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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5935

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State of Washington

65th Legislature

2018 Regular Session

By Senate Ways & Means (originally sponsored by Senators Sheldon and Carlyle)

READ FIRST TIME 02/06/18.

1 AN ACT Relating to enhancing consumer access, affordability, and  
2 quality of broadband and advanced telecommunications services;  
3 amending RCW 35.99.010, 80.36.135, 80.36.630, 80.36.650, 80.36.690,  
4 80.36.660, 80.36.670, 80.36.680, 80.36.700, 53.08.370, and 53.08.380;  
5 amending 2013 2nd sp.s. c 8 s 212 (uncodified); amending 2018 c 2 s  
6 1021 (uncodified); adding a new section to chapter 35.99 RCW; adding  
7 new sections to chapter 43.330 RCW; adding a new section to chapter  
8 82.32 RCW; adding a new section to chapter 54.16 RCW; adding a new  
9 section to chapter 34.12 RCW; creating new sections; repealing RCW  
10 43.330.400, 43.330.403, 43.330.406, 43.330.409, 43.330.412,  
11 43.330.415, 43.330.418, and 43.330.421; and providing expiration  
12 dates.

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

14 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.99  
15 RCW to read as follows:

16 (1)(a) It is the policy of the state to promote the efficient  
17 deployment of small cell facilities and small cell networks, as  
18 defined in RCW 80.36.375, infrastructure by offering predictability  
19 for wireless service providers so communities across the state have  
20 access to wireless communications technologies and create a framework  
21 for the deployment of wireless communications services. It is also

1 the policy of the state that cities and towns maintain sufficient  
2 authority to manage the public rights-of-way for the health, safety,  
3 and welfare of their citizens and the general public.

4 (b) It is the intent of the legislature that cities and towns may  
5 require personal wireless service providers seeking to deploy small  
6 cell facilities or small cell networks infrastructure to obtain a  
7 master permit or equivalent authority under RCW 35.99.030.  
8 Additionally, a city or town may require a wireless service provider  
9 to obtain appropriate permits to enter and use the specified right-  
10 of-way for the purpose of installing, maintaining, repairing, or  
11 removing identified small cell network facilities.

12 (2) Except as provided for in subsection (7) of this section,  
13 cities and towns with a population greater than five thousand shall  
14 enact a small cell facility deployment ordinance, or develop a small  
15 cell facility deployment policy establishing a process for siting  
16 small cell facilities and small cell networks within the right-of-way  
17 under this chapter, provided the city or town has received a complete  
18 application and application fee for a master permit from a wireless  
19 service provider for a small cell facility as defined in RCW  
20 80.36.375.

21 (3) A city or town may not require an applicant proposing to site  
22 a small cell facility on an existing pole or structure to apply for a  
23 conditional use permit except where:

24 (a) Such a proposal would require original installation of a new  
25 pole or structure;

26 (b) Such a proposal would require an existing pole or structure  
27 to be extended or replaced at a height more than fifteen feet above  
28 the existing height of a pole or structure, except where the  
29 applicant can demonstrate that the requested pole height is the  
30 minimum needed to achieve necessary safety clearances or the  
31 requirement of the pole owner; or

32 (c) The proposed facility does not meet established design  
33 standards for small cell facilities or small cell networks, as  
34 defined in RCW 80.36.375.

35 (4)(a) A city or town that updates an existing small cell  
36 facility deployment ordinance or policy, or adopts a small cell  
37 facility deployment ordinance or policy must outline the process that  
38 personal wireless service providers are required to follow in seeking  
39 a master permit to deploy small cell facilities and small cell  
40 networks, as defined in RCW 80.36.375.

1 (b) The small cell facility deployment ordinance or policy must  
2 treat service providers in a competitively neutral and  
3 nondiscriminatory manner.

4 (5) The small cell facility deployment ordinance or policy must  
5 include initial fees or deposits required for filing the master  
6 permit application. The use of a deposit for administrative costs in  
7 lieu of a set fee is not prohibited if the final, total  
8 administrative fee charged complies with the requirements of RCW  
9 35.21.860. The fee schedule may allow a permit applicant to pay an  
10 additional fee for expedited permit processing if the city has  
11 deployed such a process. This provision is not intended to require  
12 jurisdictions to create an expedited permitting process when one does  
13 not already exist.

14 (6) A small cell facility deployment ordinance or policy may  
15 include the following provisions, at the discretion of the city or  
16 town: Standards for the installation of small cell facilities and  
17 small cell networks, as defined in RCW 80.36.375, on city or town-  
18 owned structures located outside of the right-of-way and other terms  
19 and conditions for these installations.

20 (7) A city or town that, as of the effective date of this  
21 section, has previously adopted an ordinance or policy, consistent  
22 with this act, governing the siting of small cell network  
23 infrastructure is not required to adopt or amend a small cell  
24 facility deployment ordinance or policy as otherwise required under  
25 subsection (2) of this section.

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

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

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

38 **Sec. 2.** RCW 35.99.010 and 2000 c 83 s 1 are each amended to read  
39 as follows:

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

3 (1) "Cable television service" means the one-way transmission to  
4 subscribers of video programming and other programming service and  
5 subscriber interaction, if any, that is required for the selection or  
6 use of the video programming or other programming service.

