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**SUBSTITUTE SENATE BILL 6480**

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**State of Washington                      64th Legislature                      2016 Regular Session**

**By Senate Energy, Environment & Telecommunications (originally sponsored by Senator Ericksen)**

READ FIRST TIME 02/05/16.

1            AN ACT Relating to creating a business and occupation tax credit  
2 for capital costs associated with providing broadband service using  
3 qualified broadband equipment; adding new sections to chapter 82.04  
4 RCW; and creating a new section.

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

6            NEW SECTION.    **Sec. 1.**    (1) This section is the tax preference  
7 performance statement for the tax preference in section 2 of this  
8 act. This performance statement is intended only to be used for  
9 subsequent evaluation of the tax preference. It is not intended to  
10 create a private right of action by any party or be used to determine  
11 eligibility for preferential tax treatment.

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

15            (3) It is the legislature's specific public policy objective to  
16 expand access to high-speed broadband service in underserved areas of  
17 Washington. It is the legislature's intent to provide a sales and use  
18 tax exemption for telecommunications network transmission equipment  
19 that is located in underserved areas of Washington and used for the  
20 primary purpose of providing retail broadband service or supporting  
21 utility broadband services to those underserved areas, thereby

1 increasing the ability of businesses to invest in and expand their  
2 broadband networks in underserved areas of Washington.

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

9 (5) In order to obtain the data necessary to perform the review  
10 in subsection (4) of this section, the joint legislative audit and  
11 review committee may refer to data provided by the Washington  
12 utilities and transportation commission, data from the national  
13 telecommunications and information administration, data from the  
14 department of commerce, and the national broadband map maintained by  
15 the federal communications commission.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04  
17 RCW to read as follows:

18 (1) Subject to the limitations in this section, a credit is  
19 allowed against the taxes imposed under this chapter for the capital  
20 costs associated with providing retail broadband service using  
21 qualified broadband equipment, including taxes paid under chapters  
22 82.08 and 82.12 RCW.

23 (2) A person claiming the credit for taxes paid under chapters  
24 82.08 and 82.12 RCW on the capital costs associated with providing  
25 retail broadband service using qualified broadband equipment must  
26 have paid the taxes under chapters 82.08 and 82.12 RCW in order to  
27 claim the credit under this chapter.

28 (3) The credit is equal to fifty percent of the capital costs,  
29 including associated sales and use taxes paid, to be divided equally  
30 over fifteen years.

31 (4) Credits earned under this section may be claimed against  
32 taxes due or paid for the calendar year in which the tax contribution  
33 is made. The amount of credit claimed for a reporting period may not  
34 exceed the tax otherwise due under this chapter for that reporting  
35 period and is limited to five million dollars total per person  
36 claiming a credit.

37 (5) Any amount of tax credit allowable under this section not  
38 claimed by the person in any calendar year may be carried over and  
39 claimed against the person's tax liability for the next succeeding

1 calendar year. Any credit remaining unused in the next succeeding  
2 calendar year may be carried forward and claimed against the person's  
3 tax liability for the second succeeding calendar years may be carried  
4 forward and claimed against the person's tax liability for the next  
5 thirteen succeeding calendar years from the year the credit was first  
6 claimed, but may not be carried over for any calendar year  
7 thereafter.

8 (6) Credits are available on a first in-time basis. The  
9 department must disallow any credits, or portion thereof, that would  
10 cause the total amount of credits claimed under this section to  
11 exceed fifty million dollars. If this limitation is reached, the  
12 department must provide notice on its web site that the statewide  
13 limit has been met. In addition, the department must provide written  
14 notice to any person who has claimed tax credits in excess of the  
15 limitation in this subsection. The notice must indicate the amount of  
16 tax due and provide that the tax be paid within thirty days from the  
17 date of the notice. The department may not assess penalties and  
18 interest as provided in chapter 82.32 RCW on the amount due in the  
19 initial notice if the amount due is paid by the due date specified in  
20 the notice, or any extension thereof.

21 (7) To claim a credit under this section, a person must  
22 electronically file with the department all returns, forms, and any  
23 other information required by the department, in an electronic format  
24 as provided or approved by the department. Any return, form, or  
25 information required to be filed in an electronic format under this  
26 section is not filed until received by the department in an  
27 electronic format. As used in this subsection, "returns" has the same  
28 meaning as "return" in RCW 82.32.050.

29 (8) No application is necessary for the tax credit. The person  
30 must keep records necessary for the department to verify eligibility  
31 under this section.

32 (9) A person receiving a credit under this section must provide  
33 to the department, upon request, such information needed to verify  
34 eligibility for credit under this section, including information  
35 regarding capital costs that are claimed for credits under this  
36 section.

37 (10) The department may not allow any credit under this section  
38 before July 1, 2016.

39 (11) No credit may be earned for costs incurred on or after July  
40 1, 2021.

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

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

8 (b) "Qualified broadband equipment" means telecommunications  
9 network transmission equipment located in an underserved area in the  
10 state that is necessary for and primarily used to provide retail  
11 broadband service or support utility broadband services by wire or  
12 radio with the capability to transmit data to and receive data from  
13 substantially all internet end points with minimum speeds of ten Mbps  
14 downstream and one Mbps upstream.

15 (c) "Underserved area" means United States areas having either no  
16 broadband access or limited broadband access based on a request  
17 presented to the department by any businesses providing retail  
18 broadband service or supporting utility broadband services seeking a  
19 tax credit, including any information utilized by the federal  
20 communications commission and the national telecommunications and  
21 information administration. "Underserved area" also means those areas  
22 lacking reliability and redundancy.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04  
24 RCW to read as follows:

25 Subject to the limitations and requirements in section 2 of this  
26 act, a person is eligible to claim credit for taxes paid under  
27 chapters 82.08 and 82.12 RCW on the capital costs associated with  
28 providing retail broadband service or supporting utility broadband  
29 services using qualified broadband equipment in any underserved areas  
30 of the state consisting entirely of islands that are east of a line  
31 extending from Discovery Island light south to New Dungeness light  
32 and north of Deception Pass.

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