

SENATE BILL REPORT

SB 6480

As Reported by Senate Committee On:
Energy, Environment & Telecommunications, February 4, 2016

Title: An act relating to creating a business and occupation tax credit for capital costs associated with providing retail broadband service using qualified broadband equipment.

Brief Description: Creating a business and occupation tax credit for capital costs associated with providing retail broadband service using qualified broadband equipment.

Sponsors: Senator Ericksen.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/02/16; 2/03/16, 2/04/16 [DPS-WM, DNP].

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6480 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; Braun, Brown, Cleveland, Habib and Ranker.

Minority Report: Do not pass.

Signed by Senators McCoy, Ranking Minority Member; Honeyford.

Staff: Jan Odano (786-7486)

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.

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.

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.

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 are identified at the census-block level. The FCC initially disbursed approximately \$1.8 billion annually to a class of large telecommunications carriers known as price cap carriers. There are two price cap carriers in Washington: CenturyLink and Frontier.

In September 2015, the FCC announced that 10 telecommunications companies nationwide would receive approximately \$9 billion over the next six years as part of CAF-II to expand broadband networks throughout rural areas of the U.S. Under CAF-II, the FCC funding will target census blocks that meet two criteria: where the cost of providing service according to the cost model exceeds \$52.50 a month, and those that are not served by unsubsidized competitors offering service at speeds of at least 4 Mbps downstream and 1 Mbps upstream. Service providers accepting CAF-II funds will be required to build out broadband services to 40 percent of funded locations by the end of 2017, 60 percent by end of 2018, and 100 percent by the end of 2020.

CenturyLink and Frontier have made commitments and will receive funding over the next 6 years under CAF II. For Washington State, CenturyLink has committed to provide service to 58,961 homes or businesses and will receive \$24.4 million. Frontier has committed to provide service to 19,713 homes or businesses and will receive \$8.7 million.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): Creating a Business & Occupation (B&O) Tax Credit for Broadband Equipment. A B&O credit, including for sales taxes paid, is created for a person that makes broadband investments in underserved areas from July 1, 2016, 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. In addition, a person meeting these requirements who provides support utility broadband services in an underserved area in the islands north of Deception Pass is also eligible to claim a credit. The amount of credit a person may claim is limited to \$5 million. 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.

"Underserved area" means any United States area having either no broadband access or limited broadband access. This designation is based on a request to the Department of Revenue presented by businesses seeking a tax credit and any information utilized by the FCC and the National Telecommunications and Information Administration. Underserved area also means areas lacking reliability and redundancy.

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 10 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.

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 First Substitute: PRO: This is a responsible approach, and creates a new tool. We've been exploring how best to get service out to rural areas for a long time. This looks like a good one to pursue. In island areas, demographics make it difficult to obtain services because temporary residency, vacation homes, or those at the opposite end of the financial spectrum. There are also significant safety concerns with power outages. This is not only a service for daily existence but also safety. There is limited financial support to San Juan Island and this bill needs to be expand beyond just retail.

Persons Testifying on First Substitute: PRO: Grant Nelson, Orcas Power & Light Cooperative; Jim Blundell, T-Mobile; Ron Main, Telecom Coalition.

Persons Signed In To Testify But Not Testifying on First Substitute: No one.