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## Technology & Economic Development Committee

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### HB 1857

**Brief Description:** Creating a state universal communications service program.

**Sponsors:** Representatives McCoy and Ryu.

#### Brief Summary of Bill

- Establishes a Universal Service Program (USP) from July 1, 2014, through June 30, 2019.
- Requires initial USP funding to come from a network connection fee paid by communications providers as a surcharge on all working telephone numbers in the state.
- Limits USP expenditures to \$5 million per year.

**Hearing Date:** 2/19/13

**Staff:** Jennifer Thornton (786-7147).

#### Background:

Universal service is the long-standing policy of the United States and the state of Washington to enable every American, regardless of location, to have access to affordable high-quality telephone and, more recently, internet services. In 1985 the Legislature declared that it is the policy of Washington to (1) preserve affordable universal telecommunications service; (2) maintain and advance the efficiency and availability of telecommunications service; (3) ensure that customers pay only reasonable charges for telecommunications service; (4) ensure that rates for noncompetitive telecommunications services do not subsidize the competitive ventures of regulated telecommunications companies; (5) promote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state; and (6) permit flexible regulation of competitive telecommunications companies and services.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The federal government operates a Universal Service Fund (FUSF) that supports the construction and maintenance of a national telecommunications infrastructure to provide local telephone service and internet access to low-income consumers, those living in high-cost areas, schools and libraries, and rural health care providers. FUSF is financed through a charge on all telecommunications service companies providing interstate and international service, such as wireline phone companies, wireless phone companies, and certain Voice over Internet Protocol (VoIP) providers. The charge for each company differs according to a percentage of its telecommunications revenues as calculated by the Federal Communications Commission (FCC). Pursuant to an order released in 2011, the FCC is in the process of implementing significant changes to the FUSF and intercarrier compensation which are expected to significantly decrease funding received by incumbent telephone companies in Washington. These changes began in 2012 and will be gradually implemented over a five to nine year timeframe.

Approximately 24 states have established funds similar to the FUSF. Washington does not have a fund, but has instead funded universal service through a number of implicit subsidies, such as access charges, higher rates for business customers than for residential customers, and rate averaging.

According to the Washington Utilities and Transportation Commission (UTC), small, rural wireline phone companies, known as Rural Incumbent Local Exchange Carriers (ILECs), are experiencing substantial and accelerating reduction of their revenues because of the regulatory changes made by the FCC in 2011.

After conducting earnings reviews of small, rural ILECs, the UTC concluded it would be prudent to address the observed declining financial condition of the state's small telephone companies, and the potential for rate increases and service disruption to telecommunications consumers in rural areas, by establishing a targeted State Universal Service Fund of limited duration.

### **Summary of Bill:**

The Legislature finds that consumers in all areas of the state should have access to communications services at reasonable rates; significant changes in the communications marketplace are adversely affecting the ability of some communications companies to continue to offer communications services in rural areas of the state at rates comparable to those in urban areas; and in 1998, the Legislature directed the Utilities and Transportation Commission (UTC) to plan and prepare to implement a Universal Service Program (USP) that would benefit telecommunications ratepayers in the state. The Legislature intends, among other things, to implement and fund a USP.

A USP is established on July 1, 2014, and expires on June 30, 2019. The USP must be administered by a neutral third party selected by the UTC through a competitive process, and is subject to UTC oversight.

The USP must initially be funded by a network connection fee paid by communications providers as a surcharge on all working telephone numbers in the state. Communications provider is defined to mean the provider of a working telephone number to a final consumer for intrastate wireline or wireless communications services or interconnected voice over interconnected protocol service. Communications providers may, but are not required to, pass

the charge on to customers. The UTC is responsible for establishing the annual fee, and has the authority to develop a new basis for the fee as it may be in the public interest.

The USP Fund (Fund) must be established outside of the state treasury and it is not subject to Legislative appropriation. Expenditures of the Fund may not exceed \$5 million in annual distributions.

The UTC is required to establish eligibility criteria and designate Incumbent Local Exchange Carriers (ILECs) that are eligible to receive support from the Fund. Eligible recipients must be ILECs with fewer than 40,000 access lines in the state or wireless companies providing two-way voice communications to less than the equivalent of 40,000 access lines in the state.

The UTC must adopt rules for the USP, including provisions for operating the Fund, creating an independent advisory board to advise the UTC, and establishing the annual benchmark to calculate the amount of support provided. The UTC is authorized to enforce universal service rules by issuing penalties.

The UTC must report to the Legislature by July 1, 2018, as to whether the USP served its intended purpose, and if the act should be allowed to expire.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect July 1, 2014, except for section 8 relating to rulemaking, which is subject to an emergency clause and takes effect July 1, 2013.