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HOUSE BILL 2140

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State of Washington                      56th Legislature                      1999 Regular Session

By Representatives Morris, Kessler and Santos

Read first time 02/17/1999. Referred to Committee on Finance.

1            AN ACT Relating to tax credits for advanced telecommunications and  
2 information services infrastructure improvements in rural areas;  
3 amending RCW 43.160.010, 43.160.020, and 43.160.050; adding a new  
4 section to chapter 43.160 RCW; adding new sections to chapter 82.04  
5 RCW; adding a new section to chapter 82.16 RCW; and providing  
6 expiration dates.

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

8            **Sec. 1.** RCW 43.160.010 and 1996 c 51 s 1 are each amended to read  
9 as follows:

10            (1) The legislature finds that it is the public policy of the state  
11 of Washington to direct financial resources toward the fostering of  
12 economic development through the stimulation of investment and job  
13 opportunities and the retention of sustainable existing employment for  
14 the general welfare of the inhabitants of the state. Reducing  
15 unemployment and reducing the time citizens remain jobless is important  
16 for the economic welfare of the state. A valuable means of fostering  
17 economic development is the construction of public facilities which  
18 contribute to the stability and growth of the state's economic base.  
19 Strengthening the economic base through issuance of industrial

1 development bonds, whether single or umbrella, further serves to reduce  
2 unemployment. Consolidating issues of industrial development bonds  
3 when feasible to reduce costs additionally advances the state's purpose  
4 to improve economic vitality. Expenditures made for these purposes as  
5 authorized in this chapter are declared to be in the public interest,  
6 and constitute a proper use of public funds.

7 Economic development is also increasingly dependent upon the  
8 existence of an advanced telecommunications and information  
9 infrastructure. For a healthy economy, businesses located in rural  
10 locations need access to advanced telecommunications and information  
11 services at rates and standards of quality that are reasonably  
12 comparable to rates and standards of quality that are offered in urban  
13 areas. Public policy should provide incentives to encourage private  
14 investment in advanced telecommunications and information  
15 infrastructure so that the benefits of competition in  
16 telecommunications, advanced telecommunications, and information  
17 services reach not only urban areas but also other areas of the state  
18 on a reasonably comparable and timely basis.

19 A community economic revitalization board is needed which shall aid  
20 the development of economic opportunities. The general objectives of  
21 the board should include:

22 (a) Strengthening the economies of areas of the state which have  
23 experienced or are expected to experience chronically high unemployment  
24 rates or below average growth in their economies;

25 (b) Encouraging the diversification of the economies of the state  
26 and regions within the state in order to provide greater seasonal and  
27 cyclical stability of income and employment;

28 (c) Encouraging wider access to financial resources for both large  
29 and small industrial development projects;

30 (d) Encouraging new economic development or expansions to maximize  
31 employment;

32 (e) Encouraging the retention of viable existing firms and  
33 employment; ((and))

34 (f) Providing incentives for expansion of employment opportunities  
35 for groups of state residents that have been less successful relative  
36 to other groups in efforts to gain permanent employment; and

37 (g) Encouraging private investment through tax incentives to  
38 facilitate the construction of an advanced telecommunications and  
39 information infrastructure in rural locations.

1 (2) The legislature also finds that the state's economic  
2 development efforts can be enhanced by, in certain instances, providing  
3 funds to improve state highways in the vicinity of new industries  
4 considering locating in this state or existing industries that are  
5 considering significant expansion.

6 (a) The legislature finds it desirable to provide a process whereby  
7 the need for diverse public works improvements necessitated by planned  
8 economic development can be addressed in a timely fashion and with  
9 coordination among all responsible governmental entities.

10 (b) It is the intent of the legislature to create an economic  
11 development account within the motor vehicle fund from which  
12 expenditures can be made by the department of transportation for state  
13 highway improvements necessitated by planned economic development. All  
14 such improvements must first be approved by the state transportation  
15 commission and the community economic revitalization board in  
16 accordance with the procedures established by RCW 43.160.074 and  
17 47.01.280. It is further the intent of the legislature that such  
18 improvements not jeopardize any other planned highway construction  
19 projects. The improvements are intended to be of limited size and  
20 cost, and to include such items as additional turn lanes,  
21 signalization, illumination, and safety improvements.

22 (3) The legislature also finds that the state's economic  
23 development efforts can be enhanced by providing funds to improve  
24 markets for those recyclable materials representing a large fraction of  
25 the waste stream. The legislature finds that public facilities which  
26 result in private construction of processing or remanufacturing  
27 facilities for recyclable materials are eligible for consideration from  
28 the board.