7 (2) "Facilities" means all of the plant, equipment, fixtures,  
8 appurtenances, antennas, and other facilities necessary to furnish  
9 and deliver telecommunications services and cable television  
10 services, including but not limited to poles with crossarms, poles  
11 without crossarms, wires, lines, conduits, cables, communication and  
12 signal lines and equipment, braces, guys, anchors, vaults, and all  
13 attachments, appurtenances, and appliances necessary or incidental to  
14 the distribution and use of telecommunications services and cable  
15 television services.

16 (3) "Master permit" means the agreement in whatever form whereby  
17 a city or town may grant general permission to a service provider to  
18 enter, use, and occupy the right-of-way for the purpose of locating  
19 facilities. This definition is not intended to limit, alter, or  
20 change the extent of the existing authority of a city or town to  
21 require a franchise nor does it change the status of a service  
22 provider asserting an existing statewide grant based on a predecessor  
23 telephone or telegraph company's existence at the time of the  
24 adoption of the Washington state Constitution to occupy the  
25 right-of-way. For the purposes of this subsection, a franchise,  
26 except for a cable television franchise, is a master permit. A master  
27 permit does not include cable television franchises.

28 (4) "Personal wireless services" means commercial mobile  
29 services, unlicensed wireless services, and common carrier wireless  
30 exchange access services, as defined by federal laws and regulations.

31 (5) "Right-of-way" means land acquired or dedicated for public  
32 roads and streets, but does not include:

33 (a) State highways;

34 (b) Land dedicated for roads, streets, and highways not opened  
35 and not improved for motor vehicle use by the public;

36 (c) Structures, including poles and conduits, located within the  
37 right-of-way;

38 (d) Federally granted trust lands or forest board trust lands;

39 (e) Lands owned or managed by the state parks and recreation  
40 commission; or

1 (f) Federally granted railroad rights-of-way acquired under 43  
2 U.S.C. Sec. 912 and related provisions of federal law that are not  
3 open for motor vehicle use.

4 (6) "Service provider" means every corporation, company,  
5 association, joint stock association, firm, partnership, person,  
6 city, or town owning, operating, or managing any facilities used to  
7 provide and providing personal wireless services, telecommunications,  
8 or cable television service for hire, sale, or resale to the general  
9 public. Service provider includes the legal successor to any such  
10 corporation, company, association, joint stock association, firm,  
11 partnership, person, city, or town. A personal wireless service  
12 provider includes entities providing infrastructure, including but  
13 not limited to fiber, conduit, poles, or other structures to another  
14 service provider, but does not include electrical utility entities.

15 (7) "Telecommunications service" means the transmission of  
16 information by wire, radio, optical cable, electromagnetic, or other  
17 similar means for hire, sale, or resale to the general public. For  
18 the purpose of this subsection, "information" means knowledge or  
19 intelligence represented by any form of writing, signs, signals,  
20 pictures, sounds, or any other symbols. For the purpose of this  
21 chapter, telecommunications service excludes the over-the-air  
22 transmission of broadcast television or broadcast radio signals.

23 (8) "Use permit" means the authorization in whatever form whereby  
24 a city or town may grant permission to a service provider to enter  
25 and use the specified right-of-way for the purpose of installing,  
26 maintaining, repairing, or removing identified facilities.

27 NEW SECTION. **Sec. 3.** The legislature finds that:

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

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

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

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

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

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

14 (3) These national goals are presently appropriate for Washington  
15 state, and recognizes that as technology advances the goals will  
16 require changes over time;

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

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

25 The definitions in this section apply throughout sections 5  
26 through 8 of this act unless the context clearly requires otherwise.

27 (1) "Broadband" means networks of deployed telecommunications  
28 equipment and technologies necessary to provide high-speed internet  
29 access and other advanced telecommunications services.

30 (2) "Local governments" includes cities, towns, counties,  
31 municipal corporations, public port districts, quasi-municipal  
32 corporations, and special purpose districts.

33 (3) "Office" means the governor's office on broadband access.

34 (4) "Underserved areas" means areas lacking adequate broadband  
35 service.

36 (5) "Unserved areas" means areas without access to broadband.

37 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.330  
38 RCW to read as follows:

1 (1) The governor's office on broadband access is created within  
2 the department. The mission of the office is to improve economic  
3 vitality, health care access, and education through greater access to  
4 broadband services.

5 (2) The office, in collaboration with the utilities and  
6 transportation commission, the office of the chief information  
7 officer, and the community economic revitalization board, shall serve  
8 as the coordinating body for public and private efforts to ensure  
9 statewide broadband access and deployment. The office is responsible  
10 for all matters regarding the adoption of statewide broadband access  
11 and deployment.

12 (3) The duties of the office include:

13 (a) Coordinating with local governments, communities, public and  
14 private entities, and consumer-owned and investor-owned utilities to  
15 develop strategies and plans for deployment of broadband  
16 infrastructure and access to broadband services;

17 (b) Reviewing existing broadband initiatives, policies, and  
18 public and private investments;

19 (c) Taking comprehensive actions to advance the state's broadband  
20 access goals;

21 (d) Updating the state's goals and standards for broadband  
22 service as technological advances become available;

23 (e) Identifying, on an annual basis, unserved and underserved  
24 areas of the state;

25 (f) Implementing actions necessary to develop and maintain a  
26 detailed inventory of the deployment of broadband services, including  
27 monitoring and tracking the availability of broadband services and  
28 internet speeds across the state, with an emphasis upon identifying  
29 and assessing progress made towards achieving the goals for internet  
30 speeds in unserved and underserved areas;

31 (g) Developing standards for defining levels of service for  
32 broadband access, including unserved and underserved areas, and  
33 revising these standards as technological advances are made and  
34 services are expanded;

35 (h) Fostering public sector and telecommunications industry  
36 actions to bring sustainable broadband access to areas that are  
37 unserved or underserved;

38 (i) Prioritizing and sequencing delivery of quality broadband  
39 service to unserved and underserved areas of the state; and

1 (j) Coordinating public, private, state, and federal funds or  
2 other funds, for deployment of broadband services in underserved and  
3 unserved areas of the state.

