
SUBSTITUTE SENATE BILL 5425

State of Washington 64th Legislature 2015 Regular Session

By Senate Energy, Environment & Telecommunications (originally sponsored by Senators Ericksen and Dinsel)

READ FIRST TIME 02/19/15.

1 AN ACT Relating to providing a sales and use tax exemption for
2 qualified broadband equipment; adding a new section to chapter 82.08
3 RCW; adding a new section to chapter 82.12 RCW; adding a new section
4 to chapter 82.04 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** Much like electricity in the beginning of
7 the twentieth century, the legislature finds that high-speed
8 broadband service is becoming necessary for everyday life. It is a
9 transforming technology that can provide many useful services, such
10 as: Speedy access to government, commercial, and educational
11 information; efficient delivery of healthcare services; removal of
12 educational disadvantages; and efficient use of energy resources. The
13 legislature also finds that there are areas in the state that do not
14 have access to high-speed broadband service, and that the state
15 should work with federal programs to alleviate this problem.

16 NEW SECTION. **Sec. 2.** (1) This section is the tax preference
17 performance statement for the tax preference contained in sections 3,
18 5, and 7 of this act. This performance statement is only intended to
19 be used for subsequent evaluation of the tax preference. It is not

1 intended to create a private right of action by any party or be used
2 to determine eligibility for preferential tax treatment.

3 (2) The legislature categorizes this tax preference as one
4 intended to expand high-speed broadband service in underserved areas
5 of Washington, as indicated in RCW 82.32.808(2)(f).

6 (3) It is the legislature's specific public policy objective to
7 expand access to high-speed broadband service in underserved areas of
8 Washington. It is the legislature's intent to exempt from the taxes
9 levied by chapters 82.04, 82.08, and 82.12 RCW telecommunications
10 network transmission equipment that is located in underserved areas
11 of Washington and used for the primary purpose of providing retail
12 broadband service to those underserved areas, thereby increasing the
13 ability of businesses to invest in and expand their broadband
14 networks in underserved areas of Washington.

15 (4) If a review finds that the number of consumers receiving
16 high-speed broadband service in underserved areas of Washington has
17 increased by ten percent in ten years compared to the number of
18 consumers receiving such service at the time of enactment, then the
19 legislature intends to extend the expiration date of the tax
20 preference.

21 (5) In order to obtain the data necessary to perform the review
22 in subsection (4) of this section, the joint legislative audit and
23 review committee may refer to data provided by the Washington
24 utilities and transportation commission, data from the national
25 telecommunications and information administration, data from the
26 department of commerce, and the national broadband map maintained by
27 the federal communications commission.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08
29 RCW to read as follows:

30 (1) The tax levied by RCW 82.08.020 does not apply to sales of
31 qualified broadband equipment used for the primary purpose of
32 providing retail broadband service to underserved areas in the state,
33 if the equipment is located in the underserved area and is purchased
34 by a business that provides broadband service.

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

37 (a) "Broadband" means a high-speed broadband telecommunications
38 capability with minimum speeds of ten Mbps downstream and one Mbps
39 upstream, measured at the most remote user location, that enables

1 users to originate and receive high-quality voice, data, graphics,
2 and video using any technology.

3 (b) "Qualified broadband equipment" means telecommunications
4 network transmission equipment located in an underserved area in the
5 state that is necessary for and primarily used to provide retail
6 broadband communications service by wire or radio with the capability
7 to transmit data to and receive data from substantially all internet
8 endpoints with minimum speeds of ten Mbps downstream and one Mbps
9 upstream, measured at the most remote user location.

10 (c) "Underserved area" means United States areas designated by
11 the Washington utilities and transportation commission as having
12 either no broadband access or limited broadband access based on
13 information presented by businesses providing retail broadband
14 service and any information utilized by the federal communications
15 commission and the national telecommunications and information
16 administration. Underserved area also means those areas lacking
17 reliability and redundancy.

18 NEW SECTION. **Sec. 4.** It is the legislature's specific public
19 policy objective to expand access to high-speed broadband service in
20 underserved areas of Washington. It is the legislature's intent to
21 exempt from the tax levied by RCW 82.12.020 telecommunications
22 network transmission equipment that is located in underserved areas
23 of Washington and used for the primary purpose of providing retail
24 high-speed broadband service to those underserved areas, thereby
25 encouraging businesses to invest in and expand their broadband
26 networks in underserved areas of Washington.