29 (4) The legislature finds that sharing economic growth state-wide  
30 is important to the welfare of the state. Rural natural resource  
31 impact areas do not share in the economic vitality of the Puget Sound  
32 region. Infrastructure is one of several ingredients that are critical  
33 for economic development. Rural natural resource impact areas  
34 generally lack the infrastructure necessary to diversify and revitalize  
35 their economies. It is, therefore, the intent of the legislature to  
36 increase the availability of funds to help provide infrastructure to  
37 rural natural resource impact areas.

1       **Sec. 2.** RCW 43.160.020 and 1997 c 367 s 8 are each amended to read  
2 as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5       (1) "Advanced telecommunications provider" means any person,  
6 corporation, partnership, or association that operates equipment and  
7 facilities capable of distributing digital communications signals for  
8 the transmission of voice, data, image, and other video over distance  
9 for either self use or the provision of such services to others.

10       (2) "Board" means the community economic revitalization board.

11       (~~(2)~~) (3) "Bond" means any bond, note, debenture, interim  
12 certificate, or other evidence of financial indebtedness issued by the  
13 board pursuant to this chapter.

14       (~~(3)~~) (4) "Department" means the department of community, trade,  
15 and economic development.

16       (~~(4)~~) (5) "Financial institution" means any bank, savings and  
17 loan association, credit union, development credit corporation,  
18 insurance company, investment company, trust company, savings  
19 institution, or other financial institution approved by the board and  
20 maintaining an office in the state.

21       (~~(5)~~) (6) "Incumbent local exchange carrier" as defined in 47  
22 U.S.C. Sec. 251(h)(1), means, with respect to an area, the local  
23 exchange carrier that:

24       (a) On February 8, 1996, provided telephone exchange service in  
25 such area; and

26       (b)(i) On February 8, 1996, was deemed to be a member of the  
27 exchange carrier association pursuant to section 69.601(b) of the  
28 federal communications commission's regulations (47 C.F.R. 69.601(b));  
29 or

30       (ii) Is a person or entity that, on or after February 8, 1996,  
31 became a successor or assign of a member described in (b)(i) of this  
32 subsection.

33       (7) "Incumbent local exchange carrier's service area" means those  
34 telephone exchange areas for which the incumbent local exchange carrier  
35 had rate tariffs in effect and maps on file with the utilities and  
36 transportation commission on January 1, 1999.

37       (8) "Industrial development facilities" means "industrial  
38 development facilities" as defined in RCW 39.84.020.

1       ~~((+6+))~~ (9) "Industrial development revenue bonds" means tax-exempt  
2 revenue bonds used to fund industrial development facilities.

3       ~~((+7+))~~ (10) "Local government" or "political subdivision" means  
4 any port district, county, city, town, special purpose district, and  
5 any other municipal corporations or quasi-municipal corporations in the  
6 state providing for public facilities under this chapter.

7       ~~((+8+))~~ (11) "Rural location" means a telephone exchange area with  
8 ten thousand or fewer access lines.

9       (12) "Sponsor" means any of the following entities which  
10 customarily provide service or otherwise aid in industrial or other  
11 financing and are approved as a sponsor by the board: A bank, trust  
12 company, savings bank, investment bank, national banking association,  
13 savings and loan association, building and loan association, credit  
14 union, insurance company, or any other financial institution,  
15 governmental agency, or holding company of any entity specified in this  
16 subsection.

17       ~~((+9+))~~ (13) "Telecommunications infrastructure improvement" means  
18 the construction or upgrade of real property or tangible personal  
19 property used to distribute digital communications signals for the  
20 transmission of voice, data, image, and video over distance. It  
21 includes, but is not limited to, activities such as the laying of fiber  
22 optic cable, the construction of terrestrial facilities to support  
23 digital communications by satellite, and the construction of towers and  
24 other facilities to support digital communications through nonwireline  
25 technologies.

26       (14) "Umbrella bonds" means industrial development revenue bonds  
27 from which the proceeds are loaned, transferred, or otherwise made  
28 available to two or more users under this chapter.

29       ~~((+10+))~~ (15) "User" means one or more persons acting as lessee,  
30 purchaser, mortgagor, or borrower under a financing document and  
31 receiving or applying to receive revenues from bonds issued under this  
32 chapter.