4 (4) When developing plans or strategies for broadband deployment,  
5 the office must consider:

6 (a) Partnerships between communities, tribes, nonprofit  
7 organizations, consumer-owned and investor-owned utilities, and  
8 public and private entities;

9 (b) Funding opportunities that provide for the coordination of  
10 public, private, state, and federal funds for the purposes of making  
11 broadband-capable infrastructure or broadband services available to  
12 underserved or unserved areas of the state;

13 (c) Barriers to the adoption of broadband service;

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

15 (e) Requiring minimum broadband access service of twenty-five  
16 mbps download speed and three mbps upload speed and faster speeds as  
17 technology advances.

18 (5) By November 1, 2018, the office must develop a list of  
19 projects for grant support as authorized under section 7 of this act  
20 that will advance high speed broadband access in unserved rural areas  
21 of the state. Beginning November 1, 2018, through December 31, 2020,  
22 the office must give first priority to projects deploying end-user  
23 broadband services in unserved or underserved rural areas of the  
24 state.

25 (6) The office may conduct research as provided under RCW  
26 43.330.050(8) as it applies to the development and deployment of  
27 broadband access throughout the state. Information provided to the  
28 office in the course of research and analysis is not subject to  
29 disclosure subject to RCW 42.56.270(12)(a)(i).

30 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.330  
31 RCW to read as follows:

32 (1) The office may take all appropriate steps to seek federal  
33 funding in order to maximize investment in broadband deployment and  
34 adoption in the state.

35 (2) The office may apply for federal funds and other grants or  
36 donations and must deposit the funds in the broadband access account  
37 created in section 10 of this act.



1        NEW SECTION.    **Sec. 7.**    A new section is added to chapter 43.330  
2    RCW to read as follows:

3        (1)(a) The office must establish a competitive grant program to  
4    assist qualified local governments and tribes to build infrastructure  
5    for open access, high speed broadband services, with download speeds  
6    of at least twenty-five megabits per second and upload speeds of at  
7    least three megabits per second, in unserved and underserved areas of  
8    the state.

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

10        (i) Assistance to public and private partnerships deploying  
11    broadband infrastructure between areas with broadband service to  
12    unserved or underserved areas of the state;

13        (ii) Broadband deployment projects that are ready to permit and  
14    have identified capital costs;

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

17        (iv) Technical analysis to address barriers and interoperability  
18    between private and public infrastructure; and

19        (v) Assistance to public and private partnerships deploying  
20    broadband to improve public safety communications for remote, high-  
21    cost counties consisting entirely of islands.

22        (2) The office must assist applicants with seeking federal  
23    funding or matching grants and other grant opportunities for  
24    deploying broadband services.

25        (3) The office must develop rules for grant eligibility and as  
26    necessary to implement and administer a grant program. The office may  
27    adopt rules under RCW 34.05.350, as necessary, to ensure grants are  
28    available as provided under section 5(5) of this act.

29        (4) The obligation of the department to make grant payments is  
30    contingent upon the availability of the amount of funding available  
31    for this purpose as required under section 5 of this act.

32        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 43.330  
33    RCW to read as follows:

34        (1) The office may convene an advisory group to make  
35    recommendations on developing a statewide rural broadband strategy to  
36    ensure broadband access statewide by January 1, 2026. The advisory  
37    committee must conduct a gap analysis on the deployment of broadband  
38    services in underserved and unserved areas of the state. The analysis  
39    must include a review of:

1 (a) Deployment of broadband services and deployment strategies by  
2 public utility districts, port districts, public and private  
3 partnerships, and private entities;

4 (b) Economic development opportunities that could be realized  
5 with access to broadband services; and

6 (c) Broadband access availability in unserved and underserved  
7 areas of the state.

8 (2) The members of the advisory committee must include experts  
9 from the utilities and transportation commission, the office of the  
10 chief information officer, and the department of commerce. The office  
11 may invite, as necessary, subject matter experts to participate in  
12 the advisory group.

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.32  
14 RCW to read as follows:

15 (1) Beginning January 1, 2019, the department must:

16 (a) Estimate the annual amount of taxes paid under chapter 82.04  
17 RCW associated with federal funds received by telecommunications  
18 service providers for making broadband-capable infrastructure  
19 available to unserved or underserved areas of the state;

20 (b) Instruct the state treasurer to deposit the estimated amounts  
21 in (a) of this subsection into the broadband access account created  
22 in section 10 of this act.

23 (2) Beginning December 1, 2018, and by December 1st each  
24 subsequent year, a person receiving federal funding for the purposes  
25 of making broadband-capable infrastructure available to underserved  
26 or unserved areas of the state must notify the department of the  
27 amount of federal funding received for this purpose.

28 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.330  
29 RCW to read as follows:

30 (1) The broadband access account is created in the state  
31 treasury. All receipts from sections 6 and 9 of this act must be  
32 deposited into the account. Moneys in the account may be spent only  
33 after appropriation.

