SENATE BILL No. 50

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-29.

Synopsis: Tax credit for broadband equipment investments. Provides a state tax credit to broadband service providers for expenditures made after June 30, 2005, and before January 1, 2008, for the costs of purchasing, constructing, expanding, improving, or maintaining qualified broadband equipment. Provides that the credit equals 3% of the total qualified investments for the taxable year.

Effective: July 1, 2005.

Ford

January 4, 2005, read first time and referred to Committee on Tax and Fiscal Policy.

Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 50

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 29. Broadband Equipment Tax Credit

Sec. 1. As used in this chapter, "broadband service" means a connection to the Internet at a rate of:

(1) at least two hundred (200) kilobits per second downstream to a subscriber; and

(2) at least one hundred twenty-five (125) kilobits per second from the subscriber.

Sec. 2. As used in this chapter, "broadband service provider" means a person or entity, including a pass through entity, that provides broadband service to a subscriber.

Sec. 3. As used in this chapter, "pass through entity" means a:

(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) limited liability company; or

(4) limited liability partnership.

Sec. 4. (a) As used in this chapter, "qualified broadband equipment" means any equipment, property, or infrastructure that is:

(1) located in Indiana;

(2) used to provide broadband service to subscribers in Indiana; and

(3) owned by a broadband service provider and located outside a subscriber's premises.

(b) The term does not include computers, modems, set top boxes, and related items used by a subscriber to facilitate broadband connection within the subscriber's home or business.

Sec. 5. As used in this chapter, "qualified investment" means an expenditure that is made by a taxpayer after June 30, 2005, and before January 1, 2008, for the costs of purchasing, constructing, expanding, improving, or maintaining qualified broadband equipment. The term does not include any payments by a lessee of qualified broadband equipment for use of the equipment.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);

(2) IC 6-5.5 (financial institutions tax); and

(3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "subscriber" refers to a customer that receives broadband service from a broadband service provider.

Sec. 8. As used in this chapter, "taxpayer" means a broadband service provider that has state tax liability.

Sec. 9. A taxpayer that makes a qualified investment in a taxable year is entitled to a credit against the taxpayer's state tax liability for the taxable year. The amount of the credit equals three percent (3%) of the taxpayer's total qualified investments during the taxable year.

Sec. 10. (a) If the amount of the credit determined under section 9 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the taxpayer's succeeding taxable years. Each time that the credit is carried over to a succeeding

taxable year, the credit is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for fourteen (14) taxable years following the unused credit year, including succeeding taxable years after December 31, 2007, as long as the unused credit is for a qualified investment made before January 1, 2008.

(b) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's state tax liability for that taxable year before any credit carryover is applied against that liability under subsection (a).

(c) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 11. (a) If a pass through entity is entitled to a credit under section 9 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same qualified investment.

Sec. 12. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines necessary for the calculation of the credit provided by this chapter and for the determination of whether an expenditure was for a qualified investment.

SECTION 2. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "qualified investment" has the meaning set forth in IC 6-3.1-29-5, as added by this act.**

(b) IC 6-3.1-29, as added by this act, applies to:

(1) taxable years beginning after December 31, 2004; and

(2) qualified investments made after June 30, 2005, and before

January 1, 2008.