

107TH CONGRESS
1ST SESSION

H. R. 267

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

JANUARY 30, 2001

Mr. ENGLISH (for himself, Mr. MATSUI, Mr. HAYES, Mr. CONYERS, Mr. TANNER, Mr. SHERWOOD, Mr. HEFLEY, Mr. EHRLICH, Ms. ESHOO, Mr. MCINNIS, Ms. DUNN, Mr. WATKINS, Mr. SAXTON, Mr. MEEKS of New York, Mr. HASTINGS of Washington, Mr. SMITH of Washington, Mr. RADANOVICH, Mr. THOMAS M. DAVIS of Virginia, Mr. MOORE, Mr. SMITH of Texas, Ms. GRANGER, Mr. DOOLEY of California, Mr. BAIRD, Mr. POMBO, Mr. FOLEY, Mr. BALLENGER, Mr. MCDERMOTT, Mr. THORNBERRY, Mr. SHIMKUS, Mr. ALLEN, Mr. HINOJOSA, Mr. SHOWS, Mr. LAMPSON, Mr. DREIER, Mr. ISTOOK, Mr. BAKER, Mr. BURR of North Carolina, Mrs. MEEK of Florida, Mr. ISRAEL, Mr. OWENS, Ms. CAPITO, Mr. GOODLATTE, Mr. HAYWORTH, Mr. FORD, Mr. BLAGOJEVICH, Mrs. JONES of Ohio, Mr. GOODE, Mr. DICKS, Mr. WICKER, Mr. BALDACCI, Mr. THOMPSON of Mississippi, Mr. GIBBONS, Ms. JACKSON-LEE of Texas, Mr. PETERSON of Pennsylvania, and Mr. HINCHEY) 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 2001”.

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

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

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

12 (2) Increasing the speed that Americans can ac-
13 cess the Internet is necessary to ensure the contin-
14 ued expansion.

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

22 (4) Similarly, small businesses in low income
23 and rural areas are also deprived of full information
24 access because of their dependence on narrowband
25 facilities.

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

8 (6) The result is a growing disparity in the
9 speed of access to the Internet and the opportunities
10 it creates between subscribers located in low income
11 and rural areas and subscribers located in higher in-
12 come urban and suburban areas.

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

21 (8) Experts also believe that, under current fi-
22 nancial and regulatory conditions, the disparity in
23 access will be exacerbated with the deployment of
24 next generation broadband capability.

1 (9) The disparity in current broadband access
2 to the Internet, the slow pace of deployment of next
3 generation broadband capability, and the projected
4 disparity in access to such capability will likely prove
5 detrimental to economic expansion.

6 (10) It is, therefore, appropriate for Congress
7 to take action to narrow the current and future dis-
8 parity in the level of broadband access to the Inter-
9 net, and to accelerate deployment of next generation
10 broadband capability.

11 (b) PURPOSE.—The purpose of this Act is to accel-
12 erate deployment of current generation broadband access
13 to the Internet for users located in certain low income and
14 rural areas and to accelerate deployment of next genera-
15 tion broadband access for all Americans.

16 **SEC. 3. BROADBAND CREDIT.**

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

21 **“SEC. 48A. BROADBAND CREDIT.**

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

24 “(1) the current generation broadband credit,
25 plus

1 “(2) the next generation broadband credit.

2 “(b) CURRENT GENERATION BROADBAND CREDIT;
3 NEXT GENERATION BROADBAND CREDIT.—For purposes
4 of this section—

5 “(1) CURRENT GENERATION BROADBAND
6 CREDIT.—The current generation broadband credit
7 for any taxable year is equal to 10 percent of the
8 qualified expenditures incurred with respect to quali-
9 fied equipment delivering current generation
10 broadband services to rural subscribers or under-
11 served subscribers and taken into account with re-
12 spect to such taxable year.

13 “(2) NEXT GENERATION BROADBAND CRED-
14 IT.—The next generation broadband credit for any
15 taxable year is equal to 20 percent of the qualified
16 expenditures incurred with respect to qualified
17 equipment delivering next generation broadband
18 services to all rural subscribers, all underserved sub-
19 scribers, or any other residential subscribers and
20 taken into account with respect to such taxable year.