34 (2) Expenditures from the account may be used only for the  
35 expansion of broadband access, including funding grants under section  
36 7 of this act.

1       **Sec. 11.** RCW 80.36.135 and 2008 c 181 s 414 are each amended to  
2 read as follows:

3       (1) The legislature declares that:

4       (a) Changes in technology and the structure of the  
5 telecommunications industry may produce conditions under which  
6 traditional rate of return, rate base regulation of  
7 telecommunications companies may not in all cases provide the most  
8 efficient and effective means of achieving the public policy goals of  
9 this state as declared in RCW 80.36.300, this section, and RCW  
10 80.36.145. The commission should be authorized to employ an  
11 alternative form of regulation if that alternative is better suited  
12 to achieving those policy goals.

13       (b) Because of the great diversity in the scope and type of  
14 services provided by telecommunications companies, alternative  
15 regulatory arrangements that meet the varying circumstances of  
16 different companies and their ratepayers may be desirable.

17       (c) Increasing competition from private and public  
18 telecommunications providers may require the modification of  
19 obligations arising under RCW 80.36.090 in certain markets.

20       (2) Subject to the conditions set forth in this chapter and RCW  
21 80.04.130, the commission may regulate telecommunications companies  
22 subject to traditional rate of return, rate base regulation by  
23 authorizing an alternative form of regulation. The commission may  
24 determine the manner and extent of any alternative forms of  
25 regulation as may in the public interest be appropriate. In addition  
26 to the public policy goals declared in RCW 80.36.300, the commission  
27 shall consider, in determining the appropriateness of any proposed  
28 alternative form of regulation, whether it will:

29       (a) Facilitate the broad deployment of technological improvements  
30 and advanced telecommunications services to underserved areas or  
31 underserved customer classes;

32       (b) Improve the efficiency of the regulatory process;

33       (c) Preserve or enhance the development of effective competition  
34 and protect against the exercise of market power during its  
35 development;

36       (d) Preserve or enhance service quality and protect against the  
37 degradation of the quality or availability of efficient  
38 telecommunications services;

1 (e) Provide for rates and charges that are fair, just,  
2 reasonable, sufficient, and not unduly discriminatory or  
3 preferential; and

4 (f) Not unduly or unreasonably prejudice or disadvantage any  
5 particular customer class.

6 (3) A telecommunications company or companies subject to  
7 traditional rate of return, rate base regulation may petition the  
8 commission to establish an alternative form of regulation. The  
9 company or companies shall submit with the petition a plan for an  
10 alternative form of regulation. The plan shall contain a proposal for  
11 transition to the alternative form of regulation and the proposed  
12 duration of the plan. The plan must also contain a proposal for  
13 ensuring adequate carrier-to-carrier service quality, including  
14 service quality standards or performance measures for  
15 interconnection, and appropriate enforcement or remedial provisions  
16 in the event the company fails to meet service quality standards or  
17 performance measures. The commission also may initiate consideration  
18 of alternative forms of regulation for a company or companies on its  
19 own motion. The commission, after notice and hearing, shall issue an  
20 order accepting, modifying, or rejecting the plan within nine months  
21 after the petition or motion is filed, unless extended by the  
22 commission for good cause. The commission shall order implementation  
23 of the alternative plan of regulation unless it finds that, on  
24 balance, an alternative plan as proposed or modified fails to meet  
25 the considerations stated in subsection (2) of this section.

26 (4) Not later than sixty days from the entry of the commission's  
27 order, the company or companies affected by the order may file with  
28 the commission an election not to proceed with the alternative form  
29 of regulation as authorized by the commission.

30 (5) The commission may waive such regulatory requirements under  
31 Title 80 RCW for a telecommunications company subject to an  
32 alternative form of regulation as may be appropriate to facilitate  
33 the implementation of this section. However, the commission may not  
34 waive any grant of legal rights to any person contained in this  
35 chapter and chapter 80.04 RCW. The commission may waive different  
36 regulatory requirements for different companies or services if such  
37 different treatment is in the public interest.

38 (6) Upon petition by the company, and after notice and hearing,  
39 the commission may rescind or modify an alternative form of  
40 regulation in the manner requested by the company.

1 (7) The commission or any person may file a complaint under RCW  
2 80.04.110 alleging that a telecommunications company under an  
3 alternative form of regulation has not complied with the terms and  
4 conditions set forth in the alternative form of regulation. The  
5 complainant shall bear the burden of proving the allegations in the  
6 complaint.

7 (8) During a state of emergency declared under RCW 43.06.010(12),  
8 the governor may waive or suspend the operation or enforcement of  
9 this section or any portion of this section or under any  
10 administrative rule, and issue any orders to facilitate the operation  
11 of state or local government or to promote and secure the safety and  
12 protection of the civilian population.

13 **Sec. 12.** RCW 80.36.630 and 2013 2nd sp.s. c 8 s 202 are each  
14 amended to read as follows:

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

18 (a) "Basic residential service" means those services set out in  
19 47 C.F.R. Sec. 54.101(a) (2011), as it existed on the effective date  
20 of this section, and mandatory extended area service approved by the  
21 commission.

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

- 24 (i) Single-party service;
- 25 (ii) Voice grade access to the public switched network;
- 26 (iii) Support for local usage;
- 27 (iv) Dual tone multifrequency signaling (touch-tone);
- 28 (v) Access to emergency services (911);
- 29 (vi) Access to operator services;
- 30 (vii) Access to interexchange services;
- 31 (viii) Access to directory assistance; and
- 32 (ix) Toll limitation services.

