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**SECOND SUBSTITUTE HOUSE BILL 1746**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Capital Budget (originally sponsored by Representatives Ryu, Berry, Couture, Griffey, Thai, Reed, Gregerson, Sandlin, Tharinger, Walen, Paul, Kloba, Volz, Reeves, Rule, and Ormsby)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to a state broadband map; amending RCW  
2 43.155.160, 43.330.534, and 43.155.165; reenacting and amending RCW  
3 42.56.270; adding a new section to chapter 43.330 RCW; and repealing  
4 RCW 43.330.400, 43.330.403, 43.330.406, and 43.330.409.

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

6 **Sec. 1.** RCW 43.155.160 and 2022 c 201 s 1 are each amended to  
7 read as follows:

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

12 (2)(a) Grants and loans may be awarded under this section to  
13 assist in funding acquisition, installation, and construction of  
14 middle mile and last mile infrastructure that supports broadband  
15 services and to assist in funding strategic planning for deploying  
16 broadband service in unserved areas.

17 (b) The board may choose to fund all or part of an application  
18 for funding, provided that the application meets the requirements of  
19 subsection (1) of this section.

20 (3) Eligible applicants for grants and loans awarded under this  
21 section include:

- 1 (a) Local governments;
- 2 (b) Tribes;
- 3 (c) Nonprofit organizations;
- 4 (d) Cooperative associations;
- 5 (e) Multiparty entities comprised of public entity members;
- 6 (f) Limited liability corporations organized for the purpose of
- 7 expanding broadband access; and
- 8 (g) Incorporated businesses or partnerships.

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

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

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

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

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

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

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

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

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

35 (e) Evidence that before submission of the application, the  
36 applicant contacted, in writing, all entities providing broadband  
37 service near the proposed project area to ask each broadband service  
38 provider's plan to upgrade broadband service in the project area to  
39 speeds that meet or exceed the state's definition for broadband

1 service as defined in RCW 43.330.530, within the time frame specified  
2 in the proposed grant or loan activities;

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

5 (g) The proposed geographic broadband service area and the  
6 proposed broadband speeds in the form and manner prescribed by the  
7 board;

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

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

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

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

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

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

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

20 (e) The proposed actual download and upload speeds experienced by  
21 end users;

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

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

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

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

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

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

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

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

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

1 (7) (a) The board shall publish on its website for at least 30  
2 days the proposed geographic broadband service area and the proposed  
3 broadband speeds for each proposed broadband project submitted in the  
4 preapplication period.

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

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

9 (8) (a) Any existing broadband service provider near the proposed  
10 project area that has submitted broadband mapping data to the  
11 statewide broadband office pursuant to section 3 of this act within  
12 the previous year may submit in writing to the board an objection to  
13 a proposed broadband project. An objection must contain information  
14 demonstrating that:

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

20 (ii) The objecting provider commits to complete construction of  
21 broadband infrastructure and provide broadband service to end users  
22 in the proposed project area at speeds equal to or greater than the  
23 speeds contained in the definition of broadband in RCW  
24 43.330.530(~~((+2))~~) (4), no later than twenty-four months after the  
25 date awards are made under this section for the grant and loan cycle  
26 under which the preapplication was submitted.

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

29 (c) The board may evaluate the information submitted under this  
30 section by the objecting provider and must consider it in making a  
31 determination on the proposed broadband project objected to. The  
32 board may request clarification or additional information. The board  
33 may choose to not fund a project if the board determines that the  
34 objecting provider's commitment to provide broadband service that  
35 meets the requirements of (a) of this subsection in the proposed  
36 project area is credible. In assessing the commitment, the board may  
37 consider whether the objecting provider has or will provide a bond,  
38 letter of credit, or other indicia of financial commitment  
39 guaranteeing the project's completion.

1 (d) If the board denies funding to an applicant as a result of a  
2 broadband service provider's objection made under this section, and  
3 the broadband service provider does not fulfill its commitment to  
4 provide broadband service in the project area, then for the following  
5 two grant and loan cycles, the board is prohibited from denying  
6 funding to an applicant on the basis of a challenge by the same  
7 broadband service provider, unless the board determines that the  
8 broadband service provider's failure to fulfill the provider's  
9 commitment was the result of factors beyond the broadband service  
10 provider's control. The board is not prohibited from denying funding  
11 to an applicant for reasons other than an objection by the same  
12 broadband service provider.

