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**SENATE BILL 5110**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senator Ericksen

AN ACT Relating to promoting greater access to the internet by modifying permitting, taxation, and other standards for telecommunications companies and facilities; amending RCW 43.21C.0384, 43.70.605, 80.36.375, 47.04.045, 47.04.047, 47.52.001, 47.52.220, 35.99.010, 35.99.020, 35.99.030, 35.99.040, 35.99.050, 35.99.060, 35.99.080, 35A.21.245, 80.36.320, 77.12.210, 79.36.530, 79.110.240, 54.16.300, 54.16.330, and 54.16.420; adding a new section to chapter 79A.05 RCW; adding a new section to chapter 82.04 RCW; and creating a new section.

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

**Part 1**

**Wireless Facilities**

**Sec.**  RCW 43.21C.0384 and 2013 c 317 s 1 are each amended to read as follows:

(1) Decisions pertaining to applications to site wireless service facilities are not subject to the requirements of RCW 43.21C.030(2)(c), if those facilities meet the following requirements:

(a) The collocation of new equipment, removal of equipment, or replacement of existing equipment on existing or replacement structures does not substantially change the physical dimensions of such structures; or

(b) The siting project involves constructing a wireless service tower ((~~less than sixty feet in height~~)) that is located in a commercial, industrial, manufacturing, forest, or agricultural zone. ((~~This~~)) The exemption in this subsection (1)(b) does not apply to projects within a designated critical area.

(2) The exemptions authorized under subsection (1) of this section may only be applied to a project consisting of a series of actions when all actions in the series are categorically exempt and the actions together do not have a probable significant adverse environmental impact.

(3) The department of ecology shall adopt rules to create a categorical exemption for wireless service facilities that meet the conditions set forth in subsections (1) and (2) of this section.

(4) ((~~By January 1, 2020, all wireless service providers granted an exemption to RCW 43.21C.030(2)(c) must provide the legislature with the number of permits issued pertaining to wireless service facilities, the number of exemptions granted under this section, and the total dollar investment in wireless service facilities between July 1, 2013, and June 30, 2019.~~

~~(5)~~)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Collocation" means the mounting or installation of equipment on an existing tower, building, or structure for the purpose of either transmitting or receiving, or both, radio frequency signals for communications purposes.

(b) "Existing structure" means any existing tower, pole, building, or other structure capable of supporting wireless service facilities.

(c) "Substantially change the physical dimensions" means:

(i) The mounting of equipment on a structure that would increase the height of the structure by more than ten percent, or twenty feet, whichever is greater; or

(ii) The mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater.

(d) "Wireless service facilities" means facilities for the provision of wireless services.

(e) "Wireless services" means wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

**Sec.**  RCW 43.70.605 and 1996 c 323 s 7 are each amended to read as follows:

Unless this section is preempted by applicable federal ((~~statutes~~)) law, the department may require that in residential zones or areas, all providers of personal wireless services, as the term "wireless services" is defined in ((~~section 1 of this act~~)) RCW 43.21C.0384, provide random test results on power density analysis for the provider's licensed frequencies showing radio frequency levels before and after development of the personal wireless service antenna facilities, following national standards or protocols of the federal communications commission or other federal agencies. This section shall not apply to microcells as defined in RCW 80.36.375. The department may adopt rules to implement this section.

**Sec.**  RCW 80.36.375 and 2014 c 118 s 1 are each amended to read as follows:

(1) If a personal wireless service provider applies to site several microcells, minor facilities, or a small cell network in a single geographical area:

(a) If one or more of the microcells and/or minor facilities are not exempt from the requirements of RCW 43.21C.030(2)(c), local governmental entities are ((~~encouraged~~)) required: (i) To allow the applicant, at the applicant's discretion, to file a single set of documents required by chapter 43.21C RCW that will apply to all the microcells and/or minor facilities to be sited; and (ii) to render decisions under chapter 43.21C RCW regarding all the microcells and/or minor facilities in a single administrative proceeding;

(b) Local governmental entities are ((~~encouraged~~)) required: (i) To allow the applicant, at the applicant's discretion, to file a single set of documents for land use permits that will apply to all the microcells and/or minor facilities to be sited; and (ii) to render decisions regarding land use permits for all the microcells and/or minor facilities in a single administrative proceeding; and

(c) For small cell networks involving multiple individual small cell facilities, local governmental entities ((~~may~~)) shall allow the applicant, if the applicant so chooses, to file a consolidated application and receive a single permit for the small cell network in a single jurisdiction instead of filing separate applications for each individual small cell facility.

(2) For the purposes of this section:

(a) "Personal wireless services" means commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(b) "Microcell" means a wireless communication facility consisting of an antenna that is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

(c) "Minor facility" means a wireless communication facility consisting of up to three antennas, each of which is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length; and the associated equipment cabinet that is six feet or less in height and no more than forty-eight square feet in floor area.

(d) "Small cell facility" means a personal wireless services facility that meets both of the following qualifications:

(i) Each antenna is located inside an antenna enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and

(ii) Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and if so located, are not included in the calculation of equipment volume: Electric meter, concealment, telecomm demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

(e) "Small cell network" means a collection of interrelated small cell facilities designed to deliver personal wireless services.

**Part 2**

**Department of Transportation Permit Process**

**Sec.**  RCW 47.04.045 and 2003 c 244 s 5 are each amended to read as follows:

(1) ((~~For the purposes of this section:~~)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Right-of-way" means all state-owned land within a state highway corridor.

(b) "Service provider" means every corporation, company, association, joint stock association, firm, partnership, or person that owns, operates, or manages any personal wireless service facility. "Service provider" includes a service provider's contractors, subcontractors, and legal successors.