33       ~~((+11+))~~ (16) "Public facilities" means bridges, roads, domestic  
34 and industrial water, sanitary sewer, storm sewer, railroad,  
35 electricity, natural gas, buildings or structures, and port facilities.

36       ~~((+12+))~~ (17) "Rural natural resources impact area" means:  
37       (a) A nonmetropolitan county, as defined by the 1990 decennial  
38 census, that meets three of the five criteria set forth in subsection  
39 ~~((+13+))~~ (18) of this section;

1 (b) A nonmetropolitan county with a population of less than forty  
2 thousand in the 1990 decennial census, that meets two of the five  
3 criteria as set forth in subsection (~~((13))~~) (18) of this section; or

4 (c) A nonurbanized area, as defined by the 1990 decennial census,  
5 that is located in a metropolitan county that meets three of the five  
6 criteria set forth in subsection (~~((13))~~) (18) of this section.

7 (~~((13))~~) (18) For the purposes of designating rural natural  
8 resources impact areas, the following criteria shall be considered:

9 (a) A lumber and wood products employment location quotient at or  
10 above the state average;

11 (b) A commercial salmon fishing employment location quotient at or  
12 above the state average;

13 (c) Projected or actual direct lumber and wood products job losses  
14 of one hundred positions or more;

15 (d) Projected or actual direct commercial salmon fishing job losses  
16 of one hundred positions or more; and

17 (e) An unemployment rate twenty percent or more above the state  
18 average. The counties that meet these criteria shall be determined by  
19 the employment security department for the most recent year for which  
20 data is available. For the purposes of administration of programs  
21 under this chapter, the United States post office five-digit zip code  
22 delivery areas will be used to determine residence status for  
23 eligibility purposes. For the purpose of this definition, a zip code  
24 delivery area of which any part is ten miles or more from an urbanized  
25 area is considered nonurbanized. A zip code totally surrounded by zip  
26 codes qualifying as nonurbanized under this definition is also  
27 considered nonurbanized. The office of financial management shall make  
28 available a zip code listing of the areas to all agencies and  
29 organizations providing services under this chapter.

30 **Sec. 3.** RCW 43.160.050 and 1996 c 51 s 4 are each amended to read  
31 as follows:

32 The board may:

33 (1) Adopt bylaws for the regulation of its affairs and the conduct  
34 of its business.

35 (2) Adopt an official seal and alter the seal at its pleasure.

36 (3) Utilize the services of other governmental agencies.

1 (4) Accept from any federal agency loans or grants for the planning  
2 or financing of any project and enter into an agreement with the agency  
3 respecting the loans or grants.

4 (5) Conduct examinations and investigations and take testimony at  
5 public hearings of any matter material for its information that will  
6 assist in determinations related to the exercise of the board's lawful  
7 powers.

8 (6) Accept any gifts, grants, or loans of funds, property, or  
9 financial or other aid in any form from any other source on any terms  
10 and conditions which are not in conflict with this chapter.

11 (7) Exercise all the powers of a public corporation under chapter  
12 39.84 RCW.

13 (8) Invest any funds received in connection with industrial  
14 development revenue bond financing not required for immediate use, as  
15 the board considers appropriate, subject to any agreements with owners  
16 of bonds.

17 (9) Arrange for lines of credit for industrial development revenue  
18 bonds from and enter into participation agreements with any financial  
19 institution.

20 (10) Issue industrial development revenue bonds in one or more  
21 series for the purpose of defraying the cost of acquiring or improving  
22 any industrial development facility or facilities and securing the  
23 payment of the bonds as provided in this chapter.

24 (11) Enter into agreements or other transactions with and accept  
25 grants and the cooperation of any governmental agency in furtherance of  
26 this chapter.

27 (12) Sell, purchase, or insure loans to finance the costs of  
28 industrial development facilities.

29 (13) Service, contract, and pay for the servicing of loans for  
30 industrial development facilities.

31 (14) Provide financial analysis and technical assistance for  
32 industrial development facilities when the board reasonably considers  
33 it appropriate.

34 (15) Collect, with respect to industrial development revenue bonds,  
35 reasonable interest, fees, and charges for making and servicing its  
36 lease agreements, loan agreements, mortgage loans, notes, bonds,  
37 commitments, and other evidences of indebtedness. Interest, fees, and  
38 charges are limited to the amounts required to pay the costs of the

1 board, including operating and administrative expenses and reasonable  
2 allowances for losses that may be incurred.

3 (16) Procure insurance or guarantees from any party as allowable  
4 under law, including a governmental agency, against any loss in  
5 connection with its lease agreements, loan agreements, mortgage loans,  
6 and other assets or property.

