

1 AN ACT Relating to creating a business and occupation tax credit
2 for capital costs associated with providing retail broadband service
3 using qualified broadband equipment; adding a new section to chapter
4 82.04 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** (1) This section is the tax preference
7 performance statement for the tax preference in section 2 of this
8 act. This performance statement is intended only to be used for
9 subsequent evaluation of the tax preference. It is not intended to
10 create a private right of action by any party or be used to determine
11 eligibility for preferential tax treatment.

12 (2) The legislature categorizes this tax preference as one
13 intended to expand high-speed broadband service in underserved areas
14 of Washington, as indicated in RCW 82.32.808(2)(f).

15 (3) It is the legislature's specific public policy objective to
16 expand access to high-speed broadband service in underserved areas of
17 Washington. It is the legislature's intent to provide a sales and use
18 tax exemption for telecommunications network transmission equipment
19 that is located in underserved areas of Washington and used for the
20 primary purpose of providing retail broadband service to those
21 underserved areas, thereby increasing the ability of businesses to

1 invest in and expand their broadband networks in underserved areas of
2 Washington.

3 (4) If a review finds that the number of consumers receiving
4 high-speed broadband service in underserved areas of Washington has
5 increased by ten percent in ten years compared to the number of
6 consumers receiving such service at the time of enactment, then the
7 legislature intends to extend the expiration date of the tax
8 preference.

9 (5) In order to obtain the data necessary to perform the review
10 in subsection (4) of this section, the joint legislative audit and
11 review committee may refer to data provided by the Washington
12 utilities and transportation commission, data from the national
13 telecommunications and information administration, data from the
14 department of commerce, and the national broadband map maintained by
15 the federal communications commission.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04
17 RCW to read as follows:

18 (1) Subject to the limitations in this section, a credit is
19 allowed against the taxes imposed under this chapter for the capital
20 costs associated with providing retail broadband service using
21 qualified broadband equipment, including taxes paid under chapters
22 82.08 and 82.12 RCW.

23 (2) A person claiming the credit for taxes paid under chapters
24 82.08 and 82.12 RCW on the capital costs associated with providing
25 retail broadband service using qualified broadband equipment must
26 have paid the taxes under chapters 82.08 and 82.12 RCW in order to
27 claim the credit under this chapter.

28 (3) The credit is equal to fifty percent of the capital costs,
29 including associated sales and use taxes paid, to be divided equally
30 over fifteen years.

31 (4) Credits earned under this section may be claimed against
32 taxes due or paid for the calendar year in which the contribution is
33 made. The amount of credit claimed for a reporting period may not
34 exceed the tax otherwise due under this chapter for that reporting
35 period.

36 (5) Any amount of tax credit allowable under this section not
37 claimed by the person in any calendar year may be carried over and
38 claimed against the person's tax liability for the next succeeding
39 calendar year. Any credit remaining unused in the next succeeding

1 calendar year may be carried forward and claimed against the person's
2 tax liability for the second succeeding calendar years may be carried
3 forward and claimed against the person's tax liability for the next
4 thirteen succeeding calendar years from the year the credit was first
5 claimed, but may not be carried over for any calendar year
6 thereafter.

7 (6) Credits are available on a first in-time basis. The
8 department must disallow any credits, or portion thereof, that would
9 cause the total amount of credits claimed under this section to
10 exceed fifty million dollars. If this limitation is reached, the
11 department must notify all businesses that the annual statewide limit
12 has been met. In addition, the department must provide written notice
13 to any person who has claimed tax credits in excess of the limitation
14 in this subsection. The notice must indicate the amount of tax due
15 and provide that the tax be paid within thirty days from the date of
16 the notice. The department may not assess penalties and interest as
17 provided in chapter 82.32 RCW on the amount due in the initial notice
18 if the amount due is paid by the due date specified in the notice, or
19 any extension thereof.

20 (7) To claim a credit under this section, a person must
21 electronically file with the department all returns, forms, and any
22 other information required by the department, in an electronic format
23 as provided or approved by the department. Any return, form, or
24 information required to be filed in an electronic format under this
25 section is not filed until received by the department in an
26 electronic format. As used in this subsection, "returns" has the same
27 meaning as "return" in RCW 82.32.050.

28 (8) No application is necessary for the tax credit. The person
29 must keep records necessary for the department to verify eligibility
30 under this section.

31 (9) A person receiving a credit under this section must provide
32 to the department, upon request, such information needed to verify
33 eligibility for credit under this section, including information
34 regarding capital costs that are claimed for credits under this
35 section.

36 (10) The department may not allow any credit under this section
37 before July 1, 2016.

38 (11) No credit may be earned for costs incurred on or after July
39 1, 2021.

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

3 (a) "Broadband" means a high-speed broadband telecommunications
4 capability with minimum speeds of ten Mbps downstream and one Mbps
5 upstream, measured at the most remote user location, that enables
6 users to originate and receive high-quality voice, data, graphics,
7 and video using any technology.

8 (b) "Qualified broadband equipment" means telecommunications
9 network transmission equipment located in an underserved area in the
10 state that is necessary for and primarily used to provide retail
11 broadband service by wire or radio with the capability to transmit
12 data to and receive data from substantially all internet end points
13 with minimum speeds of ten Mbps downstream and one Mbps upstream,
14 measured at the most remote user location.

15 (c) "Underserved area" means United States areas designated by
16 the Washington utilities and transportation commission as having
17 either no broadband access or limited broadband access based on
18 information presented by businesses providing retail broadband
19 service and any information utilized by the federal communications
20 commission and the national telecommunications and information
21 administration. Underserved area also means those areas lacking
22 reliability and redundancy.

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