(2) The department shall establish a process for issuing a lease for the use of the right-of-way by a service provider and shall require that telecommunications equipment be colocated on the same structure whenever practicable. Consistent with federal highway administration approval, the lease must include the right of direct ingress and egress from the highway for construction and maintenance of the personal wireless service facility during nonpeak hours if public safety is not adversely affected. Direct ingress and egress may be allowed at any time for the construction of the facility if public safety is not adversely affected and if construction will not substantially interfere with traffic flow during peak traffic periods. The lease may specify an indirect ingress and egress to the facility if it is reasonable and available for the particular location.

(3)(a) The cost of the lease must be limited to the fair market value of the portion of the right-of-way being used by the service provider and the direct administrative expenses incurred by the department in processing the lease application.

(b) If the department and the service provider are unable to agree on the cost of the lease, the service provider may submit the cost of the lease to binding arbitration by serving written notice on the department. Within thirty days of receiving the notice, each party shall furnish a list of acceptable arbitrators. The parties shall select an arbitrator; failing to agree on an arbitrator, each party shall select one arbitrator and the two arbitrators shall select a third arbitrator for an arbitration panel. The arbitrator or panel shall determine the cost of the lease based on comparable siting agreements. Costs of the arbitration, including compensation for the arbitrator's services, must be borne equally by the parties participating in the arbitration and each party shall bear its own costs and expenses, including legal fees and witness expenses, in connection with the arbitration proceeding.

(4) The department shall act on an application for a lease within ((~~sixty~~)) thirty days of receiving a completed application, unless a service provider consents to a different time period.

(5) The reasons for a denial of a lease application must be supported by substantial evidence contained in a written record.

(6) The department may adopt rules to implement this section.

(7) All lease money paid to the department under this section shall be deposited in the motor vehicle fund created in RCW 46.68.070.

**Sec.**  RCW 47.04.047 and 2004 c 131 s 2 are each amended to read as follows:

Personal wireless service is a critical part of the state's infrastructure. The rapid deployment of personal wireless service facilities is critical to ensure public safety, network access, quality of service, ((~~and~~)) rural economic development, and access to educational opportunities.

It is the declared policy of this state to assure that the use of rights-of-way of state highways accommodate the deployment of personal wireless service facilities consistent with highway safety and the preservation of the public investment in state highway facilities.

**Sec.**  RCW 47.52.001 and 2004 c 131 s 1 are each amended to read as follows:

(1) Unrestricted access to and from public highways has resulted in congestion and peril for the traveler. It has caused undue slowing of all traffic in many areas. The investment of the public in highway facilities has been impaired and highway facilities costing vast sums of money will have to be relocated and reconstructed.

(2) Personal wireless service is a critical part of the state's infrastructure. The rapid deployment of personal wireless service facilities is critical to ensure public safety, network access, quality of service, ((~~and~~)) rural economic development, and access to educational opportunities.

(3) It is, therefore, the declared policy of this state to limit access to the highway facilities of this state in the interest of highway safety and for the preservation of the investment of the public in such facilities, and to assure that the use of rights-of-way of limited access facilities accommodate the deployment of personal wireless service facilities consistent with these interests.

**Sec.**  RCW 47.52.220 and 2003 c 188 s 2 are each amended to read as follows:

(1) The department shall authorize an off and on approach to partially controlled limited access highways for the placement and service of facilities providing personal wireless services.

(a) The approach shall be in a legal manner not to exceed thirty feet in width.

(b) The approach may be specified at a point satisfactory to the department at or between designated highway stations.

(c) The permit holder may use the approach for ingress and egress from the highway for construction or maintenance of the personal wireless service facility during nonpeak traffic hours so long as public safety is not adversely affected. The permit holder may use the approach for ingress and egress at any time for the construction of the facility if public safety is not adversely affected and if construction will not substantially interfere with traffic flow during peak traffic periods.

(2) The department shall authorize the approach by an annual permit, which may only be canceled upon one hundred eighty days' written notice to the permit holder.

(a) The department shall set the yearly cost of a permit in rule.

(b) The permit shall be assignable to the contractors and subcontractors of the permit holder. The permit shall also be transferable to a new owner following the sale or merger of the permit holder.

(3) For the purposes of this section:

(a) "Personal wireless services" means any federally licensed personal wireless service.

(b) "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures.

(4) The department shall present a report ((~~to the house of representatives technology, telecommunications, and energy committee and the senate technology and communications committee~~)) on the implementation of the permit process and the cost of permits ((~~by January 15, 2004, and~~)) to the appropriate standing committees of the house of representatives and senate by the first day of the next legislative session following adoption of any rule increasing the cost of permits.

**Part 3**

**City and Town Permit Process**

**Sec.**  RCW 35.99.010 and 2000 c 83 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cable television service" means the one-way transmission to subscribers of video programming and other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

(2) "Facilities" means all of the plant, equipment, fixtures, appurtenances, antennas, and other facilities necessary to furnish and deliver telecommunications services and cable television services, including but not limited to poles with crossarms, poles without crossarms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of telecommunications services and cable television services.

(3) "Master permit" means the agreement in whatever form whereby a city or town may grant general permission to a service provider to enter, use, and occupy the right‑of‑way for the purpose of locating facilities. This definition is not intended to limit, alter, or change the extent of the existing authority of a city or town to require a franchise nor does it change the status of a service provider asserting an existing statewide grant based on a predecessor telephone or telegraph company's existence at the time of the adoption of the Washington state Constitution to occupy the right‑of‑way. For the purposes of this subsection, a franchise, except for a cable television franchise, is a master permit. A master permit does not include cable television franchises.

