

106TH CONGRESS
2D SESSION

H. R. 4728

To amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2000

Mr. ENGLISH (for himself Mr. MATSUI, Mr. HAYES, Mr. NEAL of Massachusetts, Mr. BALLENGER, Mr. BURR of North Carolina, Mrs. EMERSON, Mr. FLETCHER, Mr. MCINTYRE, Mr. NUSSLE, Mr. POMEROY, Mr. SHERWOOD, Mr. THUNE, and Mrs. JONES of Ohio) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Broadband Internet
5 Access Act of 2000”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds the following:

1 (1) The Internet has been the single greatest
2 contributor to the unprecedented economic expansion
3 experienced by the United States over the last 8
4 years.

5 (2) Increasing the speed that Americans can ac-
6 cess the Internet is necessary to ensure the contin-
7 ued expansion.

8 (3) Today, most residential Internet users, es-
9 pecially those located in low income and rural areas,
10 are extremely limited in the type of information they
11 can send and receive over the Internet because their
12 means of access is limited to “narrowband” commu-
13 nications media, typically conventional phone lines at
14 a maximum speed of 56,000 bits per second.

15 (4) Similarly, small businesses in low income
16 and rural areas are also deprived of full information
17 access because of their dependence on narrowband
18 facilities.

19 (5) By contrast, many residential users located
20 in higher income urban and suburban areas and
21 urban business users can access the Internet from a
22 variety of carriers at current generation broadband
23 speeds in excess of 1,500,000 bits per second, giving
24 them a choice among carriers and high-speed access
25 to a wide array of audio and data applications.

1 (6) The result is a growing disparity in the
2 speed of access to the Internet and the opportunities
3 it creates between subscribers located in low income
4 and rural areas and subscribers located in higher in-
5 come urban and suburban areas.

6 (7) At the same time, experts project that,
7 under current financial and regulatory conditions,
8 the facilities needed to transmit next generation
9 broadband services over the Internet to residential
10 users at speeds in excess of 10,000,000 bits per sec-
11 ond will not be as ubiquitously available as is tele-
12 phone service until sometime between the years 2030
13 and 2040.

14 (8) Experts also believe that, under current fi-
15 nancial and regulatory conditions, the disparity in
16 access will be exacerbated with the deployment of
17 next generation broadband capability.

18 (9) The disparity in current broadband access
19 to the Internet, the slow pace of deployment of next
20 generation broadband capability, and the projected
21 disparity in access to such capability will likely prove
22 detrimental to the on-going economic expansion.

23 (10) It is, therefore, appropriate for Congress
24 to take action to narrow the current and future dis-
25 parity in the level of broadband access to the Inter-

1 net, and to accelerate deployment of next generation
2 broadband capability.

3 (b) PURPOSE.—The purpose of this Act is to accel-
4 erate deployment of current generation broadband access
5 to the Internet for users located in certain low income and
6 rural areas and to accelerate deployment of next genera-
7 tion broadband access for all Americans.

8 **SEC. 3. BROADBAND CREDIT.**

9 (a) IN GENERAL.—Subpart E of part IV of chapter
10 1 of the Internal Revenue Code of 1986 (relating to rules
11 for computing investment credit) is amended by inserting
12 after section 48 the following new section:

13 **“SEC. 48A. BROADBAND CREDIT.**

14 “(a) GENERAL RULE.—For purposes of section 46,
15 the broadband credit for any taxable year is the sum of—

16 “(1) the current generation broadband credit,
17 plus

18 “(2) the next generation broadband credit.

19 “(b) CURRENT GENERATION BROADBAND CREDIT;
20 NEXT GENERATION BROADBAND CREDIT.—For purposes
21 of this section—

22 “(1) CURRENT GENERATION BROADBAND
23 CREDIT.—The current generation broadband credit
24 for any taxable year is equal to 10 percent of the
25 qualified expenditures incurred with respect to quali-

1 fied equipment offering current generation
2 broadband services to rural subscribers or under-
3 served subscribers and taken into account with re-
4 spect to such taxable year.

5 “(2) NEXT GENERATION BROADBAND CRED-
6 IT.—The next generation broadband credit for any
7 taxable year is equal to 20 percent of the qualified
8 expenditures incurred with respect to qualified
9 equipment offering next generation broadband serv-
10 ices to all rural subscribers, all underserved sub-
11 scribers, or any other residential subscribers and
12 taken into account with respect to such taxable year.

13 “(c) WHEN EXPENDITURES TAKEN INTO AC-
14 COUNT.—For purposes of this section—

15 “(1) IN GENERAL.—Qualified expenditures with
16 respect to qualified equipment shall be taken into ac-
17 count with respect to the first taxable year in which
18 current generation broadband services or next gen-
19 eration broadband services are offered by the tax-
20 payer through such equipment to subscribers.

