

2SSB 5511 - S AMD 192

By Senator Ericksen

NOT ADOPTED 03/06/2019

1 On page 23, after line 30, insert the following:

2 "NEW SECTION. **Sec. 19.** (1) This section is the tax preference
3 performance statement for the tax preference in section 20,
4 chapter . . ., Laws of 2019 (section 20 of this act). This
5 performance statement is intended only to be used for subsequent
6 evaluation of the tax preference. It is not intended to create a
7 private right of action by any party or be used to determine
8 eligibility for preferential tax treatment.

9 (2) The legislature categorizes this tax preference as one
10 intended to expand high-speed broadband service in unserved areas of
11 Washington, as indicated in RCW 82.32.808(2)(f).

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

21 (4) If a review finds that the number of consumers receiving
22 high-speed broadband service in unserved areas of Washington has
23 increased by ten percent in ten years compared to the number of
24 consumers receiving such service on July 1, 2020, then the
25 legislature intends to extend the expiration date of the tax
26 preference.

27 (5) In order to obtain the data necessary to perform the review
28 in subsection (4) of this section, the joint legislative audit and
29 review committee may refer to data provided by the Washington
30 utilities and transportation commission, data from the national
31 telecommunications and information administration, data from the

1 department of commerce, and the national broadband map maintained by
2 the federal communications commission.

3 NEW SECTION. **Sec. 20.** A new section is added to chapter 82.04
4 RCW to read as follows:

5 (1) Subject to the limitations in this section, a credit is
6 allowed against the taxes imposed under this chapter for the capital
7 costs associated with providing retail broadband service using
8 qualified broadband equipment, including taxes paid under chapters
9 82.08 and 82.12 RCW.

10 (2) A person claiming the credit for taxes paid under chapters
11 82.08 and 82.12 RCW on the capital costs associated with providing
12 retail broadband service using qualified broadband equipment must
13 have paid the taxes under chapters 82.08 and 82.12 RCW in order to
14 claim the credit under this chapter.

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

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

24 (5) Any amount of tax credit allowable under this section not
25 claimed by the person in any calendar year may be carried over and
26 claimed against the person's tax liability for the next succeeding
27 calendar year. Any credit remaining unused in the next succeeding
28 calendar year may be carried forward and claimed against the person's
29 tax liability for the second and succeeding calendar years and may be
30 carried forward and claimed against the person's tax liability for
31 the next thirteen succeeding calendar years from the year the credit
32 was first claimed, but may not be carried over for any calendar year
33 thereafter.

34 (6) Credits are available on a first in-time basis. The
35 department must disallow any credits, or portion thereof, that would
36 cause the total amount of credits claimed under this section to
37 exceed fifty million dollars. If this limitation is reached, the
38 department must provide notice on its web site that the statewide
39 limit has been met. In addition, the department must provide written

1 notice to any person who has claimed tax credits in excess of the
2 limitation in this subsection. The notice must indicate the amount of
3 tax due and provide that the tax be paid within thirty days from the
4 date of the notice. The department may not assess penalties and
5 interest as provided in chapter 82.32 RCW on the amount due in the
6 initial notice if the amount due is paid by the due date specified in
7 the notice, or any extension thereof.

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

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

19 (9) A person receiving a credit under this section must provide
20 to the department, upon request, such information needed to verify
21 eligibility for credit under this section, including information
22 regarding capital costs that are claimed for credits under this
23 section.

24 (10) The department may not allow any credit under this section
25 before July 1, 2020.

26 (11) No credit may be earned for costs incurred on or after July
27 1, 2030.

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

30 (a) "Broadband" means any service providing advanced
31 telecommunications capability and internet access with transmission
32 speeds that, at a minimum, provide twenty-five megabits per second
33 download and three megabits per second upload.

34 (b) "Qualified broadband equipment" means telecommunications
35 network transmission equipment located in an unserved area in the
36 state that is necessary for and primarily used to provide retail
37 broadband service or support utility broadband services by wire or
38 radio with the capability to transmit data to and receive data from
39 substantially all internet end points with minimum speeds of twenty-

1 five megabits per second download and three megabits per second
2 upload."

3 Renumber the remaining sections consecutively and correct any
4 internal references accordingly.

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5 On page 1, line 8 of the title, after "RCW;" strike "creating a
6 new section;" and insert "adding a new section to chapter 82.04 RCW;
7 creating new sections;"

EFFECT: Creates a B&O tax credit for the capital costs of
building out broadband.

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