

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH30196-LC-75 (03/25)

Short Title: Broadband Deployment Act. (Public)

Sponsors: Representatives Brubaker and Saunders (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A TAX CREDIT FOR PLACING INTO SERVICE
3 BROADBAND INTERNET ACCESS EQUIPMENT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-129.15 reads as rewritten:

6 "**§ 105-129.15. Definitions.**

7 The following definitions apply in this Article:

8 (1) Business property. – Tangible personal property that is used by the
9 taxpayer in connection with a business or for the production of income
10 and is capitalized by the taxpayer for tax purposes under the Code. The
11 term does not include, however, a luxury passenger automobile taxable
12 under section 4001 of the Code or a watercraft used principally for
13 entertainment and pleasure outings for which no admission is charged.

14 (2) Cost. – In the case of property owned by the taxpayer, cost is
15 determined pursuant to regulations adopted under section 1012 of the
16 Code, subject to the limitation on cost provided in section 179 of the
17 Code. In the case of property the taxpayer leases from another, cost is
18 value as determined pursuant to G.S. 105-130.4(j)(2).

19 (3) Recodified as § 105-129.15(5).

20 (3b) Current-generation broadband service. – The transmission of signals at
21 a rate of at least 1,500,000 bits per second from the server to the
22 subscriber and at least 200,000 bits per second from the subscriber to
23 the server, but less than the rates required for next-generation
24 broadband service.

25 (4) Hydroelectric generator. – A machine that produces electricity by
26 water power or by the friction of water or steam.

27 (4a) Repealed by Session Laws 2002-87, s. 3, effective August 22, 2002.

- 1 (4d) Next-generation broadband service. – The transmission of signals at a
2 rate of at least 22,000,000 bits per second from the server to the
3 subscriber and at least 10,000,000 bits per second from the subscriber
4 to the server.
- 5 (4e) Nonresidential subscriber. – A person or entity that purchases
6 broadband services that are delivered to the permanent place of
7 business of that person or entity.
- 8 (5) Purchase. – Defined in section 179 of the Code.
- 9 (5c) Qualified equipment. – Equipment capable of providing
10 current-generation broadband services or next-generation broadband
11 services at any time to each subscriber who is utilizing these services.
- 12 (5d) Qualified expenditure. – Any amount chargeable to a capital account
13 with respect to the purchase and installation of qualified equipment,
14 including any upgrades to the qualified equipment, for which
15 depreciation is allowable under section 168 of the Code.
- 16 (6) Renewable biomass resources. – Organic matter produced by
17 terrestrial and aquatic plants and animals, such as standing vegetation,
18 aquatic crops, forestry and agricultural residues, landfill wastes, and
19 animal wastes.
- 20 (7) Renewable energy property. – Any of the following machinery and
21 equipment or real property:
- 22 a. Biomass equipment that uses renewable biomass resources for
23 biofuel production of ethanol, methanol, and biodiesel;
24 anaerobic biogas production of methane utilizing agricultural
25 and animal waste or garbage; or commercial thermal or
26 electrical generation from renewable energy crops or wood
27 waste materials. The term also includes related devices for
28 converting, conditioning, and storing the liquid fuels, gas, and
29 electricity produced with biomass equipment.
- 30 b. Hydroelectric generators located at existing dams or in
31 free-flowing waterways, and related devices for water supply
32 and control, and converting, conditioning, and storing the
33 electricity generated.
- 34 c. Solar energy equipment that uses solar radiation as a substitute
35 for traditional energy for water heating, active space heating
36 and cooling, passive heating, daylighting, generating electricity,
37 distillation, desalination, detoxification, or the production of
38 industrial or commercial process heat. The term also includes
39 related devices necessary for collecting, storing, exchanging,
40 conditioning, or converting solar energy to other useful forms
41 of energy.
- 42 d. Wind equipment required to capture and convert wind energy
43 into electricity or mechanical power, and related devices for
44 converting, conditioning, and storing the electricity produced.