21 “(2) OFFER OF SERVICES.—For purposes of
22 paragraph (1), the offer of current generation
23 broadband services or next generation broadband
24 services through qualified equipment occurs when
25 such class of service is purchased by and provided

1 to at least 10 percent of the subscribers described in
2 subsection (b) which such equipment is capable of
3 serving through the legal or contractual area access
4 rights or obligations of the taxpayer.

5 “(d) SPECIAL ALLOCATION RULES.—

6 “(1) CURRENT GENERATION BROADBAND SERV-
7 ICES.—For purposes of determining the current gen-
8 eration broadband credit under subsection (a)(1), if
9 the qualified equipment is capable of serving both
10 the subscribers described under subsection (b)(1)
11 and other subscribers, the qualified expenditures
12 shall be multiplied by a fraction—

13 “(A) the numerator of which is the sum of
14 the total potential subscriber populations within
15 the rural areas and the underserved areas
16 which the equipment is capable of serving, and

17 “(B) the denominator of which is the total
18 potential subscriber population of the area
19 which the equipment is capable of serving.

20 “(2) NEXT GENERATION BROADBAND SERV-
21 ICES.—For purposes of determining the next genera-
22 tion broadband credit under subsection (a)(2), if the
23 qualified equipment is capable of serving both the
24 subscribers described under subsection (b)(2) and

1 other subscribers, the qualified expenditures shall be
2 multiplied by a fraction—

3 “(A) the numerator of which is the sum
4 of—

5 “(i) the total potential subscriber pop-
6 ulations within the rural areas and under-
7 served areas, plus

8 “(ii) the total potential subscriber
9 population of the area consisting only of
10 residential subscribers not described in
11 clause (i),

12 which the equipment is capable of serving, and

13 “(B) the denominator of which is the total
14 potential subscriber population of the area
15 which the equipment is capable of serving.

16 “(e) DEFINITIONS.—For purposes of this section—

17 “(1) ANTENNA.—The term ‘antenna’ means
18 any device used to transmit or receive signals
19 through the electromagnetic spectrum, including sat-
20 ellite equipment.

21 “(2) CABLE OPERATOR.—The term ‘cable oper-
22 ator’ has the meaning given such term by section
23 602(5) of the Communications Act of 1934 (47
24 U.S.C. 522(5)).

1 “(3) COMMERCIAL MOBILE SERVICE CAR-
2 RIER.—The term ‘commercial mobile service carrier’
3 means any person authorized to provide commercial
4 mobile radio service as defined in section 20.3 of
5 title 47, Code of Federal Regulations.

6 “(4) CURRENT GENERATION BROADBAND SERV-
7 ICE.—The term ‘current generation broadband serv-
8 ice’ means the transmission of signals at a rate of
9 at least 1,500,000 bits per second to the subscriber
10 and at least 200,000 bits per second from the sub-
11 scriber.

12 “(5) NEXT GENERATION BROADBAND SERV-
13 ICE.—The term ‘next generation broadband service’
14 means the transmission of signals at a rate of at
15 least 22,000,000 bits per second to the subscriber
16 and at least 10,000,000 bits per second from the
17 subscriber.

18 “(6) NONRESIDENTIAL SUBSCRIBER.—The
19 term ‘nonresidential subscriber’ means a person or
20 entity who purchases broadband services which are
21 delivered to the permanent place of business of such
22 person or entity.

23 “(7) OPEN VIDEO SYSTEM OPERATOR.—The
24 term ‘open video system operator’ means any person

1 authorized to provide service under section 653 of
2 the Communications Act of 1934 (47 U.S.C. 573).

3 “(8) OTHER WIRELESS CARRIER.—The term
4 ‘other wireless carrier’ means any person (other than
5 a telecommunications carrier, commercial mobile
6 service carrier, cable operator, open video system op-
7 erator, or satellite carrier) providing current genera-
8 tion broadband services or next generation
9 broadband service to subscribers through the radio
10 transmission of energy.

11 “(9) PACKET SWITCHING.—The term ‘packet
12 switching’ means controlling or routing the path of
13 a digitized transmission signal which is assembled
14 into packets or cells.

15 “(10) QUALIFIED EQUIPMENT.—

16 “(A) IN GENERAL.—The term ‘qualified
17 equipment’ means equipment capable of pro-
18 viding current generation broadband services or
19 next generation broadband services at any time
20 to each subscriber who is utilizing such services.