(4) "Personal wireless services" means commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(5) "Right‑of‑way" means land acquired or dedicated for public roads and streets, but does not include:

(a) State highways;

(b) Land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public;

(c) Structures, including poles and conduits, located within the right‑of‑way;

(d) Federally granted trust lands or forest board trust lands;

(e) Lands owned or managed by the state parks and recreation commission; or

(f) Federally granted railroad rights‑of‑way acquired under 43 U.S.C. Sec. 912 and related provisions of federal law that are not open for motor vehicle use.

(6) "Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating, or managing any facilities used to provide and providing telecommunications or cable television service for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city, or town.

(7) "Telecommunications service" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this subsection, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For the purpose of this chapter, telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals.

(8) "Use permit" means the authorization in whatever form whereby a city or town may grant permission to a service provider to enter and use the specified right‑of‑way for the purpose of installing, maintaining, repairing, or removing identified facilities.

**Sec.**  RCW 35.99.020 and 2000 c 83 s 2 are each amended to read as follows:

A city or town may grant, issue, or deny permits for the use of the right‑of‑way by a service provider for installing, maintaining, repairing, or removing facilities for telecommunications services or cable television services pursuant to ordinances, consistent with this chapter ((~~83, Laws of 2000~~)) and RCW 35.21.860 and 35A.21.245.

**Sec.**  RCW 35.99.030 and 2000 c 83 s 3 are each amended to read as follows:

(1) Cities and towns may require a service provider to obtain a master permit. A city or town may request, but not require, that a service provider with an existing statewide grant to occupy the right‑of‑way obtain a master permit for wireline facilities.

(a) The procedures for the approval of a master permit and the requirements for a complete application for a master permit shall be available in written form.

(b) Where a city or town requires a master permit, the city or town shall act upon a complete application within ((~~one hundred twenty~~)) sixty days from the date a service provider files the complete application for the master permit to use the right‑of‑way, except:

(i) With the agreement of the applicant; or

(ii) Where the master permit requires action of the legislative body of the city or town and such action cannot reasonably be obtained within the ((~~one hundred twenty~~)) sixty day period.

(2) A city or town may require that a service provider obtain a use permit. A city or town must act on a request for a use permit by a service provider within thirty days of receipt of a completed application, unless a service provider consents to a different time period or the service provider has not obtained a master permit requested by the city or town.

(a) For the purpose of this section, "act" means that the city or town makes the decision to grant, condition, or deny the use permit, which may be subject to administrative appeal, or notifies the applicant in writing of the amount of time that will be required to make the decision and the reasons for this time period.

(b) Requirements otherwise applicable to holders of master permits shall be deemed satisfied by a holder of a cable franchise in good standing.

(c) Where the master permit does not contain procedures to expedite approvals and the service provider requires action in less than thirty days, the service provider shall advise the city or town in writing of the reasons why a shortened time period is necessary and the time period within which action by the city or town is requested. The city or town shall reasonably cooperate to meet the request where practicable.

(d) A city or town may not deny a use permit to a service provider with an existing statewide grant to occupy the right‑of‑way for wireline facilities on the basis of failure to obtain a master permit.

(3) The reasons for a denial of a master permit shall be supported by substantial evidence contained in a written record. A service provider adversely affected by the final action denying a master permit, or by an unreasonable failure to act on a master permit as set forth in subsection (1) of this section, may commence an action within thirty days to seek relief, which shall be limited to injunctive relief.

(4) A service provider adversely affected by the final action denying a use permit may commence an action within thirty days to seek relief, which shall be limited to injunctive relief. In any appeal of the final action denying a use permit, the standard for review and burden of proof shall be as set forth in RCW 36.70C.130.

(5) A city or town shall:

(a) In order to facilitate the scheduling and coordination of work in the right‑of‑way, provide as much advance notice as reasonable of plans to open the right‑of‑way to those service providers who are current users of the right‑of‑way or who have filed notice with the clerk of the city or town within the past twelve months of their intent to place facilities in the city or town. A city or town is not liable for damages for failure to provide this notice. Where the city or town has failed to provide notice of plans to open the right‑of‑way consistent with this subsection, a city or town may not deny a use permit to a service provider on the basis that the service provider failed to coordinate with another project.

(b) Have the authority to require that facilities are installed and maintained within the right‑of‑way in such a manner and at such points so as not to inconvenience the public use of the right‑of‑way or to adversely affect the public health, safety, and welfare.

(6) A service provider shall:

(a) Obtain all permits required by the city or town for the installation, maintenance, repair, or removal of facilities in the right‑of‑way;

(b) Comply with applicable ordinances, construction codes, regulations, and standards subject to verification by the city or town of such compliance;

(c) Cooperate with the city or town in ensuring that facilities are installed, maintained, repaired, and removed within the right‑of‑way in such a manner and at such points so as not to inconvenience the public use of the right‑of‑way or to adversely affect the public health, safety, and welfare;

(d) Provide information and plans as reasonably necessary to enable a city or town to comply with subsection (5) of this section, including, when notified by the city or town, the provision of advance planning information pursuant to the procedures established by the city or town;

(e) Obtain the written approval of the facility or structure owner, if the service provider does not own it, prior to attaching to or otherwise using a facility or structure in the right‑of‑way;

(f) Construct, install, operate, and maintain its facilities at its expense; and

(g) Comply with applicable federal and state safety laws and standards.

(7) Nothing in this section shall be construed as:

(a) Creating a new duty upon ((~~city [cities]~~)) cities or towns to be responsible for construction of facilities for service providers or to modify the right‑of‑way to accommodate such facilities;

(b) Creating, expanding, or extending any liability of a city or town to any third-party user of facilities or third-party beneficiary; or

(c) Limiting the right of a city or town to require an indemnification agreement as a condition of a service provider's facilities occupying the right‑of‑way.