- 1 (8) Residential subscriber. – An individual who purchases broadband
2 services that are delivered to the individual's dwelling.
- 3 (9) Rural subscriber. – A subscriber located in a rural area.
- 4 (10) Rural area. – Any census tract that is not within 10 miles of any
5 incorporated municipality or census-designated place with a
6 population of more than 25,000 and that is not within a county that has
7 an overall population density of more than 500 people per square mile
8 of land.
- 9 (11) Subscriber. – A person who purchases current generation broadband
10 services or next-generation broadband services.
- 11 (12) Underserved subscriber. – A subscriber located in an underserved area.
- 12 (13) Underserved area. – Any census tract that meets one of the following
13 conditions:
- 14 a. The poverty level of the census tract is at least thirty percent
15 (30%) based on the most recent census data.
- 16 b. The median family income level of the census tract does not
17 exceed:
- 18 1. If in a metropolitan statistical area, seventy percent
19 (70%) of the greater of the median family income of the
20 metropolitan statistical area or the statewide median
21 family income.
- 22 2. If in a nonmetropolitan statistical area, seventy percent
23 (70%) of the nonmetropolitan statewide median family
24 income."

25 **SECTION 2.** Article 3B of Chapter 105 of the General Statutes is amended
26 by adding a new section to read:

27 **"§ 105-129.16D. Broadband Internet access tax credit.**

28 (a) Credit. – A taxpayer is allowed a credit under this Article equal to the sum of
29 the following credits for which the taxpayer qualifies:

- 30 (1) Current-generation broadband credit. – A taxpayer is allowed a credit
31 equal to ten percent (10%) of the qualified expenditures incurred with
32 respect to qualified equipment offering current-generation broadband
33 services to rural subscribers or underserved subscribers.
- 34 (2) Next-generation broadband credit. – A taxpayer is allowed a credit
35 equal to twenty percent (20%) of the qualified expenditures incurred
36 with respect to qualified equipment offering next-generation
37 broadband services to rural subscribers, underserved subscribers, and
38 other residential subscribers.

39 (b) Definition. – For the purpose of this section, the offer of current-generation
40 broadband services or next-generation broadband services through qualified equipment
41 occurs when the class of service is purchased by and provided to at least ten percent
42 (10%) of the subscribers described in subsection (a) of this section that the equipment is
43 capable of serving through the legal or contractual area access rights or obligations of
44 the taxpayer.

1 (c) Application. – The credit may not be taken for the year in which the qualified
2 expenditures are made but must be taken for the taxable year beginning during the
3 calendar year following the calendar year in which the payments were made. To be
4 eligible for the credit, a taxpayer must file an application for the credit with the
5 Secretary of Revenue on or before April 15 following the calendar year in which the
6 payments were made. The application must be on a form prescribed by the Secretary
7 and must include any supporting documentation the Secretary requires.

8 (d) Ceiling. – The total amount of all tax credits allowed to taxpayers under this
9 section may not exceed seven hundred fifty thousand dollars (\$750,000) per taxable
10 year. The Secretary of Revenue must calculate the total amount of tax credits claimed
11 from the applications filed pursuant to subsection (c) of this section. If the total amount
12 of tax credits claimed for payments made in a calendar year exceeds seven hundred fifty
13 thousand dollars (\$750,000), the Secretary must allow a portion of the credits claimed
14 by allocating the total allowable amount among all taxpayers claiming the credits in
15 proportion to the size of the credit claimed by each taxpayer.

16 If a credit claimed under this section is reduced as provided in this subsection, the
17 Secretary must notify the taxpayer of the amount of the reduction of the credit on or
18 before December 31 of the year the taxpayer applied for the credit. The amount of the
19 reduction of the credit may be carried forward and claimed for the next succeeding 10
20 years if the taxpayer reapplies for a credit for the amount of the reduction, as provided
21 in subsection (c) of this section. In the reapplication, the payments for which a credit is
22 claimed are considered as if they had been made in the year preceding the reapplication.
23 The Secretary's allocations under this subsection are final and are not adjusted to
24 account for credits applied for but not claimed."

25 **SECTION 3.** G.S. 105-129.19 reads as rewritten:

26 "**§ 105-129.19. Reports.**

27 The Department of Revenue must report to the Revenue Laws Study Committee and
28 to the Fiscal Research Division of the General Assembly by May 1 of each year the
29 following information for the 12-month period ending the preceding April 1:

- 30 (1) The number of taxpayers that claimed the credits allowed in this
31 Article.
32 (2) The cost of ~~business property and renewable energy~~each type of
33 property with respect to which credits were claimed.
34 (2a) Repealed by Session Laws 2002-87, s. 6, effective August 22, 2002.
35 (3) The total cost to the General Fund of the credits claimed."

36 **SECTION 4.** This act becomes effective for taxable years beginning on or
37 after January 1, 2004.