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**SUBSTITUTE SENATE BILL 6480**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Energy, Environment & Telecommunications (originally sponsored by Senator Ericksen)

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

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

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference in section 2 of this act. This performance statement is intended only 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 provide a sales and use tax exemption for telecommunications network transmission equipment that is located in underserved areas of Washington and used for the primary purpose of providing retail broadband service or supporting utility broadband services 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 82.04 RCW to read as follows:

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

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

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

(4) Credits earned under this section may be claimed against taxes due or paid for the calendar year in which the tax 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 and is limited to five million dollars total per person claiming a credit.

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

(6) 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 provide notice on its web site that the 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.

(7) 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.

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

(9) 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.

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

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

(12) 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 or support utility broadband services 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.

(c) "Underserved area" means United States areas having either no broadband access or limited broadband access based on a request presented to the department by any businesses providing retail broadband service or supporting utility broadband services seeking a tax credit, including 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.**  A new section is added to chapter 82.04 RCW to read as follows:

Subject to the limitations and requirements in section 2 of this act, a person is eligible to claim credit for taxes paid under chapters 82.08 and 82.12 RCW on the capital costs associated with providing retail broadband service or supporting utility broadband services using qualified broadband equipment in any underserved areas of the state consisting entirely of islands that are east of a line extending from Discovery Island light south to New Dungeness light and north of Deception Pass.

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