

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 16

**FISCAL
NOTE**

BY SENATORS ASHLEY, PLYMALE, WILLIAMS, MILLER,

STOLLINGS AND UNGER

[Introduced January 13, 2016;

Referred to the Committee on Transportation and
Infrastructure; and then to the Committee on Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §11-13BB-1, §11-13BB-2, §11-13BB-3, §11-13BB-4, §11-13BB-5, §11-13BB-
 3 6 and §11-13BB-7, all relating generally to providing tax credit for providing broadband to
 4 certain extremely high-cost census blocks; requiring Tax Commissioner to propose rules
 5 for legislative approval to administer this article; definitions; amount of credit; and how
 6 credit is taken and its application, including an annual cap on the credit and prohibiting a
 7 carryover or carryback to subsequent or previous tax years.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 article, designated §11-13BB-1, §11-13BB-2, §11-13BB-3, §11-13BB-4, §11-13BB-5, §11-13BB-
 3 6 and §11-13BB-7, all to read as follows:

**ARTICLE 13BB. TAX CREDIT FOR PROVIDING BROADBAND TO CERTAIN
 EXTREMELY HIGH-COST CENSUS BLOCKS.**

§11-13BB-1. Legislative purpose.

1 The Legislature finds that encouraging the deployment of broadband in all parts of West
 2 Virginia, including those areas where the cost to provide broadband service is extremely high, is
 3 in the public interest and promotes the general welfare of the state. In order to help offset the
 4 high cost of providing broadband service to locations within extremely high-cost census blocks in
 5 the state, there is hereby provided a tax credit for broadband providers that make broadband
 6 service available to locations within certain extremely high-cost census blocks in West Virginia.
 7 Broadband providers seeking the benefit of the tax credits provided by this article must follow the
 8 procedures outlined herein and as subsequently adopted by the Tax Commissioner.

§11-13BB-2. Definitions.

1 (a) General. -- When used in this article, or in the administration of this article, terms
 2 defined in subsection (b) of this section have the meanings ascribed to them by this section.

3 unless a different meaning is clearly required by either the context in which the term is used, or
4 by specific definition, in this article.

5 (b) Terms defined. –

6 (1) "Broadband" or "broadband service" means any service providing advanced
7 telecommunications capability with the same downstream data rate, upstream data rate, and
8 other functionalities as are specified by the FCC at 47 Code of Federal Regulations, Section
9 54.309.

10 (2) "Broadband provider" means any common carrier that provides broadband service to
11 end users.

12 (3) "Census block number" is a 15-digit FIPS code used by the FCC that identifies each
13 census block in the United States by state, county, census tract and census block.

14 (4) "Commissioner" and "Tax Commissioner" are used interchangeably herein and mean
15 the Tax Commissioner of the State of West Virginia or his or her designee.

16 (5) "Downstream data rate" means the transmission speed from the broadband provider
17 source to the end-user.

18 (6) "Eligible taxpayer" means a broadband provider that has made broadband service
19 available to locations in extremely high-cost census blocks within West Virginia as defined under
20 this article.

21 (7) "Extremely high-cost census blocks" means census blocks within the state where the
22 cost to provide broadband service as determined by the FCC is above the extremely high-cost
23 threshold established by the FCC by notice to the public.

24 (8) "FCC" means the Federal Communications Commission.

25 (9) "FCC Form 477" means a filing made twice a year to the FCC by broadband providers
26 containing data on broadband and voice connections and used to measure broadband
27 deployment.

28 (10) "FIPS code" means the Federal Information Processing Standard code which
29 uniquely identifies census blocks within each state, county and census tract.

30 (11) "Locations" means households or businesses located within extremely high-cost
31 census blocks.

32 (12) "Upstream data rate" means the transmission speed from the end-user to the
33 broadband provider source.

§11-13BB-3. Amount of credit.

1 There shall be allowed to any eligible taxpayer a credit against the corporate net income
2 tax imposed by article twenty-four of this chapter for providing broadband service to locations
3 within extremely high-cost census blocks in the state; however, any tax credits available under
4 this article may not reduce the tax liability of any eligible taxpayer below zero. The amount of the
5 credit available to any eligible taxpayer under this article shall be equal to \$500 for each location
6 within extremely high-cost census blocks to which the eligible taxpayer has made broadband
7 service available: *Provided*, That the amount of credit allowed by this section may not exceed \$1
8 million in any one tax year and no carryover to a subsequent year or carryback to a prior taxable
9 year may be allowed for the amount of any unused portion of any annual credit allowance.

§11-13BB-4. Procedures for applying for credit.

1 Any eligible taxpayer seeking the benefit of the tax credits provided under this article shall
2 provide the following information to the Tax Commissioner:

3 (a) A certification of the number of locations within extremely high-cost census blocks in
4 the state to which the eligible taxpayer has deployed broadband service during the preceding
5 calendar year;

6 (b) The census block code for each extremely high-cost census block to which the eligible
7 taxpayer has deployed broadband, along with the number of locations within each census block;

8 (c) The eligible taxpayer's Form 477 filings with the FCC which include the extremely
9 high-cost blocks in the eligible taxpayer's application for tax credits under this article.

10 (d) Any other information required by the Tax Commissioner pursuant to regulations
11 adopted under this article.

§11-13BB-5. When credit may be taken.

1 An eligible taxpayer may claim a credit allowed under this article against its tax liability for
2 the taxable year for which it receives approval from the Tax Commissioner of its application for
3 tax credits pursuant to this article.

§11-13BB-6. Application of credit.

1 If any portion of the tax credit which the eligible taxpayer may be due is not used during
2 the taxable year in which the eligible taxpayer receives approval of the tax credit from the Tax
3 Commissioner pursuant to this article, the unused tax credit may be carried over to the
4 subsequent year as a tax credit as allowed by section three of this article and shall be applied as
5 a credit before any other credits for that year are applied.

§11-13BB-7. Promulgation of rules.

1 The Tax Commissioner shall propose rules for legislative approval in accordance with
2 article three, chapter twenty-nine-a of this code, that the Tax Commissioner considers necessary
3 to administer this article.

NOTE: The purpose of this bill is generally to provide a tax credit for providing broadband to certain extremely high-cost census blocks. The bill requires the Tax Commissioner to propose rules for legislative approval to administer this article. It also provides definitions; determines the amount of credit; provides how the credit is taken and its application, including an annual cap on the credit and prohibition against a carryover or carryback to subsequent or previous tax years.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.