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

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

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

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

26 (i) Provide assistance to public-private partnerships deploying  
27 broadband infrastructure from areas currently served with broadband  
28 service to areas currently lacking access to broadband services;

29 (ii) Demonstrate project readiness to proceed;

30 (iii) Construct infrastructure that is open access, meaning that  
31 during the useful life of the infrastructure, service providers may  
32 use network services and facilities at rates, terms, and conditions  
33 that are not discriminatory or preferential between providers, and  
34 employing accountable interconnection arrangements published and  
35 available publicly;

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

- 1 (v) Bring broadband service to tribal lands, particularly to  
2 rural and remote tribal lands or areas servicing rural and remote  
3 tribal entities;
- 4 (vi) Are submitted by tribal governments in rural and remote  
5 areas that have spent significant amounts of tribal funds to address  
6 the problem but cannot provide necessary broadband services without  
7 either additional state support, additional federal support, or both;
- 8 (vii) Serve economically distressed areas of the state as the  
9 term "distressed area" is defined in RCW 43.168.020;
- 10 (viii) Offer new or substantially upgraded broadband service to  
11 important community anchor institutions including, but not limited  
12 to, libraries, educational institutions, public safety facilities,  
13 and health care facilities;
- 14 (ix) Facilitate the use of telemedicine and electronic health  
15 records, especially in deliverance of behavioral health services and  
16 services to veterans;
- 17 (x) Provide technical support and train residents, businesses,  
18 and institutions in the community served by the project to utilize  
19 broadband service;
- 20 (xi) Include a component to actively promote the adoption of  
21 newly available broadband services in the community;
- 22 (xii) Provide evidence of strong support for the project from  
23 citizens, government, businesses, and community institutions;
- 24 (xiii) Provide access to broadband service to a greater number of  
25 unserved households and businesses, including farms;
- 26 (xiv) Utilize equipment and technology demonstrating greater  
27 longevity of service;
- 28 (xv) Seek the lowest amount of state investment per new location  
29 served and leverage greater amounts of funding for the project from  
30 other private and public sources;
- 31 (xvi) Include evidence of a customer service plan;
- 32 (xvii) Consider leveraging existing broadband infrastructure and  
33 other unique solutions;
- 34 (xviii) Benefit public safety and fire preparedness; ((~~or~~))
- 35 (xix) Are submitted by applicants who have submitted broadband  
36 mapping data to the statewide broadband office pursuant to section 3  
37 of this act within the previous year; or
- 38 (xx) Demonstrate other priorities as the board, in collaboration  
39 with the office, may prescribe by rule.

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

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

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

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

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

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

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

26 (c) Funds awarded to a single project under this section must not  
27 exceed two million dollars, except that the board may choose to fund  
28 projects qualifying for the exception in (b) of this subsection up  
29 to, but not to exceed, five million dollars.

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

33 (13) The community economic revitalization board shall facilitate  
34 the timely transmission of information and documents from its  
35 broadband program to the board in order to effectuate an orderly  
36 transition.

37 (14)(a) Subject to rules promulgated by the board, the board may  
38 make low-interest or interest-free loans or grants to eligible  
39 applicants for emergency public works broadband projects. While  
40 developing rules, the board shall consider prioritizing broadband

1 infrastructure projects that replace existing infrastructure impacted  
2 by an emergency, as described in (b) of this subsection.

3 (b) Emergency public works broadband projects include  
4 construction, repair, reconstruction, replacement, rehabilitation, or  
5 improvement to critical broadband infrastructure that has been made  
6 necessary by a natural disaster or damaged by unforeseen events. To  
7 ensure limited resources are provided as efficiently as possible, the  
8 board shall grant priority to emergency public works projects that  
9 replace existing infrastructure of the provider whose facilities were  
10 damaged by the unforeseen event and shall not provide funds to a new  
11 provider to overbuild the existing provider. The loans or grants may  
12 be used to help fund all or part of an emergency public works  
13 broadband infrastructure project less any reimbursement from any of  
14 the following sources: (i) Federal disaster or emergency funds,  
15 including funds from the federal emergency management agency; (ii)  
16 state disaster or emergency funds; (iii) insurance settlements; and  
17 (iv) litigation.