21 “(B) ONLY CERTAIN INVESTMENT TAKEN
22 INTO ACCOUNT.—Except as provided in sub-
23 paragraph (C), equipment shall be taken into
24 account under subparagraph (A) only to the ex-
25 tent it—

1 “(i) extends from the last point of
2 switching to the outside of the unit, build-
3 ing, dwelling, or office owned or leased by
4 a subscriber in the case of a telecommuni-
5 cations carrier,

6 “(ii) extends from the customer side
7 of the mobile telephone switching office to
8 a transmission/receive antenna (including
9 such antenna) on the outside of the unit,
10 building, dwelling, or office owned or
11 leased by a subscriber in the case of a
12 commercial mobile service carrier,

13 “(iii) extends from the customer side
14 of the headend to the outside of the unit,
15 building, dwelling, or office owned or
16 leased by a subscriber in the case of a
17 cable operator or open video system oper-
18 ator, or

19 “(iv) extends from a transmission/re-
20 ceive antenna (including such antenna)
21 which transmits and receives signals to or
22 from multiple subscribers to a trans-
23 mission/receive antenna (including such
24 antenna) on the outside of the unit, build-
25 ing, dwelling, or office owned or leased by

1 a subscriber in the case of a satellite car-
2 rier or other wireless carrier, unless such
3 other wireless carrier is also a tele-
4 communications carrier.

5 “(C) PACKET SWITCHING EQUIPMENT.—

6 Packet switching equipment, regardless of loca-
7 tion, shall be taken into account under subpara-
8 graph (A) only if it is deployed in connection
9 with equipment described in subparagraph (B)
10 and it is uniquely designed to perform the func-
11 tion of packet switching for current generation
12 broadband services or next generation
13 broadband services, but only if such packet
14 switching is the last in a series of such func-
15 tions performed in the transmission of a signal
16 to a subscriber or the first in a series of such
17 functions performed in the transmission of a
18 signal from a subscriber.

19 “(11) QUALIFIED EXPENDITURE.—

20 “(A) IN GENERAL.—The term ‘qualified
21 expenditure’ means any amount chargeable to
22 capital account with respect to the purchase
23 and installation of qualified equipment (includ-
24 ing any upgrades thereto) for which deprecia-
25 tion is allowable under section 168.

1 “(B) CERTAIN SATELLITE EXPENDITURES
2 EXCLUDED.—Such term shall not include any
3 expenditure with respect to the launching of
4 any satellite equipment.

5 “(12) RESIDENTIAL SUBSCRIBER.—The term
6 ‘residential subscriber’ means an individual who pur-
7 chases broadband services which are delivered to
8 such individual’s dwelling.

9 “(13) RURAL SUBSCRIBER.—

10 “(A) IN GENERAL.—The term ‘rural sub-
11 scriber’ means a residential subscriber residing
12 in a dwelling located in a rural area or nonresi-
13 dential subscriber maintaining a permanent
14 place of business located in a rural area.

15 “(B) RURAL AREA.—The term ‘rural area’
16 means any census tract which—

17 “(i) is not within 10 miles of any in-
18 corporated or census designated place con-
19 taining more than 25,000 people, and

20 “(ii) is not within a county or county
21 equivalent which has an overall population
22 density of more than 500 people per
23 square mile of land.

24 “(14) SATELLITE CARRIER.—The term ‘sat-
25 ellite carrier’ means any person using the facilities

1 of a satellite or satellite service licensed by the Fed-
2 eral Communications Commission and operating in
3 the Fixed-Satellite Service under part 25 of title 47
4 of the Code of Federal Regulations or the Direct
5 Broadcast Satellite Service under part 100 of title
6 47 of such Code to establish and operate a channel
7 of communications for point-to-multipoint distribu-
8 tion of signals, and owning or leasing a capacity or
9 service on a satellite in order to provide such point-
10 to-multipoint distribution.

11 “(15) SUBSCRIBER.—The term ‘subscriber’
12 means a person who purchases current generation
13 broadband services or next generation broadband
14 services.

15 “(16) TELECOMMUNICATIONS CARRIER.—The
16 term ‘telecommunications carrier’ has the meaning
17 given such term by section 3(44) of the Communica-
18 tions Act of 1934 (47 U.S.C. 153 (44)), but—

19 “(A) includes all members of an affiliated
20 group of which a telecommunications carrier is
21 a member, and

22 “(B) does not include a commercial mobile
23 service carrier.

24 “(17) TOTAL POTENTIAL SUBSCRIBER POPU-
25 LATION.—The term ‘total potential subscriber popu-

1 lation’ means, with respect to any area and based on
2 the most recent census data, the total number of po-
3 tential residential subscribers residing in dwellings
4 located in such area and potential nonresidential
5 subscribers maintaining permanent places of busi-
6 ness located in such area.