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

23 “(1) IN GENERAL.—Qualified expenditures with
24 respect to qualified equipment shall be taken into ac-

1 count with respect to the first taxable year in
2 which—

3 “(A) current generation broadband services
4 are delivered through such equipment to rural
5 subscribers or underserved subscribers, or

6 “(B) next generation broadband services
7 are delivered through such equipment to rural
8 subscribers, underserved subscribers, or any
9 other residential subscribers.

10 “(2) DELIVERY OF SERVICES.—For purposes of
11 paragraph (1), the delivery of current generation
12 broadband services or next generation broadband
13 services through qualified equipment occurs when
14 such class of service is purchased by and provided
15 to at least 10 percent of the subscribers described in
16 subsection (b) which such equipment is capable of
17 serving through the legal or contractual area access
18 rights or obligations of the provider.

19 “(d) SPECIAL ALLOCATION RULES.—

20 “(1) CURRENT GENERATION BROADBAND SERV-
21 ICES.—For purposes of determining the current gen-
22 eration broadband credit under subsection (a)(1)
23 with respect to qualified equipment through which
24 current generation broadband services are delivered,
25 if the qualified equipment is capable of serving both

1 the subscribers described under subsection (b)(1)
2 and other subscribers, the qualified expenditures
3 shall be multiplied by a fraction—

4 “(A) the numerator of which is the sum of
5 the total potential subscriber populations within
6 the rural areas and the underserved areas
7 which the equipment is capable of serving with
8 current generation broadband services, and

9 “(B) the denominator of which is the total
10 potential subscriber population of the area
11 which the equipment is capable of serving with
12 current generation broadband services.

13 “(2) NEXT GENERATION BROADBAND SERV-
14 ICES.—For purposes of determining the next genera-
15 tion broadband credit under subsection (a)(2) with
16 respect to qualified equipment through which next
17 generation broadband services are delivered, if the
18 qualified equipment is capable of serving both the
19 subscribers described under subsection (b)(2) and
20 other subscribers, the qualified expenditures shall be
21 multiplied by a fraction—

22 “(A) the numerator of which is the sum
23 of—

1 “(i) the total potential subscriber pop-
2 ulations within the rural areas and under-
3 served areas, plus

4 “(ii) the total potential subscriber
5 population of the area consisting only of
6 residential subscribers not described in
7 clause (i),

8 which the equipment is capable of serving with
9 next generation broadband services, and

10 “(B) the denominator of which is the total
11 potential subscriber population of the area
12 which the equipment is capable of serving with
13 next generation broadband services.

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

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

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

23 “(3) COMMERCIAL MOBILE SERVICE CAR-
24 RIER.—The term ‘commercial mobile service carrier’
25 means any person authorized to provide commercial

1 mobile radio service as defined in section 20.3 of
2 title 47, Code of Federal Regulations.

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

9 “(5) MULTIPLEXING OR DEMULTIPLEXING.—
10 The term ‘multiplexing’ means the transmission of 2
11 or more signals over a single channel, and the term
12 ‘demultiplexing’ means the separation of 2 or more
13 signals previously combined by compatible multi-
14 plexing equipment.

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

21 “(7) NONRESIDENTIAL SUBSCRIBER.—The
22 term ‘nonresidential subscriber’ means a person who
23 purchases broadband services which are delivered to
24 the permanent place of business of such person.

1 “(8) OPEN VIDEO SYSTEM OPERATOR.—The
2 term ‘open video system operator’ means any person
3 authorized to provide service under section 653 of
4 the Communications Act of 1934 (47 U.S.C. 573).

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

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

17 “(11) PROVIDER.—The term ‘provider’ means,
18 with respect to any qualified equipment—

19 “(A) a cable operator,

20 “(B) a commercial mobile service carrier,

21 “(C) an open video system operator, or

22 “(D) a satellite carrier, telecommunications
23 carrier, or other wireless carrier,

1 providing current generation broadband services or
2 next generation broadband services to subscribers
3 through such qualified equipment.

4 “(12) QUALIFIED EQUIPMENT.—

5 “(A) IN GENERAL.—The term ‘qualified
6 equipment’ means equipment capable of pro-
7 viding current generation broadband services or
8 next generation broadband services at any time
9 to each subscriber who is utilizing such services.

