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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2373

05/18/2015 Authored by Simonson; Murphy, M.; Poppe; Johnson, C.; Johnson, S., and others

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to telecommunications; border-to-border broadband; creating a
1.3 broadband tax credit; amending Minnesota Statutes 2014, sections 116J.395;
1.4 290.06, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2014, section 116J.395, is amended to read:

1.7 **116J.395 BORDER-TO-BORDER BROADBAND DEVELOPMENT GRANT**
1.8 **AND TAX CREDIT PROGRAM.**

1.9 Subdivision 1. **Establishment.** A grant and tax credit program is established under
1.10 the Department of Employment and Economic Development to award grants and tax
1.11 credits to eligible applicants in order to promote the expansion of access to broadband
1.12 service in ~~unserved or~~ underserved areas of the state.

1.13 Subd. 2. **Eligible expenditures.** Grants and tax credits may be awarded under this
1.14 section to fund the acquisition and installation of middle-mile and last-mile infrastructure
1.15 that support broadband service scalable to speeds of at least 100 megabits per second
1.16 download and 100 megabits per second upload.

1.17 Subd. 3. **Eligible applicants.** Eligible applicants for grants or tax credits awarded
1.18 under this section include:

- 1.19 (1) an incorporated business or a partnership;
- 1.20 (2) a political subdivision;
- 1.21 (3) an Indian tribe;
- 1.22 (4) a Minnesota nonprofit organization organized under chapter 317A;
- 1.23 (5) a Minnesota cooperative association organized under chapter 308A or 308B; and

(6) a Minnesota limited liability corporation organized under chapter 322B for the purpose of expanding broadband access.

Subd. 4. **Application process.** An eligible applicant must submit an application to the commissioner on a form prescribed by the commissioner. The commissioner shall develop administrative procedures governing the application and grant and tax credit award process. The commissioner shall act as fiscal agent for the grant program and shall be responsible for receiving and reviewing grant applications and awarding grants under this section.

Subd. 5. **Application contents.** An applicant for a grant or tax credit under this section shall provide the following information on the application:

- (1) the location of the project;
- (2) the kind and amount of broadband infrastructure to be purchased for the project;
- (3) evidence regarding the unserved or underserved nature of the community in which the project is to be located;
- (4) the number of households passed that will have access to broadband service as a result of the project, or whose broadband service will be upgraded as a result of the project;
- (5) significant community institutions that will benefit from the proposed project;
- (6) evidence of community support for the project;
- (7) the total cost of the project;
- (8) sources of funding or in-kind contributions for the project that will supplement any grant award; and
- (9) any additional information requested by the commissioner.

Subd. 6. **Awarding grants and tax credits.** (a) In evaluating applications and awarding grants or tax credits, the commissioner shall give priority to applications that ~~are constructed in areas identified by the director of the Office of Broadband Development as unserved.~~

~~(b) In evaluating applications and awarding grants, the commissioner may give priority to applications that:~~

~~(1) are constructed in areas identified by the director of the Office of Broadband Development as underserved; and may give priority to projects that:~~

~~(2) (1) offer new or substantially upgraded broadband service to important community institutions including, but not limited to, libraries, educational institutions, public safety facilities, and healthcare facilities;~~

~~(3) (2) facilitate the use of telemedicine and electronic health records;~~

~~(4) (3) serve economically distressed areas of the state, as measured by indices of unemployment, poverty, or population loss that are significantly greater than the statewide~~

average; one or more businesses in a city that has provided a written statement to the city indicating that the lack of broadband service at speeds scalable to at least 100 megabits per second download and 100 megabits per second upload has impeded their business growth or threatens their ability to remain in the city;

~~(5)~~ (4) provide technical support and train residents, businesses, and institutions in the community served by the project to utilize broadband service;

~~(6)~~ (5) include a component to actively promote the adoption of the newly available broadband services in the community;

~~(7)~~ (6) provide evidence of strong support for the project from citizens, government, businesses, and institutions in the community;

~~(8)~~ (7) provide access to broadband service to a greater number of ~~unserved or~~ underserved households and businesses; or

~~(9)~~ (8) leverage greater amounts of funding for the project from other private and public sources.