(8) Nothing in this section creates, modifies, expands, or diminishes a priority of use of the right‑of‑way by a service provider or other utility, either in relation to other service providers or in relation to other users of the right‑of‑way for other purposes.

**Sec.**  RCW 35.99.040 and 2000 c 83 s 4 are each amended to read as follows:

(1) A city or town shall not adopt or enforce regulations or ordinances specifically relating to use of the right‑of‑way by a service provider that:

(a) Impose requirements that regulate the services or business operations of the service provider, except where otherwise authorized in state or federal law;

(b) Conflict with federal or state laws, rules, or regulations that specifically apply to the design, construction, and operation of facilities or with federal or state worker safety or public safety laws, rules, or regulations;

(c) Regulate the services provided based upon the content or kind of signals that are carried or are capable of being carried over the facilities, except where otherwise authorized in state or federal law; or

(d) Unreasonably deny the use of the right‑of‑way by a service provider for installing, maintaining, repairing, or removing facilities for telecommunications services or cable television services.

(2) Nothing in this chapter, including but not limited to the provisions of subsection (1)(d) of this section, limits the authority of a city or town to regulate the placement of facilities through its local zoning or police power, if the regulations do not otherwise:

(a) Prohibit the placement of all wireless or of all wireline facilities within the city or town;

(b) Prohibit the placement of all wireless or of all wireline facilities within city or town rights‑of‑way, unless the city or town is less than five square miles in size and has no commercial areas, in which case the city or town may make available land other than city or town rights‑of‑way for the placement of wireless facilities; or

(c) Violate ((~~section 253 of the telecommunications act of 1996, P.L. 104-104 (110 Stat. 56)~~)) 47 U.S.C. Sec. 253.

(3) This section does not amend, limit, repeal, or otherwise modify the authority of cities or towns to regulate cable television services pursuant to federal law.

**Sec.**  RCW 35.99.050 and 2000 c 83 s 5 are each amended to read as follows:

A city or town shall not place or extend a moratorium on the acceptance and processing of applications, permitting, construction, maintenance, repair, replacement, extension, operation, or use of any facilities for personal wireless services((~~, except as consistent with the guidelines for facilities siting implementation, as agreed to on August 5, 1998, by the federal communications commission's local and state government advisory committee, the cellular telecommunications industry association, the personal communications industry association, and the American mobile telecommunications association. Any city or town implementing such a moratorium shall, at the request of a service provider impacted by the moratorium, participate with the service provider in the informal dispute resolution process included with the guidelines for facilities siting implementation~~)).

**Sec.**  RCW 35.99.060 and 2000 c 83 s 6 are each amended to read as follows:

(1) Cities and towns may require service providers to relocate authorized facilities within the right‑of‑way when reasonably necessary for construction, alteration, repair, or improvement of the right‑of‑way for purposes of public welfare, health, or safety.

(2) Cities and towns shall notify service providers as soon as practicable of the need for relocation and shall specify the date by which relocation shall be completed. In calculating the date that relocation must be completed, cities and towns shall consult with affected service providers and consider the extent of facilities to be relocated, the services requirements, and the construction sequence for the relocation, within the city's or town's overall project construction sequence and constraints, to safely complete the relocation. Service providers shall complete the relocation by the date specified, unless the city or town, or a reviewing court, establishes a later date for completion, after a showing by the service provider that the relocation cannot be completed by the date specified using best efforts and meeting safety and service requirements.

(3) Service providers may not seek reimbursement for their relocation expenses from the city or town requesting relocation under subsection (1) of this section except:

(a) Where the service provider had paid for the relocation cost of the same facilities at the request of the city or town within the past five years, the service provider's share of the cost of relocation will be paid by the city or town requesting relocation;

(b) Where aerial to underground relocation of authorized facilities is required by the city or town under subsection (1) of this section, for service providers with an ownership share of the aerial supporting structures, the additional incremental cost of underground compared to aerial relocation, or as provided for in the approved tariff if less, will be paid by the city or town requiring relocation; and

(c) Where the city or town requests relocation under subsection (1) of this section solely for aesthetic purposes, unless otherwise agreed to by the parties.

(4) Where a project in subsection (1) of this section is primarily for private benefit, the private party or parties shall reimburse the cost of relocation in the same proportion to their contribution to the costs of the project. Service providers will not be precluded from recovering their costs associated with relocation required under subsection (1) of this section, provided that the recovery is consistent with subsection (3) of this section and other applicable laws.

(5) A city or town may require the relocation of facilities at the service provider's expense in the event of an unforeseen emergency that creates an immediate threat to the public safety, health, or welfare.

**Sec.**  RCW 35.99.080 and 2000 c 83 s 9 are each amended to read as follows:

((~~Chapter 83, Laws of 2000~~)) This chapter and RCW 35.21.860 and 35A.21.245 shall not preempt specific provisions in existing franchises or contracts between cities or towns and service providers.

**Sec.**  RCW 35A.21.245 and 2000 c 83 s 10 are each amended to read as follows:

Each code city is subject to the requirements and restrictions regarding facilities and rights-of-way under ((~~this~~)) chapter 35.99 RCW.

**Part 4**

**Regulation of Telecommunications Companies**

**Sec.**  RCW 80.36.320 and 2008 c 181 s 408 are each amended to read as follows:

(1)(a) The commission shall classify a telecommunications company as a competitive telecommunications company if the services it offers are subject to effective competition. Effective competition means that the company's customers have reasonably available alternatives, including alternatives that utilize technologies other than traditional landline telephone service, and that the company does not have a significant captive customer base. In determining whether a company is competitive, factors the commission shall consider include but are not limited to:

((~~(a)~~)) (i) The number and sizes of alternative providers of service;

((~~(b)~~)) (ii) The extent to which services are available from alternative providers in the relevant market;

((~~(c)~~)) (iii) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and

((~~(d)~~)) (iv) Other indicators of market power which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

(b) The commission shall conduct the initial classification and any subsequent review of the classification in accordance with such procedures as the commission may establish by rule.