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

36 (d) "Communications provider" means a provider of communications  
37 services that assigns a working telephone number to a final consumer  
38 for intrastate wireline or wireless communications services or

1 interconnected voice over internet protocol service, and includes  
2 local exchange carriers.

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

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

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

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

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

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

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

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

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

31 **Sec. 13.** RCW 80.36.650 and 2016 c 145 s 1 are each amended to  
32 read as follows:

33 (1) A state universal communications services program is  
34 established. The program is established to protect public safety and  
35 welfare under the authority of the state to regulate  
36 telecommunications under Article XII, section 19 of the state  
37 Constitution. The purpose of the program is to support continued  
38 provision of basic telecommunications services under rates, terms,  
39 and conditions established by the commission during the time over

1 which incumbent communications providers in the state are adapting to  
2 changes in federal universal service fund and intercarrier  
3 compensation support.

4 (2) Under the program, eligible communications providers may  
5 receive distributions from the universal communications services  
6 account created in RCW 80.36.690 in exchange for the affirmative  
7 agreement to provide continued services under the rates, terms, and  
8 conditions established by the commission under this chapter for the  
9 period covered by the distribution. The commission must implement and  
10 administer the program under terms and conditions established in RCW  
11 80.36.630 through 80.36.690. Expenditures for the program may not  
12 exceed five million dollars per fiscal year; provided, however, that  
13 if less than five million dollars is expended in any fiscal year, the  
14 unexpended portion must be carried over to subsequent fiscal years  
15 and, unless fully expended, must be available for program  
16 expenditures in such subsequent fiscal years in addition to the five  
17 million dollars allotted for each of those subsequent fiscal years.

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

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

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

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

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

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

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

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

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

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

29 (8) The program terminates on June 30, ((2019)) 2024, and no  
30 distributions may be made after that date.

31 (9) This section expires July 1, ((2020)) 2025.

32 **Sec. 14.** RCW 80.36.690 and 2013 2nd sp.s. c 8 s 208 are each  
33 amended to read as follows:

34 (1) The universal communications services account is created in  
35 the custody of the state treasurer. Revenues to the account consist  
36 of moneys deposited in the account by the legislature and any  
37 penalties or other recoveries received pursuant to RCW 80.36.670.  
38 Expenditures from the account may be used only for the purposes of  
39 the universal communications services program established in RCW



1 80.36.650 and commission expenses related to implementation and  
2 administration of the provisions of RCW 80.36.620 through 80.36.690,  
3 and section 212, chapter 8, Laws of 2013 2nd sp. sess. Only the  
4 secretary of the commission or the secretary's designee may authorize  
5 expenditures from the account. The account is subject to allotment  
6 procedures under chapter 43.88 RCW, but an appropriation is not  
7 required for expenditures.

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

9 **Sec. 15.** 2013 2nd sp.s. c 8 s 212 (uncodified) is amended to  
10 read as follows:

11 By December 1, (~~2017~~) 2024, and in compliance with RCW  
12 43.01.036, the Washington utilities and transportation commission  
13 must report to the appropriate committees of the legislature, on the  
14 following: (1) Whether funding levels for each small  
15 telecommunications company have been adequate to maintain reliable  
16 universal service; (2) the future impacts on small telecommunications  
17 companies from the elimination of funding under this act; (3) the  
18 impacts on customer rates from the current level of funding and the  
19 future impacts when the funding terminates under this act; and (4)  
20 the impacts on line and service delivery investments when the funding  
21 is terminated under this act. The report must also include an  
22 analysis of the need for future program funding and recommendations  
23 on potential funding mechanisms to improve availability of  
24 communications services, including broadband service, in unserved and  
25 underserved areas. Commission expenses related to conducting all  
26 analysis in preparation of this report must be expended from the  
27 universal communications services account.

28 **Sec. 16.** RCW 80.36.660 and 2013 2nd sp.s. c 8 s 204 are each  
29 amended to read as follows:

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

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

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

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

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

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

7 **Sec. 17.** RCW 80.36.670 and 2013 2nd sp.s. c 8 s 205 are each  
8 amended to read as follows:

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

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

21 (3) Any amounts recovered under this section must be deposited in  
22 the universal communications services account created in RCW  
23 80.36.690.

24 (4) This section expires July 1, (~~2020~~) 2025.

25 **Sec. 18.** RCW 80.36.680 and 2013 2nd sp.s. c 8 s 206 are each  
26 amended to read as follows:

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

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

33 **Sec. 19.** RCW 80.36.700 and 2013 2nd sp.s. c 8 s 211 are each  
34 amended to read as follows:

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

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

1        NEW SECTION.    **Sec. 20.**    A new section is added to chapter 54.16  
2 RCW to read as follows:

3        (1) The definitions in this subsection apply throughout this  
4 section unless the context clearly requires otherwise.

5        (a) "Broadband" means networks of deployed telecommunications  
6 equipment and technologies necessary to provide high-speed internet  
7 access and other advanced telecommunications services.

8        (b) "Inadequate" means internet retail service that does not meet  
9 one hundred percent of the standards detailed in the service level  
10 agreement.

11       (c) "Partnership payment structure" means a group of or  
12 individual property owners who agree to pay a term payment structure  
13 for infrastructure improvements to their property.

14       (d) "Petition" means a formal written request for retail internet  
15 service by property owners on the public utility district broadband  
16 network.

