S-1585.2

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**SUBSTITUTE SENATE BILL 5425**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Energy, Environment & Telecommunications (originally sponsored by Senators Ericksen and Dansel)

AN ACT Relating to providing a sales and use tax exemption for qualified broadband equipment; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.04 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  Much like electricity in the beginning of the twentieth century, the legislature finds that high-speed broadband service is becoming necessary for everyday life. It is a transforming technology that can provide many useful services, such as: Speedy access to government, commercial, and educational information; efficient delivery of healthcare services; removal of educational disadvantages; and efficient use of energy resources. The legislature also finds that there are areas in the state that do not have access to high-speed broadband service, and that the state should work with federal programs to alleviate this problem.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in sections 3, 5, and 7 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

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

(3) It is the legislature's specific public policy objective to expand access to high-speed broadband service in underserved areas of Washington. It is the legislature's intent to exempt from the taxes levied by chapters 82.04, 82.08, and 82.12 RCW telecommunications network transmission equipment that is located in underserved areas of Washington and used for the primary purpose of providing retail broadband service to those underserved areas, thereby increasing the ability of businesses to invest in and expand their broadband networks in underserved areas of Washington.

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of qualified broadband equipment used for the primary purpose of providing retail broadband service to underserved areas in the state, if the equipment is located in the underserved area and is purchased by a business that provides broadband service.

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

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

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

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

NEW SECTION. **Sec.**  It is the legislature's specific public policy objective to expand access to high-speed broadband service in underserved areas of Washington. It is the legislature's intent to exempt from the tax levied by RCW 82.12.020 telecommunications network transmission equipment that is located in underserved areas of Washington and used for the primary purpose of providing retail high-speed broadband service to those underserved areas, thereby encouraging businesses to invest in and expand their broadband networks in underserved areas of Washington.

NEW SECTION. **Sec.**  A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply to the use of qualified broadband equipment used for the primary purpose of providing retail broadband service to underserved areas in the state, if the equipment is located in the underserved area and is purchased by a business providing retail broadband service.

(2) The definitions in section 3 of this act apply to this section.

NEW SECTION. **Sec.**  It is the legislature's specific public policy objective to expand access to high-speed broadband service in underserved areas of Washington. It is the legislature's intent to provide credits from the tax levied by chapter 82.04 RCW on persons that invest in telecommunications network transmission equipment located in underserved areas of Washington and used for the primary purpose of providing retail broadband service to those underserved areas, thereby encouraging persons to invest in and expand their broadband networks in underserved areas of Washington.

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

(1) Subject to the limitations in this section, a credit is allowed against the tax imposed under this chapter for the capital costs associated with providing retail broadband service using qualified broadband equipment. The credit is equal to fifty percent of the costs to be divided equally over fifteen years.

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

(3) Any amount of tax credit allowable under this section not claimed by the person in any calendar year may be carried over and claimed against the person's tax liability for the next succeeding calendar year. Any credit remaining unused in the next succeeding calendar year may be carried forward and claimed against the person's tax liability for the second succeeding calendar year; and any credit not used in that second succeeding calendar year may be carried over and claimed against the person's tax liability for the third succeeding calendar year, but may not be carried over for any calendar year thereafter.

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

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

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

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

(8) The department may not allow any credit under this section before July 1, 2015.

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

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

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

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

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

**--- END ---**