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HOUSE BILL 1738

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State of Washington

68th Legislature

2023 Regular Session

By Representative Ryu

1 AN ACT Relating to the state universal communication services  
2 program; amending RCW 80.36.630, 80.36.650, 80.36.660, 80.36.670,  
3 80.36.680, 80.36.690, and 80.36.700; and providing expiration dates.

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

5 **Sec. 1.** RCW 80.36.630 and 2019 c 365 s 11 are each amended to  
6 read as follows:

7 (1) The definitions in this section apply throughout this section  
8 and RCW 80.36.650 through 80.36.690 and 80.36.610 unless the context  
9 clearly requires otherwise.

10 (a) "Basic residential service" means those services set out in  
11 47 C.F.R. Sec. 54.101(a) (2011), as it existed on May 13, 2019, and  
12 mandatory extended area service approved by the commission.

13 (b) "Basic telecommunications services" means the following  
14 services:

15 (i) Single-party service;

16 (ii) Voice grade access to the public switched network;

17 (iii) Support for local usage;

18 (iv) Dual tone multifrequency signaling (touch-tone);

19 (v) Access to emergency services (911);

20 (vi) Access to operator services;

21 (vii) Access to interexchange services;

1 (viii) Access to directory assistance; and

2 (ix) Toll limitation services.

3 (c) "Broadband service" means any service providing advanced  
4 telecommunications capability, including internet access and access  
5 to high quality voice, data, graphics, or video.

6 (d) "Communications provider" means a provider of communications  
7 services that assigns a working telephone number to a final consumer  
8 for intrastate wireline or wireless communications services or  
9 interconnected voice over internet protocol service, and includes  
10 local exchange carriers.

11 (e) "Communications services" includes telecommunications  
12 services and information services and any combination thereof.

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

15 (g) "Incumbent public network" means the network established by  
16 incumbent local exchange carriers for the delivery of communications  
17 services to customers that is used by communications providers for  
18 origination or termination of communications services by or to  
19 customers.

20 (h) "Interconnected voice over internet protocol service" means  
21 an interconnected voice over internet protocol service that: (i)  
22 Enables real-time, two-way voice communications; (ii) requires a  
23 broadband connection from the user's location; (iii) requires  
24 internet protocol-compatible customer premises equipment; and (iv)  
25 permits users generally to receive calls that originate on the public  
26 network and to terminate calls to the public network.

27 (i) "Program" means the state universal communications services  
28 program created in RCW 80.36.650.

29 (j) "Telecommunications" has the same meaning as defined in 47  
30 U.S.C. Sec. 153(43).

31 (k) "Telecommunications act of 1996" means the telecommunications  
32 act of 1996 (P.L. 104-104, 110 Stat. 56).

33 (2) This section expires July 1, (~~2025~~) 2035.

34 **Sec. 2.** RCW 80.36.650 and 2019 c 365 s 12 are each amended to  
35 read as follows:

36 (1) A state universal communications services program is  
37 established. The program is established to protect public safety and  
38 welfare under the authority of the state to regulate  
39 telecommunications under Article XII, section 19 of the state

1 Constitution. The purpose of the program is to support continued  
2 provision of basic telecommunications services under rates, terms,  
3 and conditions established by the commission and the provision,  
4 enhancement, and maintenance of broadband services, recognizing that,  
5 historically, the incumbent public network functions to provide all  
6 communications services including, but not limited to, voice and  
7 broadband services.

8 (2) Under the program, eligible communications providers may  
9 receive distributions from the universal communications services  
10 account created in RCW 80.36.690 in exchange for the affirmative  
11 agreement to provide continued telecommunications services under the  
12 rates, terms, and conditions established by the commission under this  
13 chapter, and broadband services, for the period covered by the  
14 distribution. The commission must implement and administer the  
15 program under terms and conditions established in RCW 80.36.630  
16 through 80.36.690. Expenditures for the program may not exceed (~~five~~  
17 ~~million dollars~~) \$5,000,000 per fiscal year; provided, however, that  
18 if less than (~~five million dollars~~) \$5,000,000 is expended in any  
19 fiscal year, the unexpended portion must be carried over to  
20 subsequent fiscal years and, unless fully expended, must be available  
21 for program expenditures in such subsequent fiscal years in addition  
22 to the (~~five million dollars~~) \$5,000,000 allotted for each of those  
23 subsequent fiscal years.

