

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 807

Short Title: Broadband Internet Tax Credit.

(Public)

Sponsors: Senators Reeves, Hartsell, Hoyle; Allran, Ballantine, and Clodfelter.

Referred to: Finance.

April 3, 2001

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. (See Editor's note for repeal) 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).~~ Current generation broadband service.  
20 – The transmission of signals at a rate of at least 1,500,000 bits per  
21 second from the server to the subscriber and at least 200,000 bits per  
22 second from the subscriber to the server, but less than the rates  
23 required for next generation broadband service.
- 24 (4) Hydroelectric generator. – A machine that produces electricity by  
25 waterpower or by the friction of water or steam.
- 26 (5) Next generation broadband service. – The transmission of signals at a  
27 rate of at least 22,000,000 bits per second from the server to the

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

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

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

24     **"§ 105-129.16D. Broadband internet access tax credit.**

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

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

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

42           (c) Application. – The credit may not be taken for the year in which the qualified  
43           expenditures are made but shall be taken for the taxable year beginning during the  
44           calendar year following the calendar year in which the payments were made. To be

1 eligible for the credit, a taxpayer must file an application for the credit with the  
2 Secretary of Revenue on or before April 15 following the calendar year in which the  
3 payments were made. The application must be on a form prescribed by the Secretary  
4 and must include any supporting documentation the Secretary requires.

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

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

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

23 **"§ 105-129.19. (See Editor's note for repeal) Reports.**

24 The Department of Revenue shall report to the Legislative Research Commission  
25 and to the Fiscal Research Division of the General Assembly by May 1 of each year the  
26 following information for the 12-month period ending the preceding April 1:

- 27 (1) The number of taxpayers that claimed the credits allowed in this  
28 Article.
- 29 (2) The cost of business ~~property and property~~, renewable energy ~~property~~  
30 property, and equipment capable of providing current generation  
31 broadband service or next generation broadband service with respect to  
32 which credits were claimed.
- 33 (2a) The location of each qualified North Carolina low-income building  
34 with respect to which a low-income housing credit was claimed.
- 35 (3) The total cost to the General Fund of the credits claimed."

36 **SECTION 4.** This act is effective for taxable years beginning on or after  
37 January 1, 2002.