(2) Competitive telecommunications companies shall be subject to minimal regulation. The commission may waive any regulatory requirement under this title for competitive telecommunications companies when it determines that competition will serve the same purposes as public interest regulation. The commission may waive different regulatory requirements for different companies if such different treatment is in the public interest. A competitive telecommunications company shall at a minimum:

(a) Keep its accounts according to regulations as determined by the commission;

(b) File financial reports with the commission as required by the commission and in a form and at times prescribed by the commission; and

(c) Cooperate with commission investigations of customer complaints.

(3) The commission may revoke any waivers it grants and may reclassify any competitive telecommunications company if it finds that the company is no longer subject to effective competition and it determines that the revocation or reclassification would protect the public interest.

(4) The commission may waive the requirements of RCW 80.36.170 and 80.36.180 in whole or in part for a competitive telecommunications company if it finds that competition will serve the same purpose and protect the public interest.

(5) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population.

(6) In addition to the process in subsection (1) of this section, an incumbent local exchange carrier may elect to be classified as a competitive telecommunications company by providing written notice to the commission if the carrier is operating under an alternative form of regulation authorized by RCW 80.36.135 and the carrier does not receive universal communications services program distributions under RCW 80.36.650. Once competitive classification has been elected under this subsection, the company's alternative form of regulation will automatically terminate.

**Part 5**

**Easements on State Lands**

**Sec.**  RCW 77.12.210 and 2020 c 148 s 9 are each amended to read as follows:

(1) The director shall maintain and manage real or personal property owned, leased, or held by the department and shall control the construction of buildings, structures, and improvements in or on the property. The director may adopt rules for the operation and maintenance of the property.

(2) The commission may authorize the director to sell, lease, convey, or grant concessions upon real or personal property under the control of the department. This includes the authority to sell timber, gravel, sand, and other materials or products from real property held by the department, and to sell or lease the department's real or personal property or grant concessions or rights‑of‑way for roads or utilities in the property. Oil and gas resources owned by the state which lie below lands owned, leased, or held by the department shall be offered for lease by the commissioner of public lands pursuant to chapter 79.14 RCW with the proceeds being deposited in the fish, wildlife, and conservation account created in RCW 77.12.170(3): PROVIDED, That the commissioner of public lands shall condition such leases at the request of the department to protect wildlife and its habitat.

(3) If the commission determines that real or personal property held by the department cannot be used advantageously by the department, the director may dispose of that property if it is in the public interest.

(4) If the state acquired real property with use limited to specific purposes, the director may negotiate terms for the return of the property to the donor or grantor. Other real property shall be sold to the highest bidder at public auction. After appraisal, notice of the auction shall be published at least once a week for two successive weeks in a newspaper of general circulation within the county where the property is located at least twenty days prior to sale.

(5) Proceeds from the sales shall be deposited in the fish, wildlife, and conservation account created in RCW 77.12.170(3).

(6) Notwithstanding subsection (2) of this section, and until July 1, 2030, the charge for the term of an easement granted under this section for a local public utility line owned by a nongovernmental entity must be determined as follows and must be paid in advance upon grant of the easement:

(a) No more than five thousand dollars for individual easement crossings that are no longer than one mile in length;

(b) No more than twelve thousand five hundred dollars for individual easement crossings that are more than one but less than five miles in length; or

(c) No more than twenty thousand dollars for individual easement crossings that are five miles or more in length.

(7) The term of the easement under subsection (6) of this section is thirty years or a period of less than thirty years if requested by the person or entity seeking the easement.

(8) In addition to the charge for the easement under subsection (6) of this section, the department may recover its administrative costs incurred in receiving an application for the easement, approving the easement, and reviewing plans for and construction of the public utility lines. For the purposes of this subsection, "administrative costs" is equivalent to twenty percent of the fee for the easement as determined under subsection (6) of this section. When multiple public utility lines are owned by the same entity and are authorized under the same easement, the administrative cost for the easement must be equal to twenty percent of the easement fee for the single longest public utility line. Administrative costs recovered by the department must be deposited into the fish, wildlife, and conservation account.

(9) Applicants under this section providing a residence with an individual service connection for electrical, natural gas, cable television, or telecommunications service are not required to pay the charge for the easement under subsection (6) of this section but shall pay administrative costs under subsection (8) of this section.

(10) A final decision on applications for an easement must be made within sixty days after the department receives the completed application and after all applicable regulatory permits for the easement have been acquired. Upon request of the applicant, the department may reach a decision on an application within thirty days and charge an additional fee for an expedited processing. The fee for an expedited processing is ten percent of the combined total of the easement charge and administrative costs.

**Sec.**  RCW 79.36.530 and 2003 c 334 s 392 are each amended to read as follows:

(1) Upon the filing of the plat and field notes, as provided in RCW 79.36.520, the land applied for and the valuable materials on the right-of-way applied for, and the marked danger trees to be felled off the right-of-way, if any, and the improvements included in the right-of-way applied for, if any, shall be appraised as in the case of an application to purchase state lands. Upon full payment of the appraised value of the land applied for, or upon payment of an annual rental when the department deems a rental to be in the best interests of the state, and upon full payment of the appraised value of the valuable materials and improvements, if any, the department shall issue to the applicant a certificate of the grant of such right-of-way stating the terms and conditions thereof and shall enter the same in the abstracts and records in its office, and thereafter any sale or lease of the lands affected by such right-of-way shall be subject to the easement of such right-of-way. Should the corporation, company, association, individual, state agency, political subdivision of the state, or the United States of America, securing such right-of-way ever abandon the use of the same for a period of sixty months or longer for the purposes for which it was granted, the right-of-way shall revert to the state, or the state's grantee.

