPS, DNPS].

Passed Senate, 3/15/99, 32-14.

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### SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

**Majority Report:** That Substitute Senate Bill No. 5811 be substituted therefor, and the substitute bill do pass.

Signed by Senators Brown, Chair; Goings, Vice Chair; Fairley and Fraser.

**Minority Report:** Do not pass substitute.

Signed by Senators Hochstatter, Rossi.

**Staff:** Karen Kirkpatrick (786-7403)

**Background:** The 1998 Legislature directed the Washington Utilities and Transportation Commission to devise a plan for the reform of universal service. It directed that the reformed universal service program be competitively and technologically neutral, minimize implicit sources of support, maximize explicit sources of support, and benefit telecommunications ratepayers. The Legislature prohibited the commission from implementing the program until the Legislature took further action.

The goal of universal service is to provide all citizens with access to the public telephone network at affordable prices. The Legislature enacted a policy to preserve affordable universal telecommunications service in 1985, but universal telecommunications service has been the policy of Washington State for more than 60 years.

Universal service depends on subsidies to maintain affordability. Average pricing has been used to support service to high-cost customer locations. Monopoly providers have been permitted to charge above-cost prices in urban areas in order to provide sufficient revenue to permit charging only an average, or affordable, price to remote rural customer locations. Monopoly providers have also been permitted to charge other companies above-cost prices for routing telephone traffic over their lines. These charges, known as access charges, provide substantial revenue to small telephone companies that service many high-cost

customers. This revenue makes it possible to keep the basic monthly rate at an affordable level.

It has been suggested that these methods are an impediment to new companies trying to enter the local telecommunications market and that the means to achieving fair competition is to replace the system of hidden subsidies with one of explicit, predictable supports through the use of a universal service fund managed by the Washington Utilities and Transportation Commission. Both state law and the federal Telecommunications Act of 1996 support the goal of universal service and recognize the need for changes in the methods used to achieve it.

Legislative action is necessary to authorize the commission to implement a reformed program of universal service.

**Summary of Bill:** The commission must implement a program for the preservation and advancement of universal telecommunications service. The purposes of the program are to benefit all telecommunications ratepayers in the state by ensuring reasonable access to a modern telecommunications network; provide specific, sufficient, competitively neutral and technologically neutral support for all telecommunications lines in high-cost locations; replace the existing system of implicit subsidies; and facilitate the development of competition. The program must support certain services including single-party service, voice grade access to the public switched network, local usage, touch-tone, access to emergency services, access to operator services, access to long distance services, access to directory assistance and toll limitation.

The universal service fund is created. The commission must designate a fund administrator by a competitive bid process. The commission must establish a mechanism to provide support and establish each carrier's contribution annually based on each carrier's proportionate share of total end-user telecommunications revenue. Not earlier than July 1, 2000, all carriers must contribute to the fund on an equitable and nondiscriminatory basis. A carrier's contribution may not exceed 3 percent of the carrier's gross end-user telecommunications revenue. Companies choosing to disclose contributions on a customer bill must also disclose off-setting rate reductions. All transfers of money necessary for the program are outside the state treasury and not subject to appropriation.

The commission must designate telecommunications carriers that are eligible to receive support and establish criteria for making such designations. The commission may require eligible carriers to serve all persons requesting service within the geographic area for which designation is made. The commission must provide support for eligible carriers, establish criteria for making distributions from the fund, and establish a benchmark. The commission must audit carriers to ensure they are using support only for the purposes of the program. Money in the fund is restricted to use for support of affordable basic telecommunications service in high-cost locations and administrative costs and the commission must consider federal support received in determining support for eligible carriers.

The commission is directed to adopt provisions for the operation of the fund, criteria for selection of an independent administrator, and reporting requirements. The commission may also coordinate the program with any federal universal service program and delegate the authority to resolve disputes or make other decisions necessary to administer the program,

including establishing and approving the budget for the administrator and establishing accounts in financial institutions.

The commission may impose penalties for delays in making required reports or contributions or withhold payments to eligible carriers that fail to submit required information. The commission must evaluate the program to assess comparability of rates, development of competition, affordability, and appropriateness of the fund size and report annually to the Legislature.

Provisions directing the commission to plan and prepare to implement a universal service program and stating the intent of a future program are repealed or removed. Statutory provisions authorizing the commission to take actions as contemplated under the Federal Telecommunications Act of 1996 and limitations on the commissions authority to implement or establish fees to off-set the commission's expenses in implementing a universal service program are modified.

Definitions, intent, and other technical and clarifying issues are addressed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Interconnection and implicit support are the biggest barriers to competition; therefore, a universal service fund is needed. Pressure has increased to address this issue quickly. A reformed universal service program can foster competition without disruption to consumers. The WUTC should prepare the program because they have an extensive year-round public process and WUTC staff has the expertise required. The bill protects the consumer by continuing to support all lines without increasing rates. Long distance rates could decrease with a reformed program.

**Testimony Against:** The program will impose a tax on wireless customers that already pay 20 percent in taxes and already pay for universal service through their home and business lines. Wireless contributions to the fund would go directly to fund competitors since wireless companies do not draw from the fund. The program would create additional regulation of companies. The tax would amount to a windfall for existing carriers. The method of taxation would result in anti-competitive effects and is bad for consumers. In order to be competitively neutral and equitable for all customers, the charge should be a flat-rate line-item charge on all access lines similar to WTAP and other program funding.

**With concerns/amendments:** A universal service program is a good idea, but the details need more work. The program shouldn't increase regulatory burdens or costs. The benchmark should be determined in legislation. A properly sized fund depends on the benchmark. The program must be consistent with the federal plan so as not to over or under size the fund. The fund should only support one, not all, lines to keep the fund size down and keep costs low. Eligible carriers should have an obligation to serve all customers. The 3 percent cap needs clarification. Customers will be best served by an explicit surcharge on the bill. There should also be a requirement that implicit support be reduced before explicit

support authorized. The commission should be given more direction and bandwidth should be addressed.

**Testified:** Gail Garey, MCI World Com. (pro with concerns); Rick Finnigan, WA Independent Telephone Assn.; Jim Haase, WA State Grange; Teresa Osinski, Glenn Blackmon, WUTC (pro); Bruce Shaull, Sprint (pro with amendments); Cliff Webster, Airtouch Communications (con); Jim Blundell, Western Wireless (pro with concerns); Rosemary Williamson, GTE (pro with concerns); Row Gaymen, Mike Woodin, AT&T (amend); Victoria Lincoln, Association of Washington Cities (pro); Mark Greenberg, Art Butler, TRACER (con); Gary Smith, Independent Businesses Association (neutral); Tom Walker, US West (amend).