10 “(B) ONLY CERTAIN INVESTMENT TAKEN
11 INTO ACCOUNT.—Except as provided in sub-
12 paragraph (C) or (D), equipment shall be taken
13 into account under subparagraph (A) only to
14 the extent it—

15 “(i) extends from the last point of
16 switching to the outside of the unit, build-
17 ing, dwelling, or office owned or leased by
18 a subscriber in the case of a telecommuni-
19 cations carrier,

20 “(ii) extends from the customer side
21 of the mobile telephone switching office to
22 a transmission/receive antenna (including
23 such antenna) owned or leased by a sub-
24 scriber in the case of a commercial mobile
25 service carrier,

1 “(iii) extends from the customer side
2 of the headend to the outside of the unit,
3 building, dwelling, or office owned or
4 leased by a subscriber in the case of a
5 cable operator or open video system oper-
6 ator, or

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

18 “(C) PACKET SWITCHING EQUIPMENT.—
19 Packet switching equipment, regardless of loca-
20 tion, shall be taken into account under subpara-
21 graph (A) only if it is deployed in connection
22 with equipment described in subparagraph (B)
23 and is uniquely designed to perform the func-
24 tion of packet switching for current generation
25 broadband services or next generation

1 broadband services, but only if such packet
2 switching is the last in a series of such func-
3 tions performed in the transmission of a signal
4 to a subscriber or the first in a series of such
5 functions performed in the transmission of a
6 signal from a subscriber.

7 “(D) MULTIPLEXING AND
8 DEMULTIPLEXING EQUIPMENT.—Multiplexing
9 and demultiplexing equipment shall be taken
10 into account under subparagraph (A) only to
11 the extent it is deployed in connection with
12 equipment described in subparagraph (B) and
13 is uniquely designed to perform the function of
14 multiplexing and demultiplexing packets or cells
15 of data and making associated application
16 adaptations, but only if such multiplexing or
17 demultiplexing equipment is located between
18 packet switching equipment described in sub-
19 paragraph (C) and the subscriber’s premises.

20 “(13) QUALIFIED EXPENDITURE.—

21 “(A) IN GENERAL.—The term ‘qualified
22 expenditure’ means any amount—

23 “(i) chargeable to capital account with
24 respect to the purchase and installation of
25 qualified equipment (including any up-

1 grades thereto) for which depreciation is
2 allowable under section 168, and

3 “(ii) incurred after December 31,
4 2001, and before January 1, 2006.

5 “(B) CERTAIN SATELLITE EXPENDITURES
6 EXCLUDED.—Such term shall not include any
7 expenditure with respect to the launching of
8 any satellite equipment.

9 “(14) RESIDENTIAL SUBSCRIBER.—The term
10 ‘residential subscriber’ means an individual who pur-
11 chases broadband services which are delivered to
12 such individual’s dwelling.

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

15 “(A) is not within 10 miles of any incor-
16 porated or census designated place containing
17 more than 25,000 people, and

18 “(B) is not within a county or county
19 equivalent which has an overall population den-
20 sity of more than 500 people per square mile of
21 land.

22 “(16) RURAL SUBSCRIBER.—The term ‘rural
23 subscriber’ means a residential subscriber residing in
24 a dwelling located in a rural area or nonresidential

1 subscriber maintaining a permanent place of busi-
2 ness located in a rural area.

3 “(17) SATELLITE CARRIER.—The term ‘sat-
4 ellite carrier’ means any person using the facilities
5 of a satellite or satellite service licensed by the Fed-
6 eral Communications Commission and operating in
7 the Fixed-Satellite Service under part 25 of title 47
8 of the Code of Federal Regulations or the Direct
9 Broadcast Satellite Service under part 100 of title
10 47 of such Code to establish and operate a channel
11 of communications for point-to-multipoint distribu-
12 tion of signals, and owning or leasing a capacity or
13 service on a satellite in order to provide such point-
14 to-multipoint distribution.

15 “(18) SUBSCRIBER.—The term ‘subscriber’
16 means a person who purchases current generation
17 broadband services or next generation broadband
18 services.