(2) Notwithstanding subsection (1) of this section, and until July 1, 2030, the charge for the term of an easement granted under RCW 79.36.510 for a local public utility line owned by a nongovernmental entity must be determined as follows and must be paid in advance upon grant of the easement:

(a) No more than five thousand dollars for individual easement crossings that are no longer than one mile in length;

(b) No more than twelve thousand five hundred dollars for individual easement crossings that are more than one but less than five miles in length; or

(c) No more than twenty thousand dollars for individual easement crossings that are five miles or more in length.

(3) The term of the easement is thirty years or a period of less than thirty years if requested by the person or entity seeking the easement.

(4) In addition to the charge for the easement under subsection (2) of this section, the department may recover its administrative costs incurred in receiving an application for the easement, approving the easement, and reviewing plans for and construction of the public utility lines. For the purposes of this subsection, "administrative costs" is equivalent to twenty percent of the fee for the easement as determined under subsection (2) of this section. When multiple public utility lines are owned by the same entity and are authorized under the same easement, the administrative cost for the easement must be equal to twenty percent of the easement fee for the single longest public utility line. Administrative costs recovered by the department must be deposited into the resource management cost account.

(5) Applicants under this section providing a residence with an individual service connection for electrical, natural gas, cable television, or telecommunications service are not required to pay the charge for the easement under subsection (2) of this section but shall pay administrative costs under subsection (4) of this section.

(6) A final decision on applications for an easement must be made within sixty days after the department receives the completed application and after all applicable regulatory permits for the easement have been acquired. Upon request of the applicant, the department may reach a decision on an application within thirty days and charge an additional fee for an expedited processing. The fee for an expedited processing is ten percent of the combined total of the easement charge and administrative costs.

**Sec.**  RCW 79.110.240 and 2017 c 19 s 1 are each amended to read as follows:

(1) Until July 1, 2030, the charge for the term of an easement granted under RCW 79.110.230(2) will be determined as follows and will be paid in advance upon grant of the easement:

(a) ((~~Five~~)) No more than five thousand dollars for individual easement crossings that are no longer than one mile in length;

(b) ((~~Twelve~~)) No more than twelve thousand five hundred dollars for individual easement crossings that are more than one mile but less than five miles in length; or

(c) ((~~Twenty~~)) No more than twenty thousand dollars for individual easement crossings that are five miles or more in length.

(2) ((~~The charge for easements under subsection (1) of this section must be adjusted annually by the rate of yearly change in the most recently published Seattle-Tacoma-Bremerton consumer price index, all urban consumers (CPI-U), over the consumer price index for the same period of the preceding year, as compiled by the bureau of labor statistics, United States department of labor for the state of Washington rounded up to the nearest fifty dollars.~~

~~(3)~~)) The term of the easement is thirty years or a period of less than thirty years if requested by the person or entity seeking the easement.

((~~(4)~~)) (3) In addition to the charge for the easement under subsection (1) of this section, the department may recover its administrative costs incurred in receiving an application for the easement, approving the easement, and reviewing plans for and construction of the public utility lines. For the purposes of this subsection, "administrative costs" is equivalent to twenty percent of the fee for the easement as determined under subsection (1) of this section ((~~and adjusted under subsection (2) of this section~~)). For public utility lines owned by a governmental entity, the administrative costs will be calculated based on the length of the easement and the fee that it would be charged if it were subject to the easement charges in this section. When multiple public utility lines are owned by the same entity and are authorized under the same easement, the administrative fee for the easement shall be equal to twenty percent of the easement fee for the single longest public utility line. Administrative costs recovered by the department must be deposited into the resource management cost account.

((~~(5)~~)) (4) Applicants under RCW 79.110.230(2) providing a residence with an individual service connection for electrical, natural gas, cable television, or telecommunications service are not required to pay the charge for the easement under subsection (1) of this section but shall pay administrative costs under subsection ((~~(4)~~)) (3) of this section.

((~~(6)~~)) (5) A final decision on applications for an easement must be made within ((~~one hundred twenty~~)) sixty days after the department receives the completed application and after all applicable regulatory permits for the aquatic easement have been acquired. ((~~This subsection applies to applications submitted before June 13, 2002, as well as to applications submitted on or after June 13, 2002.~~)) Upon request of the applicant, the department may reach a decision on an application within ((~~sixty~~)) thirty days and charge an additional fee for an expedited processing. The fee for an expedited processing is ten percent of the combined total of the easement charge and administrative costs.

((~~(7) Beginning December 31, 2021, every four years the legislature shall review the granting of easements on state-owned aquatic lands under this chapter and determine whether all applications for easements are processed within one hundred twenty days for normal processing of applications and sixty days for expedited processing of applications, and whether the granting of easements on state-owned aquatic lands generates reasonable income for the aquatic lands enhancement account.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 79A.05 RCW to read as follows:

(1) Until July 1, 2030, the charge for the term of an easement granted for local public utility lines owned by a nongovernmental entity must be determined as follows and must be paid in advance upon grant of the easement:

(a) No more than five thousand dollars for individual easement crossings that are no longer than one mile in length;

(b) No more than twelve thousand five hundred dollars for individual easement crossings that are more than one but less than five miles in length; or

(c) No more than twenty thousand dollars for individual easement crossings that are five miles or more in length.