7 (17) Provide guidance and direction in facilitating the development  
8 of an advanced telecommunications and information infrastructure in  
9 rural locations by reviewing and ranking tax credit applications and  
10 recommending certain applications for approval to the department of  
11 revenue.

12 (18) Adopt rules under chapter 34.05 RCW as necessary to carry out  
13 the purposes of this chapter.

14 (~~(18)~~) (19) Do all acts and things necessary or convenient to  
15 carry out the powers expressly granted or implied under this chapter.

16 NEW SECTION. Sec. 4. A new section is added to chapter 43.160 RCW  
17 to read as follows:

18 (1) The community economic revitalization board shall establish and  
19 administer a telecommunications infrastructure tax credits program in  
20 coordination with the department of revenue.

21 (2) Under this telecommunications infrastructure tax credits  
22 program, the board shall review applications for business and  
23 occupation and public utility tax credits on a competitive basis, in  
24 accordance with criteria in subsection (5) of this section.

25 (3) The board shall recommend to the department of revenue which  
26 tax credit applications should be approved, provided that each year the  
27 total amount of tax credits recommended for approval does not exceed  
28 the available amount of tax credits computed under section 5 of this  
29 act. Each year the board shall forward to the department of revenue a  
30 list of the telecommunications infrastructure tax credits recommended  
31 for approval.

32 (4) The department of revenue shall approve applications for these  
33 telecommunications infrastructure tax credits as provided in section 5  
34 of this act.

35 (5) Criteria for evaluating and ranking tax credit applications is  
36 as follows:

37 (a) The number of jobs to be created or retained as a result of a  
38 telecommunications infrastructure improvement in a rural location;

1 (b) Comparability between rates generally charged for advanced  
2 telecommunications and information services in urban and other low-cost  
3 locations of the state to the rates that that tax credit applicant  
4 indicates it will charge customers in the rural location where the  
5 infrastructure improvement is to be made, if the applicant will provide  
6 advanced telecommunications and information services to others;

7 (c) The size of the telecommunications bandwidth that will be made  
8 available to consumers in a rural location as a result of the  
9 telecommunications infrastructure improvement;

10 (d) The amount of money that an applicant will spend from its own  
11 funds, in excess of the expenditure amount for which a tax credit  
12 application is made, to make a telecommunications infrastructure  
13 improvement in a rural location; and

14 (e) The geographical distribution of the tax credits to be  
15 recommended for approval.

16 (6) The board shall take steps to inform business and residential  
17 consumers located in rural locations and advanced telecommunications  
18 providers will be informed about the business and occupation tax  
19 credits available on a competitive basis for telecommunications  
20 infrastructure improvements made in rural locations.

21 (7) The board shall allow a joint tax credit application to be  
22 submitted under this section when two or more advanced  
23 telecommunications providers intend to jointly construct a  
24 telecommunications infrastructure improvement.

25 (8) A tax credit applicant must attach to the application a list of  
26 the businesses that have requested advanced telecommunications and  
27 information services which cannot be supported by the existing  
28 telecommunications infrastructure located in the area where the  
29 telecommunications infrastructure improvement is to be made. The list  
30 shall indicate for each business the number of jobs expected to be  
31 created or retained as a result of the telecommunications  
32 infrastructure improvement.

33 (9) No more than fifteen percent of tax credits recommended for  
34 approval in any one year shall be for telecommunications infrastructure  
35 projects located in the same county.

36 (10) No more than fifteen percent of the tax credits recommended  
37 for approval in any one year shall be for telecommunications  
38 infrastructure projects to be constructed by the same advanced  
39 telecommunications provider or its affiliates.

1 (11) The board may recommend for approval a tax credit application  
2 submitted by an incumbent local exchange carrier if the application  
3 proposes to construct a telecommunications infrastructure improvement  
4 in a rural location that is located outside of an incumbent local  
5 exchange carrier's service area. The board may not recommend approval  
6 for any tax credit application submitted by an incumbent local exchange  
7 carrier if the application proposes to construct a telecommunications  
8 infrastructure improvement in a rural location that is located inside  
9 of an incumbent local exchange carrier's service area.

10 (12) This section expires December 31, 2005.

11 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04 RCW  
12 to read as follows:

13 For purposes of the telecommunications infrastructure tax credits  
14 program established in section 4 of this act, each calendar year the  
15 available amount of tax credits shall be determined as follows:

16 (1) In Washington the average rate of growth in gross revenues for  
17 telephone businesses during calendar years 1992 through 1996 was seven  
18 percent. For purposes of this section, seven percent shall be the base  
19 growth rate.