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

26 (a)(i) The communications provider is: (A) An incumbent local  
27 exchange carrier serving fewer than (~~forty thousand~~) 40,000 access  
28 lines in the state; or (B) a radio communications service company  
29 providing wireless two-way voice communications service and broadband  
30 services to less than the equivalent of (~~forty thousand~~) 40,000  
31 access lines in the state. For purposes of determining the access  
32 line threshold in this subsection, the access lines or equivalents of  
33 all wireline affiliates must be counted as a single threshold, if the  
34 lines or equivalents are located in Washington;

35 (ii) The communications provider has adopted a plan to provide,  
36 enhance, (~~or~~) and maintain broadband services in its service area;  
37 and

38 (iii) The communications provider meets any other requirements  
39 established by the commission pertaining to the provision of

1 communications services, including basic telecommunications services;  
2 or

3 (b) The communications provider demonstrates to the commission  
4 that the communications provider is able to provide the same or  
5 comparable services at the same or similar service quality standards  
6 at a lower price; and: (i) Will provide communications services to  
7 all customers in the exchange or exchanges in which it will provide  
8 service; and (ii) submits to the commission's regulation of its  
9 service as if it were the incumbent local exchange company serving  
10 the exchange or exchanges for which it seeks distribution from the  
11 account.

12 (4)(a) Distributions to eligible communications providers are  
13 based on criteria established by the commission.

14 (b) If the program does not have sufficient funds to fully fund  
15 the distribution formula set out in (a) of this subsection,  
16 distributions must be reduced on a pro rata basis using the amounts  
17 calculated for that year's program support as the basis of the pro  
18 rata calculations.

19 (c) To receive a distribution under the program, an eligible  
20 communications provider must affirmatively consent to continue  
21 providing communications services to its customers under rates,  
22 terms, and conditions established by the commission pursuant to this  
23 chapter for the period covered by the distribution.

24 (5) The program is funded from amounts deposited by the  
25 legislature in the universal communications services account  
26 established in RCW 80.36.690. The commission must operate the program  
27 within amounts appropriated for this purpose and deposited in the  
28 account.

29 (6) The commission must periodically review the accounts and  
30 records of any communications provider that receives distributions  
31 under the program to ensure compliance with the program and monitor  
32 the providers' use of the funds.

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

38 (8) The program terminates on June 30, ((2024)) 2034, and no  
39 distributions may be made after that date.

40 (9) This section expires July 1, ((2025)) 2035.

1       **Sec. 3.** RCW 80.36.660 and 2019 c 365 s 13 are each amended to  
2 read as follows:

3       (1) To implement the program, the commission must adopt rules for  
4 the following purposes and review them no less than every five years:

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

10       (b) Operation of the universal communications services account  
11 established in RCW 80.36.690;

12       (c) Establishment of the criteria used to calculate  
13 distributions; and

14       (d) Readoption, amendment, or repeal of any existing rules  
15 adopted pursuant to RCW 80.36.610 as necessary to be consistent with  
16 RCW 80.36.630 through 80.36.690 and 80.36.610.

17       (2) This section expires July 1, (~~2025~~) 2035.

18       **Sec. 4.** RCW 80.36.670 and 2019 c 365 s 14 are each amended to  
19 read as follows:

20       (1) In addition to any other penalties prescribed by law, the  
21 commission may impose penalties for failure to make or delays in  
22 making or filing any reports required by the commission for  
23 administration of the program. In addition, the commission may  
24 recover amounts determined to have been improperly distributed under  
25 RCW 80.36.650. For the purposes of this section, the provisions of  
26 RCW 80.04.380 through 80.04.405, inclusive, apply to all companies  
27 that receive support from the universal communications services  
28 account created in RCW 80.36.690.

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

32       (3) Any amounts recovered under this section must be deposited in  
33 the universal communications services account created in RCW  
34 80.36.690.

35       (4) This section expires July 1, (~~2025~~) 2035.

36       **Sec. 5.** RCW 80.36.680 and 2019 c 365 s 15 are each amended to  
37 read as follows:

1 (1) The commission may delegate to the commission secretary or  
2 other staff the authority to resolve disputes and make other  
3 administrative decisions necessary to the administration and  
4 supervision of the program consistent with the relevant statutes and  
5 commission rules.

6 (2) This section expires July 1, (~~2025~~) 2035.

7 **Sec. 6.** RCW 80.36.690 and 2019 c 365 s 16 are each amended to  
8 read as follows:

9 (1) The universal communications services account is created in  
10 the custody of the state treasurer. Revenues to the account consist  
11 of moneys deposited in the account by the legislature and any  
12 penalties or other recoveries received pursuant to RCW 80.36.670.  
13 Expenditures from the account may be used only for the purposes of  
14 the universal communications services program established in RCW  
15 80.36.650 and commission expenses related to implementation and  
16 administration of the provisions of RCW 80.36.630 through 80.36.690  
17 and section 212, chapter 8, Laws of 2013 2nd sp. sess. Only the  
18 secretary of the commission or the secretary's designee may authorize  
19 expenditures from the account. The account is subject to allotment  
20 procedures under chapter 43.88 RCW, but an appropriation is not  
21 required for expenditures.

22 (2) This section expires July 1, (~~2025~~) 2035.

23 **Sec. 7.** RCW 80.36.700 and 2019 c 365 s 17 are each amended to  
24 read as follows:

25 (1) The universal communications services program established in  
26 RCW 80.36.630 through 80.36.690 terminates on June 30, (~~2024~~) 2034.

27 (2) This section expires July 1, (~~2025~~) 2035.

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