(2) The term of the easement is thirty years or a period of less than thirty years if requested by the person or entity seeking the easement.

(3) In addition to the charge for the easement under subsection (1) of this section, the commission may recover its administrative costs incurred in receiving an application for the easement, approving the easement, and reviewing plans for and construction of the public utility lines. For the purposes of this subsection, "administrative costs" is equivalent to twenty percent of the fee for the easement as determined under subsection (1) of this section. When multiple public utility lines are owned by the same entity and are authorized under the same easement, the administrative fee for the easement must be equal to twenty percent of the easement fee for the single longest public utility line. Administrative costs recovered by the commission must be deposited into the state parks renewal and stewardship account.

(4) Applicants under this section providing a residence with an individual service connection for electrical, natural gas, cable television, or telecommunications service are not required to pay the charge for the easement under subsection (1) of this section but shall pay administrative costs under subsection (3) of this section.

(5) A final decision on applications for an easement must be made within sixty days after the commission receives the completed application and after all applicable regulatory permits for the easement have been acquired. Upon request of the applicant, the commission may reach a decision on an application within thirty days and charge an additional fee for an expedited processing. The fee for an expedited processing is ten percent of the combined total of the easement charge and administrative costs.

**Part 6**

**Public Utility Districts**

**Sec.**  RCW 54.16.300 and 1987 c 18 s 1 are each amended to read as follows:

A public utility district by resolution may combine two or more of its separate utility functions into a single utility and combine its related funds or accounts into a single fund or account. The separate utility functions include electrical energy systems, domestic water systems, irrigation systems, sanitary sewer systems, ((~~and~~)) storm sewer systems, and broadband systems. All powers granted to public utility districts to acquire, construct, maintain, and operate such systems may be exercised in the joint acquisition, construction, maintenance, and operation of such combined systems. The establishment, maintenance, and operation of the combined system shall be governed by the public utility district statutes relating to one of the utility systems that is being combined, as specified in the resolution combining the utility systems.

**Sec.**  RCW 54.16.330 and 2019 c 365 s 9 are each amended to read as follows:

(1)(a) A public utility district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:

(i) For the district's internal telecommunications needs;

(ii) For the provision of wholesale telecommunications services within the district and by contract with another public utility district.

(b) Except as provided in subsection (8) of this section, nothing in this section shall be construed to authorize public utility districts to provide telecommunications services to end users.

(2) A public utility district providing wholesale or retail telecommunications services shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a public utility district offering rates, terms, and conditions to an entity for wholesale or retail telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) A public utility district providing wholesale or retail telecommunications services shall not be required to, but may, establish a separate utility system or function for such purpose. ((~~In either case, a public utility district providing wholesale or retail telecommunications services shall separately account for any revenues and expenditures for those services according to standards established by the state auditor pursuant to its authority in chapter 43.09 RCW and consistent with the provisions of this title. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to costs incurred to build and maintain any telecommunications facilities constructed, installed, or acquired to provide such services, including payments on debt issued to finance such services, until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance such telecommunications facilities are discharged or retired.~~))

(4) When a public utility district provides wholesale or retail telecommunications services, all telecommunications services rendered to the district for the district's internal telecommunications needs shall be allocated or charged at its true and full value. A public utility district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale or retail telecommunications services.

(5) If a person or entity receiving retail telecommunications services from a public utility district under this section has a complaint regarding the reasonableness of the rates, terms, conditions, or services provided, the person or entity may file a complaint with the district commission.

(6) A public utility district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

(7) Except as otherwise specifically provided, a public utility district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a public utility district under this title.

(8)(a) If an internet service provider operating on telecommunications facilities of a public utility district that provides wholesale telecommunications services but does not provide retail telecommunications services, ceases to provide access to the internet to its end-use customers, and no other retail service providers are willing to provide service, the public utility district may provide retail telecommunications services to the end-use customers of the defunct internet service provider in order for end-use customers to maintain access to the internet until a replacement internet service provider is, or providers are, in operation.

(b) Within thirty days of an internet service provider ceasing to provide access to the internet, the public utility district must initiate a process to find a replacement internet service provider or providers to resume providing access to the internet using telecommunications facilities of a public utility district.

(c) For a maximum period of five months, following initiation of the process begun in (b) of this section, or, if earlier than five months, until a replacement internet service provider is, or providers are, in operation, the district commission may establish a rate for providing access to the internet and charge customers to cover expenses necessary to provide access to the internet.

(9) The tax treatment of the retail telecommunications services provided by a public utility district to the end-use customers during the period specified in subsection (8) of this section must be the same as if those retail telecommunications services were provided by the defunct internet service provider.

**Sec.**  RCW 54.16.420 and 2018 c 186 s 1 are each amended to read as follows:

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

(a) "Broadband" means high-speed internet access and other advanced telecommunications services.

(b) "Broadband network" means networks of deployed telecommunications equipment and technologies necessary to provide broadband.

(c) "Inadequate" means internet retail service that does not meet one hundred percent of the standards detailed in the service level agreement.

(d) "Partnership payment structure" means a group of or individual property owners who agree to pay a term payment structure for infrastructure improvements to their property.

(e) "Petition" means a formal written request for retail internet service by property owners on the public utility district broadband network.

(f) "Retail internet service" means the provision of broadband to end users.

(g) "Service level agreement" means a standard agreement, adopted during an open public meeting, between the retail internet service provider and the public utility that describes the required percentage of broadband download and upload speed and system availability, customer service, and transmission time.

