

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 485

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXATION; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY  
2 THE ADDITION OF A NEW SECTION 63-3029L, IDAHO CODE, TO PROVIDE FOR A  
3 STATE INCOME TAX CREDIT FOR CUSTOMER IN AID OF CONSTRUCTION IN QUALI-  
4 FIED BROADBAND EQUIPMENT DEPLOYED FOR RESIDENTIAL AND SMALL BUSINESS  
5 BROADBAND SERVICE IN UNSERVED AREAS, TO PROVIDE FOR LIMITATIONS ON THE  
6 CREDIT, TO PROVIDE REQUIREMENTS FOR THE CREDIT, TO DEFINE TERMS AND TO  
7 PROVIDE FOR RULES AND A METHOD OF ATTRIBUTING THE TAX CREDIT; DECLARING  
8 AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.  
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is  
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
13 ignated as Section 63-3029L, Idaho Code, and to read as follows:

14 63-3029L. INCOME TAX CREDIT FOR A CUSTOMER CONTRIBUTION IN AID OF CON-  
15 STRUCTION FOR QUALIFIED BROADBAND EQUIPMENT. (1) Subject to the limitations  
16 of this section, for taxable years beginning on or after January 1, 2014,  
17 there shall be allowed to a qualified broadband consumer-taxpayer a credit  
18 against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho  
19 Code, for a customer contribution in aid of construction paid to a broad-  
20 band provider to construct and place into service new qualified broadband  
21 equipment and networks in an unserved area in Idaho in which the qualified  
22 broadband customer-taxpayer resides or operates a business.

23 (2) The credit permitted in subsection (1) of this section shall be sub-  
24 ject to the following limitations:

25 (a) The credit shall be claimed annually over a five (5) year period  
26 equal to one-fifth (1/5) of the credit amount. If the credit allowed un-  
27 der this subdivision is greater than the tax due in any taxable year, the  
28 amount by which such credit exceeds such tax due is treated as an over-  
29 payment of tax to be refunded to the qualified broadband consumer-tax-  
30 payer.

31 (b) The total of the credit permitted in subsection (1) of this sec-  
32 tion shall be limited to ten thousand dollars (\$10,000) for an individ-  
33 ual qualified broadband consumer-taxpayer and fifty thousand dollars  
34 (\$50,000) for a small business qualified broadband consumer-taxpayer,  
35 but in no event shall such credit exceed the customer contribution in  
36 aid of construction paid by the qualified broadband consumer-taxpayer  
37 to the broadband provider.

38 (3) In constructing new qualified broadband equipment and networks  
39 pursuant to this section, the broadband provider will:

40 (a) Incur investment expenses up to the broadband provider's prior  
41 year's average investment per broadband customer for the type of broad-  
42 band equipment and facilities being installed, the construction and

1 installation methods being employed and the type of broadband service  
2 to be provided in the unserved area; and

3 (b) Receive from the qualified broadband consumer-taxpayer a customer  
4 contribution in aid of construction equal to the qualified construc-  
5 tion expenses less the investment expenses incurred by the broadband  
6 provider pursuant to paragraph (a) of this subsection.

7 (4) As used in this section, the term:

8 (a) "Commission" means the Idaho state tax commission.

9 (b) "Qualified construction expenses" shall equal the total cost of  
10 constructing and installing new broadband equipment and networks in the  
11 proposed unserved service area, as certified by the broadband provider,  
12 but not to exceed one hundred thirty percent (130%) of the average  
13 cost per mile of wireline-based broadband equipment and network con-  
14 struction or one hundred thirty percent (130%) of the average cost per  
15 customer of terrestrial wireless-based broadband working in similar  
16 terrain or under similar conditions.

17 (c) "Customer contribution in aid of construction" is determined in  
18 accordance with the following formula:  $(QCE/TC) - (ACM/35) = QC$ , where  
19 QCE equals the qualified construction expenses; ACM equals the prior  
20 year's average cost of construction per mile of wireline-based broad-  
21 band in the unserved area or the prior year's average cost per customer  
22 of wireless terrestrial broadband working in similar terrain or under  
23 similar conditions, as certified by the broadband provider; TC equals  
24 the number of residents and small business customers in the unserved  
25 service area making a customer contribution in aid to construction and  
26 contracting for services over the broadband network; and QC equals the  
27 customer contribution in aid of construction.

28 (d) "Broadband service" means wireline or wireless terrestrial inter-  
29 net access service with transmission speeds that are equal to or greater  
30 than combined advertised download speeds of at least four (4) megabits  
31 per second (mbps) and upload speeds of at least one (1) mbps over the  
32 broadband provider's network.

33 (e) "Unserved area" means an area composed of one (1) or more contiguous  
34 census blocks where at least ninety percent (90%) of qualified broad-  
35 band consumer-taxpayers lack access to wireline-based or terrestrial  
36 wireless-based broadband service. A qualified broadband consumer-tax-  
37 payer has access to a broadband service if the qualified broadband con-  
38 sumer-taxpayer has the opportunity to subscribe to and receive broad-  
39 band service from a wireline or terrestrial wireless broadband provider  
40 upon request.

41 (f) "Qualified broadband consumer-taxpayer" means a taxpayer that is  
42 an individual or a small business defined as a sole proprietor, partner-  
43 ship or other legal entity that has five (5) or more but less than fifty  
44 (50) employees and with which proprietorships, partnerships or enti-  
45 ties are unaffiliated.

46 (g) "Qualified broadband equipment and networks" means equipment,  
47 cable, fiber, wire, wireless terrestrial transmitters or receivers,  
48 towers, routers, switches, modem terminations, optical lasers, opti-  
49 cal cable, HFC nodes, passives, amplifiers, cable or phone modems and  
50 functionally related equipment. Qualified broadband equipment and

1 networks does not include broadband consumer end-use or electronic de-  
2 vices, such as computers, digital tablets, handheld phones or devices,  
3 televisions, radios or monitors.

4 (5) In addition to other needed rules, the state tax commission may  
5 promulgate rules prescribing, in the case of S corporations, partnerships,  
6 trusts or estates, a method of attributing the credit under this section to  
7 the shareholders, partners or beneficiaries in proportion to their share of  
8 the income or loss distribution from the S corporation, partnership, trust  
9 or estate.

10 SECTION 2. An emergency existing therefor, which emergency is hereby  
11 declared to exist, this act shall be in full force and effect on and after its  
12 passage and approval, and retroactively to January 1, 2014.