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

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

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

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

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

29 (a) Serve as the central broadband planning body for the state of  
30 Washington;

31 (b) Coordinate with local governments, tribes, public and private  
32 entities, public housing agencies, nonprofit organizations, and  
33 consumer-owned and investor-owned utilities to develop strategies and  
34 plans promoting deployment of broadband infrastructure and greater  
35 broadband access, while protecting proprietary information;

36 (c) Review existing broadband initiatives, policies, and public  
37 and private investments;



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

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

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

11 (g) Develop and maintain a state broadband map in accordance with  
12 section 3 of this act and participate in federal broadband mapping  
13 activities. The department, including the office, is the single  
14 eligible entity in the state for purposes of the federal broadband  
15 mapping activities.

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

18 (a) Partnerships between communities, tribes, nonprofit  
19 organizations, local governments, consumer-owned and investor-owned  
20 utilities, and public and private entities;

21 (b) Funding opportunities that provide for the coordination of  
22 public, private, state, and federal funds for the purposes of making  
23 broadband infrastructure or broadband services available to rural and  
24 unserved areas of the state;

25 (c) Barriers to the deployment, adoption, and utilization of  
26 broadband service, including affordability of service and project  
27 coordination logistics; and

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

31 (3) The office may assist applicants for the grant and loan  
32 program created in RCW 43.155.160, the digital equity opportunity  
33 program created in RCW 43.330.412, and the digital equity planning  
34 grant program created in RCW 43.330.5393 with seeking federal funding  
35 or matching grants and other grant opportunities for deploying or  
36 increasing adoption of broadband services.

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

1 (5) The office shall coordinate an outreach effort to hard-to-  
2 reach communities and low-income communities across the state to  
3 provide information about broadband programs available to consumers  
4 of these communities. The outreach effort must include, but is not  
5 limited to, providing information to applicable communities about the  
6 federal lifeline program and other low-income broadband benefit  
7 programs. The outreach effort must be reviewed by the office of  
8 equity annually. The office may contract with other public or private  
9 entities to conduct outreach to communities as provided under this  
10 subsection.

11 (6) In carrying out its purpose, the office may collaborate with  
12 the utilities and transportation commission, the office of the chief  
13 information officer, the department of commerce, the community  
14 economic revitalization board, the department of transportation, the  
15 public works board, the state librarian, and all other relevant state  
16 agencies.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330  
18 RCW to read as follows:

19 (1)(a) Subject to the availability of amounts appropriated for  
20 this specific purpose, the office shall develop and maintain a state  
21 broadband map indicating the addresses of serviceable locations and  
22 capability of broadband service in this state. The office must  
23 provide the initial map by July 1, 2024, and must update the map at  
24 least twice per year.

25 (b) In developing the state broadband map, the office must use as  
26 the basis for the state broadband map the most current version of the  
27 national broadband map maintained by the federal communications  
28 commission and incorporate into the state broadband map any  
29 additional mapping data that may improve upon the national broadband  
30 map. The office must review the national broadband map for  
31 deficiencies and gaps in reporting to the federal communications  
32 commission by covered entities and inform covered entities of the  
33 necessity to submit accurate, updated mapping data to the federal  
34 communications commission and to the office. The office may consult  
35 with broadband stakeholders, including but not limited to covered  
36 entities with technical expertise in broadband network mapping, to  
37 determine the availability of broadband infrastructure data that is  
38 not included in the national broadband map, and may be used to  
39 populate the state broadband map. The office may use information

1 collected under this subsection to submit bulk challenges to the  
2 national broadband map.