17       (e) "Service level agreement" means a standard agreement, adopted  
18 during an open public meeting, between the retail internet service  
19 provider and the public utility that describes the required  
20 percentage of broadband download and upload speed and system  
21 availability, customer service, and transmission time.

22       (2) Any public utility district that, as of the effective date of  
23 this section, provides only water, sewer, and wholesale  
24 telecommunications services in a county with an area less than five  
25 hundred square miles and is located west of the Puget Sound may  
26 provide end-user internet services to end users on the public utility  
27 district's broadband network located within the public utility  
28 district boundaries only when the existing providers of end-user  
29 internet service on the public utility district's broadband network  
30 cease to provide end-user service or provide inadequate end-user  
31 service as determined in the manner prescribed by this section.

32       (3) Upon receiving a petition meeting the requirements of  
33 subsection (4) of this section, a public utility district board of  
34 commissioners may hold up to three meetings to:

35       (a) Verify the signature or signatures of the property owners on  
36 the petition and certify the petition;

37       (b) Determine and submit findings that the retail internet  
38 service available to the petitioners served by the public utility  
39 district's broadband network is either nonexistent or inadequate as  
40 defined in the service level agreement adopted by the commissioners

1 for all existing internet service providers on the public utility  
2 district's broadband network; and

3 (c) By resolution, authorize the public utility district to  
4 provide retail internet service to end users on the public utility  
5 district's broadband network.

6 (4) A petition meets the requirements of subsection (3) of this  
7 section if it is delivered to a public utility district board of  
8 commissioners, declares that the signatories on the public utility  
9 district's broadband network have no or inadequate retail internet  
10 service providers, requests the public utility district to provide  
11 the retail internet service, and is signed by one of the following:

12 (a) A majority of a group, including homeowners' associations, of  
13 any geographical area within the public utility district, who have  
14 developed a partnership payment structure to finance broadband  
15 deployment with the public utility district; or

16 (b) Any individual who has developed a partnership payment  
17 structure to finance broadband deployment with the public utility  
18 district.

19 (5) For the purposes of this section, the adequacy of retail  
20 internet service is determined by measuring retail internet service  
21 to end users on the public utility district's broadband network and  
22 comparing it with service standards in the public utility district  
23 service level agreement used for all public utility district network  
24 providers. Measurement of the existing retail internet service  
25 provider's service must be quantified by measuring the service with  
26 speed and capacity devices and software. Additionally, a retail  
27 internet service provider may submit its own assessment of its  
28 service level for consideration by the commission within thirty days  
29 of the first meeting conducted under subsection (3) of this section.

30 (6) The commissioners of a public utility district may by  
31 resolution authorize the public utility district to provide or  
32 contract for provision of internet services to end users on the  
33 public utility district's broadband network when it is determined  
34 that no service or inadequate service exists for the individual or  
35 petitioners identified in subsection (4) of this section.

36 (7)(a) Except as provided in subsection (8) of this section, in  
37 case of failure to reach an agreement on the adequacy of retail  
38 internet service, the commissioners must request an appointment of an  
39 administrative law judge under Title 34 RCW to hear the dispute.

1 (b) The commissioners must provide a written notice, together  
2 with a copy of the dispute, and may require the disputing parties to  
3 attend a hearing before the administrative law judge, at a time and  
4 place to be specified in the written notice.

5 (c) The place of any such hearing may be the office of the  
6 commissioners or another place designated by the commissioners. The  
7 disputed information must be presented at the hearing.

8 (d) Upon review and consideration of all of the evidence, the  
9 administrative law judge must determine if the retail internet  
10 service is inadequate or nonexistent as defined in this section. Upon  
11 making a determination, the administrative law judge must state  
12 findings of fact and must issue and file a determination with the  
13 commissioners.

14 (8) If a provider of end-user service is a company regulated by  
15 the utilities and transportation commission, the company may choose  
16 to have the commission resolve disputes concerning the service level  
17 agreement under the process established in RCW 54.16.340. For the  
18 purposes of this subsection, "company" includes subsidiaries or  
19 affiliates.

20 (9) Any public utility district providing cable television  
21 service under this section must secure a cable television franchise,  
22 pay franchise fees, and any applicable taxes to the local cable  
23 franchise authority as required by federal law.

24 (10) Except as provided in subsection (8) of this section,  
25 nothing in this section may be construed or is intended to confer  
26 upon the utilities and transportation commission any authority to  
27 exercise jurisdiction over locally regulated utilities.

28 (11) All rates for retail internet services offered by a public  
29 utility district under this section must be fair and  
30 nondiscriminatory, except the public utility district may set tiers  
31 of service charges based on service demands of the end user,  
32 including commercial and residential rates.

33 NEW SECTION. **Sec. 21.** A new section is added to chapter 34.12  
34 RCW to read as follows:

35 When requested by the public utility district commissioners, the  
36 chief administrative law judge shall assign an administrative law  
37 judge to conduct proceedings under section 20 of this act.