~~(e)~~ (b) The commissioner shall endeavor to award grants and tax credits under this section to qualified applicants in all regions of the state.

Subd. 7. **Limitation.** (a) No grant or tax credit awarded under this section may fund more than 50 percent of the total cost of a project.

(b) Grants and tax credits awarded to a single project under this section must not exceed \$5,000,000.

(c) The commissioner must not award more than \$50,000,000 in tax credits under this section for any taxable year.

Subd. 8. **Tax credits.** (a) The commissioner may award tax credits to applicants for projects, based on the criteria set out in subdivision 6, up to the maximum amount of the limitations that apply under subdivision 7. Applications for a tax credit must include the name and taxpayer identification number of the taxpayers that will invest in or install the project, as well as all of the information required for a grant and any additional information that the commissioner requires. Eligible applicants under subdivision 3, clauses (2) to (4), may apply for a tax credit and designate the for-profit entity or individuals that will fund all or part of the project and claim the tax credit.

(b) The commissioner must award tax credits for a taxable year by November 1 of the prior year. In awarding tax credits, the commissioner must certify the dollar amount of the credit, the taxable year to which it applies, the taxpayers that will be allowed the credit, and the qualifying project and specific investments that must be made to qualify for the credit.

(c) The commissioner shall provide the certification and supporting information necessary to administer the tax credit to the commissioner of revenue.

4.1 **EFFECTIVE DATE.** This section is effective the day following final enactment
4.2 and applies to taxable years beginning after December 31, 2016.

4.3 Sec. 2. Minnesota Statutes 2014, section 290.06, is amended by adding a subdivision
4.4 to read:

4.5 Subd. 37. **Broadband tax credit.** (a) A taxpayer is allowed a credit against the tax
4.6 under subdivision 1 or 2c equal to the amount certified by the commissioner of employment
4.7 and economic development under section 116J.395, to the taxpayer for the taxable year.

4.8 (b) Credits allowed to a partnership, limited liability company taxed as a partnership,
4.9 corporation, or multiple owners of property are passed through to the partners, members,
4.10 shareholders, or owners, respectively, pro rata to each partner, member, shareholder, or
4.11 owner based on that person's share of the entity's income for the taxable year.

4.12 (c) The credit is limited to the liability for tax. "Liability for tax" for purposes of this
4.13 subdivision means the tax imposed under subdivision 1 or 2c, as applicable, and under
4.14 section 290.091 or 290.0921, as applicable, for the taxable year reduced by the sum of the
4.15 nonrefundable credits allowed under this chapter.

4.16 (d) For a corporation that is a partner in a partnership, the credit allowed for the
4.17 taxable year is limited to the lesser of the amount determined under paragraph (c) for the
4.18 taxable year or an amount, separately computed with respect to the corporation's interest
4.19 in the trade, business, or entity, equal to the amount of tax attributable to that portion of
4.20 taxable income that is allocable or apportionable to the corporation's interest in the trade,
4.21 business, or entity.

4.22 (e) If the amount of the credit determined under this subdivision for any taxable year
4.23 exceeds the limitation under paragraph (c), the excess is a credit carryover to each of the
4.24 ten succeeding taxable years. The entire amount of the excess unused credit for the taxable
4.25 year is carried first to the earliest of the taxable years to which the credit may be carried
4.26 and then to each successive year to which the credit may be carried. The amount of the
4.27 unused credit that may be added under this paragraph is limited to the taxpayer's liability
4.28 for tax, less the credit for the taxable year.

4.29 (f) Notwithstanding the certification eligibility issued by the commissioner of
4.30 employment and economic development under section 116J.395, the commissioner may
4.31 utilize any audit and examination powers under chapter 270C or 289A to the extent
4.32 necessary to verify that the taxpayer is eligible for the credit and to assess for the amount
4.33 of any improperly claimed credit.

4.34 **EFFECTIVE DATE.** The tax credits in this section are effective for taxable years
4.35 beginning after December 31, 2016.