27 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.12
28 RCW to read as follows:

29 (1) The provisions of this chapter do not apply to the use of
30 qualified broadband equipment used for the primary purpose of
31 providing retail broadband service to underserved areas in the state,
32 if the equipment is located in the underserved area and is purchased
33 by a business providing retail broadband service.

34 (2) The definitions in section 3 of this act apply to this
35 section.

36 NEW SECTION. **Sec. 6.** It is the legislature's specific public
37 policy objective to expand access to high-speed broadband service in

1 underserved areas of Washington. It is the legislature's intent to
2 provide credits from the tax levied by chapter 82.04 RCW on persons
3 that invest in telecommunications network transmission equipment
4 located in underserved areas of Washington and used for the primary
5 purpose of providing retail broadband service to those underserved
6 areas, thereby encouraging persons to invest in and expand their
7 broadband networks in underserved areas of Washington.

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.04
9 RCW to read as follows:

10 (1) Subject to the limitations in this section, a credit is
11 allowed against the tax imposed under this chapter for the capital
12 costs associated with providing retail broadband service using
13 qualified broadband equipment. The credit is equal to fifty percent
14 of the costs to be divided equally over fifteen years.

15 (2) Credits earned under this section may be claimed against
16 taxes due for the calendar year in which the contribution is made.
17 The amount of credit claimed for a reporting period may not exceed
18 the tax otherwise due under this chapter for that reporting period.

19 (3) Any amount of tax credit allowable under this section not
20 claimed by the person in any calendar year may be carried over and
21 claimed against the person's tax liability for the next succeeding
22 calendar year. Any credit remaining unused in the next succeeding
23 calendar year may be carried forward and claimed against the person's
24 tax liability for the second succeeding calendar year; and any credit
25 not used in that second succeeding calendar year may be carried over
26 and claimed against the person's tax liability for the third
27 succeeding calendar year, but may not be carried over for any
28 calendar year thereafter.

29 (4) Credits are available on a first in-time basis. The
30 department must disallow any credits, or portion thereof, that would
31 cause the total amount of credits claimed under this section to
32 exceed fifty million dollars. If this limitation is reached, the
33 department must notify all businesses that the annual statewide limit
34 has been met. In addition, the department must provide written notice
35 to any person who has claimed tax credits in excess of the limitation
36 in this subsection. The notice must indicate the amount of tax due
37 and provide that the tax be paid within thirty days from the date of
38 the notice. The department may not assess penalties and interest as
39 provided in chapter 82.32 RCW on the amount due in the initial notice

1 if the amount due is paid by the due date specified in the notice, or
2 any extension thereof.

3 (5) To claim a credit under this section, a person must
4 electronically file with the department all returns, forms, and any
5 other information required by the department, in an electronic format
6 as provided or approved by the department. Any return, form, or
7 information required to be filed in an electronic format under this
8 section is not filed until received by the department in an
9 electronic format. As used in this subsection, "returns" has the same
10 meaning as "return" in RCW 82.32.050.

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

14 (7) A person receiving a credit under this section must provide
15 to the department, upon request, such information needed to verify
16 eligibility for credit under this section, including information
17 regarding capital costs that are claimed for credits under this
18 section.

19 (8) The department may not allow any credit under this section
20 before July 1, 2015.

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

23 (a) "Broadband" means a high-speed broadband telecommunications
24 capability with minimum speeds of ten Mbps downstream and one Mbps
25 upstream, measured at the most remote user location, that enables
26 users to originate and receive high-quality voice, data, graphics,
27 and video using any technology.

28 (b) "Qualified broadband equipment" means telecommunications
29 network transmission equipment located in an underserved area in the
30 state that is necessary for and primarily used to provide retail
31 broadband service by wire or radio with the capability to transmit
32 data to and receive data from substantially all internet end points
33 with minimum speeds of ten Mbps downstream and one Mbps upstream,
34 measured at the most remote user location.

35 (c) "Underserved area" means United States areas designated by
36 the Washington utilities and transportation commission as having
37 either no broadband access or limited broadband access based on
38 information presented by businesses providing retail broadband
39 service and any information utilized by the federal communications
40 commission and the national telecommunications and information

1 administration. Underserved area also means those areas lacking
2 reliability and redundancy.

3 (10) No credit may be earned for costs incurred on or after July
4 1, 2021.

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