1       **Sec. 22.** RCW 53.08.370 and 2000 c 81 s 7 are each amended to  
2 read as follows:

3       (1) A rural port district in existence on June 8, 2000, a port  
4 district located in a county that borders a foreign nation, and a  
5 port district located in a county that borders the Columbia river  
6 that has completed feasibility studies for a wholesale  
7 telecommunications network, may construct, purchase, acquire,  
8 develop, finance, lease, license, handle, provide, add to, contract  
9 for, interconnect, alter, improve, repair, operate, and maintain any  
10 telecommunications facilities within or without the district's limits  
11 for the following purposes:

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

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

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

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

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

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

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

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

28 **Sec. 23.** RCW 53.08.380 and 2000 c 81 s 9 are each amended to  
29 read as follows:

30 (1) A person or entity that has requested wholesale  
31 telecommunications services from a rural port district or port  
32 district as identified in RCW 53.08.370(1) may petition the  
33 commission under the procedures set forth in RCW 80.04.110 (1)  
34 through (3) if it believes the district's rates, terms, and  
35 conditions are unduly or unreasonably discriminatory or preferential,  
36 except as provided in RCW 53.08.370. The person or entity shall  
37 provide the district notice of its intent to petition the commission  
38 and an opportunity to review within thirty days the rates, terms, and  
39 conditions as applied to it prior to submitting its petition. In

1 determining whether a district is providing discriminatory or  
2 preferential rates, terms, and conditions, the commission may  
3 consider such matters as service quality, technical feasibility of  
4 connection points on the district's telecommunications facilities,  
5 time of response to service requests, system capacity, and other  
6 matters reasonably related to the provision of wholesale  
7 telecommunications services. If the commission, after notice and  
8 hearing, determines that a rural port district's rates, terms, and  
9 conditions are unduly or unreasonably discriminatory or preferential,  
10 it shall issue a final order finding noncompliance with this section  
11 and setting forth the specific areas of apparent noncompliance. An  
12 order imposed under this section shall be enforceable in any court of  
13 competent jurisdiction.

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

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

21 (4) Nothing in this section shall be construed to affect the  
22 commission's authority and jurisdiction with respect to actions,  
23 proceedings, or orders permitted or contemplated for a state  
24 commission under the federal telecommunications act of 1996, P.L.  
25 104-104 (110 Stat. 56).

26 **Sec. 24.** 2018 c 2 s 1021 (uncodified) is amended to read as  
27 follows:

28 **FOR THE DEPARTMENT OF COMMERCE**

29 CERB Administered Broadband Infrastructure (91000943)

30 The appropriation in this section is subject to the following  
31 conditions and limitations: During the 2017-2019 fiscal biennium, the  
32 community economic revitalization board may make grants and loans to  
33 local governments and federally recognized tribes to build  
34 infrastructure to provide high-speed, open-access broadband service,  
35 with a minimum of 25 megabits per second download speed, to rural and  
36 underserved communities, for the purpose of economic development.



1 (1) "Local governments" means cities, towns, counties, municipal  
2 corporations, public port districts, quasi-municipal corporations,  
3 and special purpose districts.

4 (2) "Broadband" means networks of deployed telecommunications  
5 equipment and technologies necessary to provide high-speed Internet  
6 access and other advanced telecommunications services.

7 (3) The board is authorized to make rural broadband loans to  
8 local governments and to federally recognized Indian tribes for the  
9 purposes of financing the cost to build infrastructure to provide  
10 high-speed, open-access broadband service, to rural and underserved  
11 communities, for the purpose of economic development. Grants may also  
12 be authorized for purposes designated in this chapter, but only when,  
13 and to the extent that, a loan is not reasonably possible, given the  
14 limited resources of the local government or the federally recognized  
15 Indian tribe, and subject to a finding by the board that financial  
16 circumstances require grant assistance to enable the project to move  
17 forward. However, no more than 25 percent of all financial assistance  
18 approved by the board in any biennium may consist of grants to local  
19 governments and federally recognized Indian tribes.

20 (4) Application for funding must be made in the form and manner  
21 as the board may prescribe. In making grants or loans the board must  
22 conform to the following requirements:

23 (a) The board may not provide financial assistance:

24 (i) For a project the primary purpose of which is to facilitate  
25 or promote a retail shopping development or expansion.

26 (ii) For any project that evidence exists would result in a  
27 development or expansion that would displace existing jobs in any  
28 other community in the state.

29 (iii) For a project the primary purpose of which is to facilitate  
30 or promote gambling.

31 (iv) For a project located outside the jurisdiction of the  
32 applicant local government or federally recognized Indian tribe.

33 (v) For equipment or facilities which would enable a public  
34 entity to provide retail telecommunications services or services that  
35 the entity is not authorized by statute to provide.

36 (vi) For the deployment of publicly-owned telecommunication  
37 network infrastructure ("backbone") solely for the sake of creating  
38 competitive, publicly-owned telecommunication network infrastructure.

39 (b) The board may provide financial assistance only(÷

1       ~~(i) For projects demonstrating convincing evidence that a~~  
2 ~~specific private development or expansion is ready to occur and will~~  
3 ~~occur only if the public facility improvement is made that:~~

4       ~~(A) Results in the creation of significant private sector jobs or~~  
5 ~~significant private sector capital investment as determined by the~~  
6 ~~board;~~

7       ~~(B) Will improve the opportunities for the successful~~  
8 ~~maintenance, establishment, or expansion of industrial or commercial~~  
9 ~~plants or will otherwise assist in the creation or retention of long-~~  
10 ~~term economic opportunities; and~~

11       ~~(C) Is located in a rural community as defined by the board, or a~~  
12 ~~rural county; or~~

13       ~~(ii) For a project that does not meet the requirements of (b)(i)~~  
14 ~~of this subsection but is a project that:~~

15       ~~(A) Results in the creation of significant private sector jobs or~~  
16 ~~significant private sector capital investment as determined by the~~  
17 ~~board;~~

18       ~~(B) Is part of a local economic development plan consistent with~~  
19 ~~applicable state planning requirements;~~