3 (2) Covered entities must submit updated data concerning  
4 broadband infrastructure deployment, including locations and speeds  
5 of available satellite service, to the office twice per year to  
6 assist the office in developing and maintaining the state broadband  
7 map. The information provided to the office must include any  
8 information that is required to be submitted to the federal  
9 communications commission pursuant to the broadband deployment  
10 accuracy and technological availability act, 47 U.S.C. Sec. 641 et  
11 seq., as it existed on the effective date of this section. The  
12 submitted information must also include detailed end-user location  
13 address information for broadband infrastructure deployment in the  
14 state. Covered entities that own or operate satellite infrastructure  
15 supporting end-user connections must provide information regarding  
16 areas served and speeds of available satellite service in those areas  
17 if end-user location address information is not available. Covered  
18 entities that do not provide broadband service to end-users in the  
19 state must provide updated data regarding the location of  
20 infrastructure utilized in support of end-user connections. Covered  
21 entities must submit such information to the office annually on dates  
22 specified by the office, in a manner and format to be specified by  
23 the office. The dates of required submissions to the office must be  
24 within 15 days of the expiration of the dates required for submission  
25 of mapping information to the federal communications commission  
26 pursuant to the broadband deployment accuracy and technological  
27 availability act, 47 U.S.C. Sec. 641 et seq., as it existed on the  
28 effective date of this section.

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

36 (4) The office may only share data with other state agencies or  
37 with a contractor under an agreement that adheres to the provisions  
38 and requirements of RCW 39.26.340 and 39.34.240 as applicable. The  
39 office may not sell broadband mapping data submitted by covered  
40 entities. In exercising discretion to share submitted broadband

1 mapping data with other state agencies, the office must consider how  
2 to afford such data the greatest confidentiality protections  
3 practicable.

4 (5) The office may contract with a private entity or third-party  
5 consultant to develop and maintain the state broadband map. Any  
6 contract entered into by the office and a private entity or third-  
7 party consultant for the purpose of developing and maintaining the  
8 state broadband map must specify that any mapping data submitted or  
9 developed in accordance with this section for the purposes of  
10 identifying broadband serviceable locations, classifications of  
11 unserved, underserved, and served, or aggregated data and statistics  
12 on broadband availability by different geography types is not the  
13 property of the private entity or third-party consultant. Such  
14 contract must also prohibit the disclosure by the private entity or  
15 third-party consultant of any mapping data submitted to the office in  
16 accordance with this section and require the private entity or third-  
17 party consultant to only use submitted mapping data to effectuate the  
18 purposes of the contract.

19 (6) The office may contract with a private entity or third-party  
20 consultant to investigate and verify the availability of broadband  
21 infrastructure and services in locations of the state where  
22 discrepancies are identified by the office, a resident, a business,  
23 an organization, a unit of local government, a tribe, or a broadband  
24 action team, regarding the status of an area or location, including  
25 community anchor institutions, as served, unserved, or underserved,  
26 within the state and federal broadband maps. The office may use  
27 information collected under this subsection to submit bulk challenges  
28 to the national broadband map.

29 (7) Subject to the availability of amounts appropriated for this  
30 specific purpose, to supplement mapping information submitted by  
31 covered entities, the office may also conduct a detailed survey of  
32 broadband infrastructure owned or leased by state agencies and  
33 compile mapping data of broadband infrastructure owned or leased by  
34 the state. State agencies responding to a survey request from the  
35 office under this subsection must respond in a reasonable and timely  
36 manner, not to exceed 120 days. Fiber, cable, or other infrastructure  
37 routes and addresses reported to the office by state agencies are  
38 confidential and not subject to disclosure. In any survey request,  
39 the office may request of state agencies any information it deems  
40 reasonably necessary, including but not limited to:

- 1 (a) The routes along which state-owned fiber optic facilities are  
2 in place;
- 3 (b) The cost of maintaining that fiber optic infrastructure, if  
4 owned, or the price paid for the broadband infrastructure, if leased;  
5 and
- 6 (c) The leasing entity, if applicable.
- 7 (8) The office may consult other state agencies and incorporate  
8 other data sources into the state broadband map as it deems helpful  
9 to the process of developing and maintaining the state broadband map.
- 10 (9) For the purpose of this section, the following definitions  
11 apply:
- 12 (a) "Covered entity" means a broadband service provider or other  
13 entity that owns or operates broadband infrastructure, including  
14 satellite infrastructure supporting end-user connections, in the  
15 state or offers their broadband infrastructure for sale or lease in  
16 the provision of broadband service.
- 17 (b) "State agency" means every state office, department,  
18 division, bureau, board, or commission.
- 19 (10) The office may adopt rules as necessary to carry out the  
20 provisions of this section.