(2) Any public utility district that, as of June 7, 2018, provides only water, sewer, and wholesale telecommunications services in a county with an area less than five hundred square miles and is located west of the Puget Sound may provide retail internet service on the public utility district's broadband network located within the public utility district boundaries only when all of the existing providers of end-user internet service on the public utility district's broadband network cease to provide end-user service or provide inadequate end-user service as determined in the manner prescribed by this section. The authority provided in this subsection expires five years after June 7, 2018, for any public utility district that has not either entered into a partnership payment structure to finance broadband deployment or been petitioned to provide retail internet service within that time period.

(3) Upon receiving a petition meeting the requirements of subsection (4) of this section, a public utility district board of commissioners may hold up to three meetings to:

(a) Verify the signature or signatures of the property owners on the petition and certify the petition;

(b) Determine and submit findings that the retail internet service available to the petitioners served by the public utility district's broadband network is either nonexistent or inadequate as defined in the service level agreement adopted by the commissioners for all existing internet service providers on the public utility district's broadband network;

(c) Receive, and either reject or accept any recommendations or adjustments to, a business case plan developed in accordance with subsection (7) of this section; and

(d) By resolution, authorize the public utility district to provide retail internet service on the public utility district's broadband network.

(4) A petition meets the requirements of subsection (3) of this section if it is delivered to a public utility district board of commissioners, declares that the signatories on the public utility district's broadband network have no or inadequate retail internet service providers, requests the public utility district to provide the retail internet service, and is signed by one of the following:

(a) A majority of a group, including homeowners' associations, of any geographical area within the public utility district, who have developed a partnership payment structure to finance broadband deployment with the public utility district; or

(b) Any individual who has developed a partnership payment structure to finance broadband deployment with the public utility district.

(5) For the purposes of this section, the adequacy of retail internet service is determined by measuring retail internet service to end users on the public utility district's broadband network and comparing it with service standards in the public utility district service level agreement used for all public utility district network providers. Measurement of the existing retail internet service provider's service must be quantified by measuring the service with speed and capacity devices and software. Additionally, a retail internet service provider may submit its own assessment of its service level for consideration by the commission within thirty days of the first meeting conducted under subsection (3) of this section.

(6) The commissioners of a public utility district may by resolution authorize the public utility district to provide or contract for provision of retail internet services on the public utility district's broadband network:

(a) After development of a business case plan in accordance with subsection (7) of this section; and

(b) When it is determined that no service or inadequate service exists for the individual or petitioners identified in subsection (4) of this section.

(7) The business case plan under subsection (6) of this section must be reviewed by an independent qualified consultant. The review must include the use of public funds in the provision of retail internet service. Any recommendations or adjustments to the business case plan made during third-party review must be received and either rejected or accepted by the district board of commissioners in an open meeting.

(8)(a) Except as provided in subsection (9) of this section, in case of failure to reach an agreement on the adequacy of retail internet service, the commissioners must request an appointment of an administrative law judge under Title 34 RCW to hear the dispute.

(b) The commissioners must provide a written notice, together with a copy of the dispute, and may require the disputing parties to attend a hearing before the administrative law judge, at a time and place to be specified in the written notice.

(c) The place of any such hearing may be the office of the commissioners or another place designated by the commissioners. The disputed information must be presented at the hearing.

(d) Upon review and consideration of all of the evidence, the administrative law judge must determine if the retail internet service is inadequate or nonexistent as defined in this section. Upon making a determination, the administrative law judge must state findings of fact and must issue and file a determination with the commissioners.

(9) If a provider of end-user service is a company regulated by the utilities and transportation commission, the company may choose to have the commission resolve disputes concerning the service level agreement under the process established in RCW 54.16.340. For the purposes of this subsection, "company" includes subsidiaries or affiliates.

(10) Any public utility district providing cable television service under this section must secure a cable television franchise, pay franchise fees, and any applicable taxes to the local cable franchise authority as required by federal law.

(11) Except as provided in subsection (9) of this section, nothing in this section may be construed or is intended to confer upon the utilities and transportation commission any authority to exercise jurisdiction over locally regulated utilities.

(12) All rates for retail internet services offered by a public utility district under this section must be just, fair, and reasonable, except the public utility district may set tiers of service charges based on service demands of the end user, including commercial and residential rates.

(13) A public utility district must not condition the availability or cost of other services upon the purchase or use of retail internet service.

(14) A public utility district authorized to provide retail internet service within a specific geographical area must, upon reasonable notice, furnish to all persons and entities within that geographical area meeting the provisions of subsections (2) and (4) of this section proper facilities and connections for retail internet service as requested.

((~~(15) A public utility district providing retail internet service must separately account for any revenues and expenditures for those services according to standards established by the state auditor pursuant to its authority in chapter 43.09 RCW and consistent with the provisions of this title.~~))

**Part 7**

**Tax Credit for Providing Broadband Service**

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference in section 702 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 the tax preference as intended to expand internet service in unserved 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 the internet in unserved areas of Washington and thereby provide more access to educational opportunities.

(4) If a review finds that the number of individuals receiving internet access in unserved areas of Washington has increased by ten percent in ten years compared to the number of individuals receiving such access on the effective date of this section, 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 governor's statewide broadband office, the utilities and transportation commission, the public works board, the community economic revitalization board, the national telecommunications and information administration, and 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 broadband service to unserved areas using broadband infrastructure, 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 broadband service to unserved areas using broadband infrastructure must have paid the taxes under chapters 82.08 and 82.12 RCW in order to claim the credit under this section.

(3) The credit under this section 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 and 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 portions 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, 2021.

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

(a) "Broadband" or "broadband service" has the same meaning as provided in RCW 43.330.530.

(b) "Broadband infrastructure" has the same meaning as provided in RCW 43.330.530.

(c) "Unserved areas" has the same meaning as provided in RCW 43.330.530.

**--- END ---**