20 (2) Every October the department of revenue shall:

21 (a) Compute total tax paid under this chapter by businesses in  
22 North American industry classification system code 5133 for the last  
23 two calendar years. If at any time the United States office of  
24 management and budget or a successor agency should change or replace  
25 the present North American industry classification code system, the  
26 department of revenue shall use the code system issued by the office of  
27 management and budget or its successor agency to determine the code  
28 corresponding to the one listed in this definition;

29 (b) Compute the rate of growth that occurred in taxes paid under  
30 this chapter by telecommunications businesses by subtracting total  
31 taxes paid from two calendar years ago from last calendar year's total  
32 taxes paid and then dividing this amount by total taxes paid from two  
33 calendar years ago;

34 (c) Compare the growth rate computed under (b) of this subsection  
35 to the base growth rate. If the rate of growth computed under (b) of  
36 this subsection exceeds the base growth rate, then the department of  
37 revenue shall subtract the base growth rate from the growth rate  
38 computed under (b) of this subsection and multiply this amount against

1 total taxes paid by telecommunications businesses for the last calendar  
2 year. The product of this calculation or thirty million dollars,  
3 whichever is less, shall be the amount of tax credits available for the  
4 calendar year beginning on January 1st for the telecommunications  
5 infrastructure tax credits program;

6 (d) If the rate of growth computed under (b) of this subsection is  
7 less than the base growth rate, then no moneys shall be available for  
8 tax credits; and

9 (e) By October 15th of each year the department of revenue shall  
10 inform the community economic revitalization board of the amount of tax  
11 credits available for the telecommunications infrastructure tax credits  
12 program.

13 (3) This section expires December 31, 2005.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.04 RCW  
15 to read as follows:

16 (1)(a) An advanced telecommunications provider is allowed a credit  
17 against tax due under this chapter for expenses incurred in  
18 constructing telecommunications infrastructure improvements in rural  
19 locations if the credit has been approved by the department. A credit  
20 approved by the department under subsection (2) of this section may be  
21 claimed over a three-year period but may not exceed the amount of tax  
22 that would otherwise be due under this chapter during the three-year  
23 period. A credit unused at the end of the three-year period shall  
24 expire. Refunds may not be claimed in place of credits. If a person  
25 has used a credit approved under this section for tax under chapter  
26 82.16 RCW, that same credit cannot be used against tax under this  
27 chapter.

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

30 (i) "Advanced telecommunications provider" is as defined in RCW  
31 43.160.020(1).

32 (ii) "Expenses" means amounts spent for materials that become part  
33 of the telecommunications infrastructure improvement being constructed  
34 and charges for labor and services rendered in constructing the  
35 telecommunications infrastructure improvement.

36 (iii) "Rural location" is as defined in RCW 43.160.020(11).

37 (iv) "Telecommunications infrastructure improvement" is as defined  
38 in RCW 43.160.020(13).

1 (2) The department shall approve a tax credit application if the  
2 community economic revitalization board has forwarded and recommended  
3 the tax credit application for approval to the department as provided  
4 in section 4 of this act.

5 (3)(a) A person who fails to meet the following requirements must  
6 repay a tax credit and is subject to interest assessed at the rate  
7 provided for delinquent excise taxes, retroactively to the date of the  
8 tax credit, which shall accrue until the tax for which the credit has  
9 been used is repaid:

10 (i) Construct a telecommunications infrastructure improvement in  
11 accordance with the specifications for bandwidth, rates, and other  
12 criteria that the person stated the improvement would meet in the tax  
13 credit application; or

14 (ii) Complete the telecommunications infrastructure improvement  
15 within three years of the tax credit application being approved by the  
16 department.

17 (b) The community economic revitalization board shall inform the  
18 department of revenue in writing when tax credit recipient has failed  
19 to comply with (a) of this subsection.

20 (4) This section expires December 31, 2005.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.16 RCW  
22 to read as follows:

23 (1) An advanced telecommunications provider is allowed a credit  
24 against tax due under this chapter for expenses incurred in  
25 constructing telecommunications infrastructure improvements in rural  
26 locations if the credit has been approved by the department. A credit  
27 shall be claimed in the same manner as provided for credits under  
28 section 6 of this act. Credits under this section are subject to the  
29 same conditions and limitations as credits under section 6 of this act.

30 (2) This section expires December 31, 2005.

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