7 “(18) UNDERSERVED SUBSCRIBER.—

8 “(A) IN GENERAL.—The term ‘under-
9 served subscriber’ means a residential sub-
10 scriber residing in a dwelling located in an un-
11 derserved area or nonresidential subscriber
12 maintaining a permanent place of business lo-
13 cated in an underserved area.

14 “(B) UNDERSERVED AREA.—The term
15 ‘underserved area’ means any census tract—

16 “(i) the poverty level of which is at
17 least 30 percent (based on the most recent
18 census data),

19 “(ii) the median family income of
20 which does not exceed—

21 “(I) in the case of a census tract
22 located in a metropolitan statistical
23 area, 70 percent of the greater of the
24 metropolitan area median family in-

1 come or the statewide median family
2 income, and

3 “(II) in the case of a census tract
4 located in a nonmetropolitan statis-
5 tical area, 70 percent of the non-
6 metropolitan statewide median family
7 income, or

8 “(iii) which is located in an empower-
9 ment zone or enterprise community des-
10 ignated under section 1391.

11 “(f) DESIGNATION OF CENSUS TRACTS.—The Sec-
12 retary shall, not later than 90 days after the date of the
13 enactment of this section, designate and publish those cen-
14 sus tracts meeting the criteria described in paragraphs
15 (13)(B) and (18)(B) of subsection (e), and such tracts
16 shall remain so designated for the period ending with the
17 termination date described in subsection (g).

18 “(g) TERMINATION.—This section shall not apply to
19 expenditures incurred after December 31, 2005.”

20 (b) CREDIT TO BE PART OF INVESTMENT CREDIT.—
21 Section 46 of the Internal Revenue Code of 1986 (relating
22 to the amount of investment credit) is amended by striking
23 “and” at the end of paragraph (2), by striking the period
24 at the end of paragraph (3) and inserting “, and”, and
25 by adding at the end the following new paragraph:

1 “(4) the broadband credit.”

2 (c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE
3 TELEPHONE COMPANIES.—Section 501(c)(12)(B) of the
4 Internal Revenue Code of 1986 (relating to list of exempt
5 organizations) is amended by striking “or” at the end of
6 clause (iii), by striking the period at the end of clause (iv)
7 and inserting “, or”, and by adding at the end the fol-
8 lowing new clause:

9 “(v) from sources not described in
10 subparagraph (A), but only to the extent
11 such income does not in any year exceed
12 an amount equal to the credit for qualified
13 expenditures which would be determined
14 under section 48A for such year if the mu-
15 tual or cooperative telephone company was
16 not exempt from taxation.”

17 (d) CONFORMING AMENDMENT.—The table of sec-
18 tions for subpart E of part IV of subchapter A of chapter
19 1 of the Internal Revenue Code of 1986 is amended by
20 inserting after the item relating to section 48 the following
21 new item:

“Sec. 48A. Broadband credit.”

22 (e) EFFECTIVE DATES.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), the amendments made by this section

1 shall apply to expenditures incurred after December
2 31, 2000.

3 (2) SPECIAL RULE.—The amendments made by
4 subsection (c) shall apply to amounts received after
5 December 31, 2000.

6 **SEC. 4. REGULATORY MATTERS.**

7 No Federal or State agency or instrumentality shall
8 adopt regulations or ratemaking procedures that would
9 have the effect of confiscating any credit or portion thereof
10 allowed under section 48A of the Internal Revenue Code
11 of 1986 (as added by section 3) or otherwise subverting
12 the purpose of this Act.

13 **SEC. 5. STUDY AND REPORT.**

14 (a) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that in order to maintain competitive neutrality, the
16 credit allowed under section 48A of the Internal Revenue
17 Code of 1986 (as added by section 3) should be adminis-
18 tered in such a manner so as to ensure that each class
19 of carrier receives the same level of financial incentive to
20 deploy current generation broadband services and next
21 generation broadband services.

22 (b) STUDY AND REPORT.—The Secretary of the
23 Treasury shall, within 180 days after the effective date
24 of section 3, study the impact of the credit allowed under
25 section 48A of the Internal Revenue Code of 1986 (as

1 added by section 3) on the relative competitiveness of po-
2 tential classes of carriers of current generation broadband
3 services and next generation broadband services, and shall
4 report to Congress the findings of such study, together
5 with any legislative or regulatory proposals determined to
6 be necessary to ensure that the purposes of such credit
7 can be furthered without impacting competitive neutrality
8 among such classes of carriers.

○