

SENATE BILL REPORT

SB 5425

As Reported by Senate Committee On:
Energy, Environment & Telecommunications, February 18, 2015

Title: An act relating to providing a sales and use tax exemption for qualified broadband equipment.

Brief Description: Providing a sales and use tax exemption for qualified broadband equipment.

Sponsors: Senators Ericksen and Dandel.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/03/15, 2/11/15, 2/12/15, 2/17/15, 2/18/15 [DPS-WM].

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 5425 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; McCoy, Ranking Minority Member; Braun, Brown, Cleveland, Habib, Honeyford and Ranker.

Staff: William Bridges (786-7416)

Background: Sales and Use Tax. Sales tax is imposed on retail sales of most items of tangible personal property and some services, including construction and repair services. The use tax is imposed on items used in the state, the acquisition of which was not subject to the sales tax. Sales and use taxes are imposed by the state, counties, and cities. There are a number of sales and use tax exemptions, including machinery and equipment directly used in manufacturing.

Connect America Fund. In 2011 the Federal Communication Commission (FCC) created the Connect America Fund to support the expansion of broadband internet capability to underserved areas of the nation. Underserved areas will be identified at the census-block level.

The FCC is prepared to initially disburse up to \$1.8 billion annually to a class of large telecommunications carriers known as price cap carriers. There are two price cap carriers in

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Washington: CenturyLink and Frontier. A second phase of disbursements may follow for other telecommunications carriers.

FCC Definition of Broadband. The FCC requires companies receiving Connect America funding for fixed broadband to offer speeds of at least 10 megabits per second (Mbps) for downloads and 1 Mbps for uploads.

Incumbent Local Exchange Carriers (ILECs). The Washington Utilities and Transportation Commission (UTC) classifies telephone companies into two groups: those companies that have held historic monopolies over local markets, called ILECs, and those companies offering services that are subject to effective competition, called competitive carriers. There are currently 17 ILECs in Washington.

Summary of Bill (Recommended Substitute): Creating a Sales and Use Tax Exemption for Broadband Equipment. Sales and use taxes do not apply to sales or use of qualified broadband equipment used for the primary purpose of providing retail broadband service to underserved areas of the state, if the equipment is located in the underserved area and is purchased by a business that provides broadband service.

Creating a Business & Occupation (B&O) Tax Credit for Broadband Equipment. A B&O credit is created for companies that make broadband investments in underserved areas from July 1, 2015, through June 30, 2021. The credit is equal to 50 percent of the capital costs associated with providing retail broadband service using qualified broadband equipment and is divided equally over 15 years. The total credits claimed may not exceed \$50 million.

Defining Terms. Qualified broadband equipment means telecommunications network transmission equipment located in the state that is necessary for and primarily used to provide retail communications service by wire or radio with the capability to transmit data to and receive data from substantially all internet endpoints with minimum speeds of 10 Mbps downstream and 1 Mbps upstream, measured at the most remote user location. Underserved area also means those areas lacking reliability and redundancy.

Underserved area means United States areas designated by the UTC as having either no broadband access or limited broadband access based on information presented by businesses providing retail broadband service and any information utilized by the FCC and the National Telecommunications and Information Administration.

Stating the Intent and Purpose of the Tax Incentives. A tax preference statement is included which states that the purpose of the incentives is to expand high-speed broadband service in underserved areas of Washington. If a review by the Joint Legislative Audit and Review Committee finds that the number of consumers receiving high-speed broadband service in underserved areas of Washington has increased by 10 percent in ten years compared to the number of consumers receiving such service at the time of enactment, then the Legislature intends to extend the expiration date of the tax preference.

EFFECT OF CHANGES MADE BY ENERGY, ENVIRONMENT & TELECOMMUNICATIONS COMMITTEE (Recommended Substitute): Clarifies definition of qualified broadband equipment. Expands eligibility of incentives to all

businesses that provide retail broadband services. Amends the definitions of broadband and underserved area. Removes references to the FCC Connect America Fund. Adds a B&O credit for companies that make broadband investments in underserved areas.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill was sparked by an interim work session on broadband. The purpose of the bill is to leverage federal dollars to encourage private investment in deploying broadband to underserved areas of the state. This is an excellent bill which recognizes that the private sector has a role in deploying broadband. Past efforts in using public utility districts to deploy broadband had mixed results, with many overbuilding urban areas.

CON: Internet access is a right and it should not be controlled by corporate conglomerates. The Internet should be controlled by local governments.

Persons Testifying: PRO: Senator Ericksen, prime sponsor; Ron Main, Telecommunications Industry Coalition.

CON: Spencer Baldwin, The People's Lobby.