20       ~~(C) Can demonstrate project feasibility using standard economic~~  
21 ~~principles; and~~

22       ~~(D) Is located in a rural community as defined by the board, or a~~  
23 ~~rural county;~~

24       ~~(c) The board must develop guidelines for local participation and~~  
25 ~~allowable match and activities.~~

26       ~~(d) An application must demonstrate local match and local~~  
27 ~~participation, in accordance with guidelines developed by the board.~~

28       ~~(e)) for projects located in a rural community as defined by the~~  
29 ~~board, or located in a rural county, that encourage, foster, develop,~~  
30 ~~and improve broadband within the state in order to:~~

31       ~~(i) Drive job creation, promote innovation, and expand markets~~  
32 ~~for local businesses; or~~

33       ~~(ii) Serve the ongoing and growing needs of local education~~  
34 ~~systems, health care system, public safety system, industries and~~  
35 ~~businesses, governmental operations, and citizens; and~~

36       ~~(iii) Improve accessibility for underserved communities and~~  
37 ~~populations.~~

38       ~~(c) An application must be approved by the local government and~~  
39 ~~supported by the local associate development organization or local~~

1 workforce development council or approved by the governing body of  
2 the federally recognized Indian tribe.

3 ~~((f))~~ (d) The board may allow de minimis general system  
4 improvements to be funded if they are critically linked to the  
5 viability of the project.

6 ~~((g) An application must demonstrate convincing evidence that  
7 the median hourly wage of the private sector jobs created after the  
8 project is completed will exceed the countywide median hourly wage.~~

9 ~~(h) The board must prioritize each proposed project according to:~~

10 ~~(i) The relative benefits provided to the community by the jobs  
11 the project would create, not just the total number of jobs it would  
12 create after the project is completed, but also giving consideration  
13 to the unemployment rate in the area in which the jobs would be  
14 located;~~

15 ~~(ii) The rate of return of the state's investment, including, but  
16 not limited to, the leveraging of private sector investment,  
17 anticipated job creation and retention, and expected increases in  
18 state and local tax revenues associated with the project;~~

19 ~~(iii) Whether the proposed project offers a health insurance plan  
20 for employees that includes an option for dependents of employees;~~

21 ~~(iv) Whether the public facility investment will increase  
22 existing capacity necessary to accommodate projected population and  
23 employment growth in a manner that supports infill and redevelopment  
24 of existing urban or industrial areas that are served by adequate  
25 public facilities. Projects should maximize the use of existing  
26 infrastructure and provide for adequate funding of necessary  
27 transportation improvements;~~

28 ~~(v) Whether the applicant's permitting process has been certified  
29 as streamlined by the office of regulatory assistance; and~~

30 ~~(vi) Whether the applicant has developed and adhered to  
31 guidelines regarding its permitting process for those applying for  
32 development permits consistent with section 1(2), chapter 231, Laws  
33 of 2007.~~

34 ~~(i))~~ (e) When evaluating and prioritizing projects, the board  
35 must give consideration, at a minimum, to the following factors:

36 (i) The project's value to the community, including evidence of  
37 support from affected local businesses and government;

38 (ii) The project's feasibility, using standard economic  
39 principles;

1 (iii) Commitment of local matching resources and local  
2 participation;

3 (iv) The project's inclusion in a capital facilities plan,  
4 comprehensive plan, or local economic development plan consistent  
5 with applicable state planning requirements; and

6 (v) The project's readiness to proceed.

7 (5) A responsible official of the local government or the  
8 federally recognized Indian tribe must be present during board  
9 deliberations and provide information that the board requests.

10 ~~((+5))~~ (6) Before any financial assistance application is  
11 approved, the local government or the federally recognized Indian  
12 tribe seeking the assistance must demonstrate to the community  
13 economic revitalization board that no other timely source of funding  
14 is available to it at costs reasonably similar to financing available  
15 from the community economic revitalization board.

16 Appropriation:

17 State Building Construction Account—

18 State. . . . . \$5,000,000

19 Prior Biennia (Expenditures). . . . . \$0

20 Future Biennia (Projected Costs). . . . . \$0

21 TOTAL. . . . . \$5,000,000

22 NEW SECTION. Sec. 25. By July 1, 2019, the governor's office on  
23 broadband access created in section 5 of this act must study taxes  
24 imposed on the capital costs associated with providing retail  
25 broadband service, including taxes paid under chapters 82.08 and  
26 82.12 RCW. The study must include an examination of the impact to  
27 broadband deployment if a credit is provided against taxes paid under  
28 chapters 82.08 and 82.12 RCW on the capital costs associated with  
29 providing retail broadband service telecommunications network  
30 transmission equipment located in an underserved area in the state.

31 NEW SECTION. Sec. 26. The governor's office on broadband access  
32 created in section 5 of this act must develop a small cell facility  
33 deployment permitting model ordinance for cities and towns. The  
34 governor's office on broadband access must consult with cities,  
35 counties, and service providers when developing the model ordinance.  
36 The model ordinance must be available for cities and towns by  
37 September 1, 2018.

1        NEW SECTION.    **Sec. 27.**    The following acts or parts of acts are  
2 each repealed:

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

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

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

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

15       (5) RCW 43.330.412 (Community technology opportunity program—  
16 Administration—Grant program) and 2011 1st sp.s. c 43 s 607, 2009 c  
17 509 s 6, & 2008 c 262 s 6;

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

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

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

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