

107TH CONGRESS
1ST SESSION

S. 150

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 SENATE OF THE UNITED STATES

JANUARY 23, 2001

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Finance

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 Deploy-
5 ment Act of 2001”.

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

7 (a) FINDINGS.—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 areas, are ex-
10 tremely limited in the type of information they can
11 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 areas are also deprived of full information access be-
17 cause of their dependence on narrowband facilities.

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

6 (7) The disparity in current broadband access
 7 to the Internet is proving detrimental to the on-
 8 going economic expansion.

9 (8) It is, therefore, appropriate for Congress to
 10 take action to narrow the current disparity in the
 11 level of broadband access to the Internet.

12 (b) PURPOSE.—The purpose of this Act is to accel-
 13 erate deployment of broadband access to the Internet for
 14 users located in certain low income areas.

15 **SEC. 3. BROADBAND CREDIT.**

16 (a) IN GENERAL.—Subpart E of part IV of chapter
 17 1 of the Internal Revenue Code of 1986 (relating to rules
 18 for computing investment credit) is amended by inserting
 19 after section 48 the following new section:

20 **“SEC. 48A. BROADBAND CREDIT.**

21 “(a) GENERAL RULE.—For purposes of section 46,
 22 the broadband credit for any taxable year is equal to 10
 23 percent of the qualified expenditures incurred with respect
 24 to qualified equipment offering broadband services to un-

1 derserved subscribers and taken into account with respect
 2 to such taxable year.

3 “(b) WHEN EXPENDITURES TAKEN INTO AC-
 4 COUNT.—For purposes of this section qualified expendi-
 5 tures with respect to qualified equipment shall be taken
 6 into account with respect to the first taxable year in which
 7 broadband services are offered by the taxpayer through
 8 such equipment to subscribers.

9 “(c) SPECIAL ALLOCATION RULES.—For purposes of
 10 determining the broadband credit under subsection (a), if
 11 the qualified equipment is capable of serving both under-
 12 served subscribers and other subscribers, the qualified ex-
 13 penditures shall be multiplied by a fraction—

14 “(1) the numerator of which is the sum of the
 15 total potential subscriber populations within the un-
 16 derserved areas which the equipment is capable of
 17 serving, and

18 “(2) the denominator of which is the total po-
 19 tential subscriber population of the area which the
 20 equipment is capable of serving.

21 “(d) DEFINITIONS.—For purposes of this section—

22 “(1) ANTENNA.—The term ‘antenna’ means
 23 any device used to transmit or receive signals
 24 through the electromagnetic spectrum, including sat-
 25 ellite equipment.

1 “(2) BROADBAND SERVICE.—The term
2 ‘broadband service’ means the transmission of sig-
3 nals at a rate of at least 1,500,000 bits per second
4 to the subscriber and at least 200,000 bits per sec-
5 ond from the subscriber.

6 “(3) CABLE OPERATOR.—The term ‘cable oper-
7 ator’ has the meaning given such term by section
8 602(5) of the Communications Act of 1934 (47
9 U.S.C. 522(5)).

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

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

20 “(6) OPEN VIDEO SYSTEM OPERATOR.—The
21 term ‘open video system operator’ means any person
22 authorized to provide service under section 653 of
23 the Communications Act of 1934 (47 U.S.C. 573).

24 “(7) OTHER WIRELESS CARRIER.—The term
25 ‘other wireless carrier’ means any person (other than

1 a telecommunications carrier, commercial mobile
 2 service carrier, cable operator, open video system op-
 3 erator, or satellite carrier) providing broadband serv-
 4 ice to subscribers through the radio transmission of
 5 energy.

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

10 “(9) QUALIFIED EQUIPMENT.—

11 “(A) IN GENERAL.—The term ‘qualified
 12 equipment’ means equipment capable of pro-
 13 viding broadband services at any time to each
 14 subscriber who is utilizing such services.

15 “(B) ONLY CERTAIN INVESTMENT TAKEN
 16 INTO ACCOUNT.—Except as provided in sub-
 17 paragraph (C), equipment shall be taken into
 18 account under subparagraph (A) only to the ex-
 19 tent it—

20 “(i) extends from the last point of
 21 switching to the outside of the unit, build-
 22 ing, dwelling, or office owned or leased by
 23 a subscriber in the case of a telecommuni-
 24 cations carrier,

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

8 “(iii) extends from the customer side
9 of the headend to the outside of the unit,
10 building, dwelling, or office owned or
11 leased by a subscriber in the case of a
12 cable operator or open video system oper-
13 ator, or

14 “(iv) extends from a transmission/re-
15 ceive antenna (including such antenna)
16 which transmits and receives signals to or
17 from multiple subscribers to a trans-
18 mission/receive antenna (including such
19 antenna) on the outside of the unit, build-
20 ing, dwelling, or office owned or leased by
21 a subscriber in the case of a satellite car-
22 rier or other wireless carrier, unless such
23 other wireless carrier is also a tele-
24 communications carrier.