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

23 “(A) includes all members of an affiliated
24 group of which a telecommunications carrier is
25 a member, and

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

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

11 “(21) UNDERSERVED AREA.—The term ‘under-
12 served area’ means any census tract which is located
13 in—

14 “(A) an empowerment zone or enterprise
15 community designated under section 1391,

16 “(B) the District of Columbia Enterprise
17 Zone established under section 1400,

18 “(C) a renewal community designated
19 under section 1400E, or

20 “(D) a low-income community designated
21 under section 45D.

22 “(22) UNDERSERVED SUBSCRIBER.—The term
23 ‘underserved subscriber’ means a residential sub-
24 scriber residing in a dwelling located in an under-
25 served area or nonresidential subscriber maintaining

1 a permanent place of business located in an under-
2 served area.

3 “(f) DESIGNATION OF CENSUS TRACTS.—The Sec-
4 retary shall, not later than 90 days after the date of the
5 enactment of this section, designate and publish those cen-
6 sus tracts meeting the criteria described in paragraphs
7 (15) and (21) of subsection (e).”.

8 (b) CREDIT TO BE PART OF INVESTMENT CREDIT.—
9 Section 46 of the Internal Revenue Code of 1986 (relating
10 to the amount of investment credit) is amended by striking
11 “and” at the end of paragraph (2), by striking the period
12 at the end of paragraph (3) and inserting “, and”, and
13 by adding at the end the following new paragraph:

14 “(4) the broadband credit.”

15 (c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE
16 TELEPHONE COMPANIES.—Section 501(c)(12)(B) of the
17 Internal Revenue Code of 1986 (relating to list of exempt
18 organizations) is amended by striking “or” at the end of
19 clause (iii), by striking the period at the end of clause (iv)
20 and inserting “, or”, and by adding at the end the fol-
21 lowing new clause:

22 “(v) from sources not described in
23 subparagraph (A), but only to the extent
24 such income does not in any year exceed
25 an amount equal to the credit for qualified

1 expenditures which would be determined
2 under section 48A for such year if the mu-
3 tual or cooperative telephone company was
4 not exempt from taxation.”

5 (d) CONFORMING AMENDMENT.—The table of sec-
6 tions for subpart E of part IV of subchapter A of chapter
7 1 of the Internal Revenue Code of 1986 is amended by
8 inserting after the item relating to section 48 the following
9 new item:

“Sec. 48A. Broadband credit.”

10 (e) REGULATORY MATTERS.—

11 (1) PROHIBITION.—No Federal or State agency
12 or instrumentality shall adopt regulations or rate-
13 making procedures that would have the effect of
14 confiscating any credit or portion thereof allowed
15 under section 48A of the Internal Revenue Code of
16 1986 (as added by this section) or otherwise sub-
17 verting the purpose of this section.

18 (2) TREASURY REGULATORY AUTHORITY.—It is
19 the intent of Congress in providing the broadband
20 credit under section 48A of the Internal Revenue
21 Code of 1986 (as added by this section) to provide
22 incentives for the purchase, installation, and connec-
23 tion of equipment and facilities offering expanded
24 broadband access to the Internet for users in certain
25 low income and rural areas of the United States, as

1 well as to residential users nationwide, in a manner
2 that maintains competitive neutrality among the var-
3 ious classes of providers of broadband services. Ac-
4 cordingly, the Secretary of the Treasury shall pre-
5 scribe such regulations as may be necessary or ap-
6 propriate to carry out the purposes of section 48A
7 of such Code, including—

8 (A) regulations to determine how and when
9 a taxpayer that incurs qualified expenditures
10 satisfies the requirements of section 48A of
11 such Code to provide broadband services, and

12 (B) regulations describing the information,
13 records, and data taxpayers are required to pro-
14 vide the Secretary to substantiate compliance
15 with the requirements of section 48A of such
16 Code.

17 Until the Secretary prescribes such regulations, tax-
18 payers may base such determinations on any reason-
19 able method that is consistent with the purposes of
20 section 48A of such Code.

21 (f) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), the amendments made by this section
24 shall apply to expenditures incurred after December
25 31, 2001.

1 (2) SPECIAL RULE.—The amendments made by
2 subsection (c) shall apply to amounts received after
3 December 31, 2001.

○