21 **Sec. 4.** RCW 43.155.165 and 2019 c 365 s 8 are each amended to  
22 read as follows:

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

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

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

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

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

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

37 (e) To develop and maintain a statewide broadband map.

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

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

3 **Sec. 5.** RCW 42.56.270 and 2022 c 201 s 2 and 2022 c 16 s 28 are  
4 each reenacted and amended to read as follows:

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

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

11 (2) Financial information supplied by or on behalf of a person,  
12 firm, or corporation for the purpose of qualifying to submit a bid or  
13 proposal for (a) a ferry system construction or repair contract as  
14 required by RCW 47.60.680 through 47.60.750; (b) highway construction  
15 or improvement as required by RCW 47.28.070; or (c) alternative  
16 public works contracting procedures as required by RCW 39.10.200  
17 through 39.10.905;

18 (3) Financial and commercial information and records supplied by  
19 private persons pertaining to export services provided under chapters  
20 43.163 and 53.31 RCW, and by persons pertaining to export projects  
21 under RCW 43.23.035;

22 (4) Financial and commercial information and records supplied by  
23 businesses or individuals during application for loans or program  
24 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
25 43.168 RCW and RCW 43.155.160, or during application for economic  
26 development loans or program services provided by any local agency;

27 (5) Financial information, business plans, examination reports,  
28 and any information produced or obtained in evaluating or examining a  
29 business and industrial development corporation organized or seeking  
30 certification under chapter 31.24 RCW;

31 (6) Financial and commercial information supplied to the state  
32 investment board by any person when the information relates to the  
33 investment of public trust or retirement funds and when disclosure  
34 would result in loss to such funds or in private loss to the  
35 providers of this information;

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

37 (8) Financial, commercial, operations, and technical and research  
38 information and data submitted to or obtained by the clean Washington

1 center in applications for, or delivery of, program services under  
2 chapter 70.95H RCW;

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

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

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

18 (c) Valuable formulae or financial or proprietary commercial  
19 information records received during a consultative visit or while  
20 providing consultative services to a licensed cannabis business in  
21 accordance with RCW 69.50.561;

22 (11) Proprietary data, trade secrets, or other information that  
23 relates to: (a) A vendor's unique methods of conducting business; (b)  
24 data unique to the product or services of the vendor; or (c)  
25 determining prices or rates to be charged for services, submitted by  
26 any vendor to the department of social and health services or the  
27 health care authority for purposes of the development, acquisition,  
28 or implementation of state purchased health care as defined in RCW  
29 41.05.011;

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

32 (i) Financial and proprietary information collected from any  
33 person and provided to the department of commerce pursuant to RCW  
34 43.330.050(8);

35 (ii) Financial or proprietary information collected from any  
36 person and provided to the department of commerce or the office of  
37 the governor in connection with the siting, recruitment, expansion,  
38 retention, or relocation of that person's business and until a siting  
39 decision is made, identifying information of any person supplying

1 information under this subsection and the locations being considered  
2 for siting, relocation, or expansion of a business; and

3 (iii) Financial or proprietary information collected from any  
4 person and provided to the department of commerce pursuant to RCW  
5 43.31.625 (3) (b) and (4);

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

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

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

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

19 (14) Financial, commercial, operations, and technical and  
20 research information and data submitted to or obtained by the life  
21 sciences discovery fund authority in applications for, or delivery  
22 of, grants under RCW 43.330.502, to the extent that such information,  
23 if revealed, would reasonably be expected to result in private loss  
24 to the providers of this information;

25 (15) Financial and commercial information provided as evidence to  
26 the department of licensing as required by RCW 19.112.110 or  
27 19.112.120, except information disclosed in aggregate form that does  
28 not permit the identification of information related to individual  
29 fuel licensees;