1 “(C) PACKET SWITCHING EQUIPMENT.—

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

13 “(10) QUALIFIED EXPENDITURE.—

14 “(A) IN GENERAL.—The term ‘qualified
 15 expenditure’ means any amount chargeable to
 16 capital account with respect to the purchase
 17 and installation of qualified equipment (includ-
 18 ing any upgrades thereto) for which deprecia-
 19 tion is allowable under section 168.

20 “(B) CERTAIN SATELLITE EXPENDITURES
 21 EXCLUDED.—Such term shall not include any
 22 expenditure with respect to the launching of
 23 any satellite equipment.

24 “(11) RESIDENTIAL SUBSCRIBER.—The term
 25 ‘residential subscriber’ means an individual who pur-

chases broadband services which are delivered to such individual's dwelling.

“(12) SATELLITE CARRIER.—The term ‘satellite carrier’ means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for point-to-multipoint distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

“(13) SUBSCRIBER.—The term ‘subscriber’ means a person who purchases broadband services.

“(14) TELECOMMUNICATIONS CARRIER.—The term ‘telecommunications carrier’ has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153 (44)), and—

“(A) includes all members of an affiliated group of which a telecommunications carrier is a member, but

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

1 “(15) TOTAL POTENTIAL SUBSCRIBER POPU-
 2 LATION.—The term ‘total potential subscriber popu-
 3 lation’ means, with respect to any area and based on
 4 the most recent census data, the total number of po-
 5 tential residential subscribers residing in dwellings
 6 located in such area and potential nonresidential
 7 subscribers maintaining permanent places of busi-
 8 ness located in such area.

9 “(16) UNDERSERVED SUBSCRIBER.—

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

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

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

21 “(ii) the median family income of
 22 which does not exceed—

23 “(I) in the case of a census tract
 24 located in a metropolitan statistical
 25 area, 70 percent of the greater of the

1 metropolitan area median family in-
 2 come or the statewide median family
 3 income, and

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

9 “(iii) which is located in an empower-
 10 ment zone and enterprise community des-
 11 ignated under section 1391 or a renewal
 12 community designated under section
 13 1400E.

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

21 “(f) TERMINATION.—This section shall not apply to
 22 expenditures incurred after December 31, 2006.”

23 (b) CREDIT TO BE PART OF INVESTMENT CREDIT.—
 24 Section 46 of the Internal Revenue Code of 1986 (relating
 25 to the amount of investment credit) is amended—

1 (1) by striking “and” at the end of paragraph

2 (2),

3 (2) by striking the period at the end of para-

4 graph (3) and inserting “, and”, and

5 (3) by adding at the end the following new

6 paragraph:

7 “(4) the broadband credit.”.

8 (c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE

9 TELEPHONE COMPANIES.—Section 501(c)(12)(B) of the

10 Internal Revenue Code of 1986 (relating to list of exempt

11 organizations) is amended—

12 (1) by striking “or” at the end of clause (iii),

13 (2) by striking the period at the end of clause

14 (iv) and inserting “, or”, and

15 (3) by adding at the end the following new

16 clause:

17 “(v) from sources not described in

18 subparagraph (A), but only to the extent

19 such income does not in any year exceed

20 an amount equal to the credit for qualified

21 expenditures which would be determined

22 under section 48A for such year if the mu-

23 tual or cooperative telephone company was

24 not exempt from taxation.”.

1 (d) CONFORMING AMENDMENT.—The table of sec-
 2 tions for subpart E of part IV of subchapter A of chapter
 3 1 of the Internal Revenue Code of 1986 is amended by
 4 inserting after the item relating to section 48 the following
 5 new item:

“Sec. 48A. Broadband credit.”.

6 (e) EFFECTIVE DATES.—

7 (1) IN GENERAL.—Except as provided in para-
 8 graph (2), the amendments made by this section
 9 shall apply to expenditures incurred after December
 10 31, 2001.

11 (2) SPECIAL RULE.—The amendments made by
 12 subsection (e) shall apply to amounts received after
 13 December 31, 2001.

14 **SEC. 4. REGULATORY MATTERS.**

15 No Federal or State agency or instrumentality shall
 16 adopt regulations or ratemaking procedures that would
 17 have the effect of confiscating any credit or portion thereof
 18 allowed under section 48A of the Internal Revenue Code
 19 of 1986 (as added by section 3) or otherwise subverting
 20 the purpose of this Act.

21 **SEC. 5. STUDY AND REPORT.**

22 (a) SENSE OF CONGRESS.—It is the sense of Con-
 23 gress that in order to maintain competitive neutrality, the
 24 credit allowed under section 48A of the Internal Revenue
 25 Code of 1986 (as added by section 3) should be adminis-

1 tered in such a manner so as to ensure that each class
2 of carrier receives the same level of financial incentive to
3 deploy broadband services.

4 (b) STUDY AND REPORT.—The Secretary of the
5 Treasury shall, within 180 days after the effective date
6 of section 3, study the impact of the credit allowed under
7 section 48A of the Internal Revenue Code of 1986 (as
8 added by section 3) on the relative competitiveness of po-
9 tential classes of carriers of broadband services, and shall
10 report to Congress the findings of such study, together
11 with any legislative or regulatory proposals determined to
12 be necessary to ensure that the purposes of such credit
13 can be furthered without impacting competitive neutrality
14 among such classes of carriers.

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