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

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

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



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

7 (19) Information gathered under chapter 19.85 RCW or RCW  
8 34.05.328 that can be identified to a particular business;

9 (20) Financial and commercial information submitted to or  
10 obtained by the University of Washington, other than information the  
11 university is required to disclose under RCW 28B.20.150, when the  
12 information relates to investments in private funds, to the extent  
13 that such information, if revealed, would reasonably be expected to  
14 result in loss to the University of Washington consolidated endowment  
15 fund or to result in private loss to the providers of this  
16 information;

17 (21) Market share data submitted by a manufacturer under RCW  
18 70A.500.190(4);

19 (22) Financial information supplied to the department of  
20 financial institutions, when filed by or on behalf of an issuer of  
21 securities for the purpose of obtaining the exemption from state  
22 securities registration for small securities offerings provided under  
23 RCW 21.20.880 or when filed by or on behalf of an investor for the  
24 purpose of purchasing such securities;

25 (23) Unaggregated or individual notices of a transfer of crude  
26 oil that is financial, proprietary, or commercial information,  
27 submitted to the department of ecology pursuant to RCW  
28 90.56.565(1)(a), and that is in the possession of the department of  
29 ecology or any entity with which the department of ecology has shared  
30 the notice pursuant to RCW 90.56.565;

31 (24) Financial institution and retirement account information,  
32 and building security plan information, supplied to the liquor and  
33 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and  
34 69.50.345, when filed by or on behalf of a licensee or prospective  
35 licensee for the purpose of obtaining, maintaining, or renewing a  
36 license to produce, process, transport, or sell cannabis as allowed  
37 under chapter 69.50 RCW;

38 (25) Cannabis transport information, vehicle and driver  
39 identification data, and account numbers or unique access identifiers  
40 issued to private entities for traceability system access, submitted

1 by an individual or business to the liquor and cannabis board under  
2 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and  
3 69.50.345 for the purpose of cannabis product traceability.  
4 Disclosure to local, state, and federal officials is not considered  
5 public disclosure for purposes of this section;

6 (26) Financial and commercial information submitted to or  
7 obtained by the retirement board of any city that is responsible for  
8 the management of an employees' retirement system pursuant to the  
9 authority of chapter 35.39 RCW, when the information relates to  
10 investments in private funds, to the extent that such information, if  
11 revealed, would reasonably be expected to result in loss to the  
12 retirement fund or to result in private loss to the providers of this  
13 information except that (a) the names and commitment amounts of the  
14 private funds in which retirement funds are invested and (b) the  
15 aggregate quarterly performance results for a retirement fund's  
16 portfolio of investments in such funds are subject to disclosure;

17 (27) Proprietary financial, commercial, operations, and technical  
18 and research information and data submitted to or obtained by the  
19 liquor and cannabis board in applications for cannabis research  
20 licenses under RCW 69.50.372, or in reports submitted by cannabis  
21 research licensees in accordance with rules adopted by the liquor and  
22 cannabis board under RCW 69.50.372;

23 (28) Trade secrets, technology, proprietary information, and  
24 financial considerations contained in any agreements or contracts,  
25 entered into by a licensed cannabis business under RCW 69.50.395,  
26 which may be submitted to or obtained by the state liquor and  
27 cannabis board;

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

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

36 (31) Records filed with the department of ecology under chapter  
37 70A.515 RCW that a court has determined are confidential valuable  
38 commercial information under RCW 70A.515.130; (~~and~~)

39 (32) Unaggregated financial, proprietary, or commercial  
40 information submitted to or obtained by the liquor and cannabis board

1 in applications for licenses under RCW 66.24.140 or 66.24.145, or in  
2 any reports or remittances submitted by a person licensed under RCW  
3 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis  
4 board under chapter 66.08 RCW; and

5 (33) Trade secrets and financial and commercial information and  
6 records including, but not limited to, fiber, cable, or other  
7 infrastructure routes and addresses, supplied by businesses to the  
8 statewide broadband office to assist the office in developing and  
9 maintaining the state broadband map in accordance with section 3 of  
10 this act.

11 NEW SECTION. Sec. 6. The following acts or parts of acts are  
12 each repealed:

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

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

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

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

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