

House Bill 961

By: Representative Mangham of the 62nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the imposition, rate, and computation of income tax, so as to provide for an
3 income tax credit with respect to qualified broadband equipment for a limited period of time;
4 to provide for definitions; to provide for conditions and limitations; to provide for powers,
5 duties, and authority of the state revenue commissioner with respect to the foregoing; to
6 provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
10 imposition, rate, and computation of income tax, is amended by adding a new Code section
11 immediately following Code Section 48-7-29.8, to be designated Code Section 48-7-29.9,
12 to read as follows:

13 "48-7-29.9.

14 (a) As used in this Code section, the term:

15 (1) 'Cable operator' means the same as that term that is defined in Section 602(5) of the
16 federal Communications Act of 1934, as amended.

17 (2) 'Commercial mobile service carrier' means any person authorized to provide
18 commercial mobile radio service to subscribers as defined in Section 20.3 of Title 47,
19 Code of Federal Regulations (10-1-99 ed.), as amended.

20 (3) 'Depreciable property' means depreciable property which is eligible for the federal
21 investment tax credit, as defined in Sections 46(c) and 48 of the Internal Revenue Code
22 and subject to the limitations provided for certain regulated companies in Section 46(f)
23 of the Internal Revenue Code.

24 (4) 'Multiplexing' means the transmission of two or more signals over a communications
25 circuit without regard to the communications technology.

1 (5) 'Open video system operator' means the same as that term is defined in Section 653
2 of the federal Communications Act of 1934, as amended.

3 (6) 'Other wireless carrier' means any person, other than a telecommunications carrier,
4 commercial mobile service carrier, cable operator, open video operator, or satellite
5 carrier, providing broadband services to subscribers through the radio transmission of
6 energy.

7 (7) 'Packet switching' means controlling or routing the path of a digital transmission
8 signal which is assembled into packets or cells.

9 (8) 'Qualified broadband equipment' means equipment that is depreciable property, is
10 capable of transmitting signals at a rate of at least 200,000 bits per second to a subscriber
11 and at least 125,000 bits per second from a subscriber, and transmits signals to
12 subscribers in an underserved community and:

13 (A) In the case of a telecommunications carrier, such qualifying equipment shall be
14 necessary to the provision of broadband service and an integral part of a broadband
15 network;

16 (B) In the case of a commercial mobile service carrier, such qualifying equipment shall
17 extend from the subscriber side of the mobile telecommunications switching office to
18 a transmitting and receiving antenna, including such antenna, on the outside of the
19 structure in which the subscriber is located;

20 (C) In the case of a cable or open video system operator, such qualifying equipment
21 shall extend from the subscriber's side of the headend to the outside of the structure in
22 which the subscriber is located;

23 (D) In the case of a satellite carrier or a wireless carrier other than those listed in
24 subparagraphs (A) through (C) of this paragraph, such qualifying equipment is only that
25 equipment that extends from a transmitting and receiving antenna, including such
26 antenna, which transmits and receives signals to or from multiple subscribers to a
27 transmitting and receiving antenna on the outside of the structure in which the
28 subscriber is located;

29 (E) In the case of packet switching equipment, such packet equipment installed in
30 connection with other qualifying equipment listed in this paragraph, provided it is the
31 last in a series of equipment that transmits signals to a subscriber or the first in a series
32 of equipment that transmits signals from a subscriber; and

33 (F) In the case of multiplexing and demultiplexing equipment, such equipment only to
34 the extent that it is deployed in connection with providing broadband services in
35 locations between packet switching equipment and the structure in which the subscriber
36 is located.

1 (9) 'Satellite carrier' means any person using the facilities of a satellite or satellite
2 services licensed by the Federal Communications Commission and operating a fixed
3 satellite service or direct broadcast satellite service to provide point-to-multipoint
4 distribution of signals.

5 (10) 'Telecommunications carrier' means the same as that term is defined by
6 Section 3(44) of the Federal Communications Act of 1934, as amended, but does not
7 include a commercial mobile service provider.

8 (11) 'Underserved community' means a census tract that is designated underserved by the
9 commissioner after the department finds that fewer than 25 percent of households have
10 access to broadband service.

11 (b) Subject to the limitations of this Code section, for taxable years beginning January 1,
12 2004, and prior to January 1, 2009, there shall be allowed to a taxpayer a credit against
13 income taxes imposed by Code Section 48-7-21 for expenditures for qualified broadband
14 equipment in an underserved community.

15 (c) The credit shall be in an amount not to exceed 3 percent of the expenditures for
16 qualified broadband equipment in an underserved community or \$750,000.00, whichever
17 is less.

18 (d) No broadband equipment shall qualify for the credit until the taxpayer applies to and
19 obtains from the commissioner an order confirming that the installed equipment is qualified
20 broadband equipment.

21 (e) In no event shall the total amount of the tax credit under this Code section for a taxable
22 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the
23 taxpayer against succeeding years' tax liability. No such credit shall be allowed the
24 taxpayer against prior years' tax liability.

25 (f) The commissioner shall be authorized to promulgate any rules and regulations
26 necessary to implement and administer the provisions of this Code section."

27 **SECTION 2.**

28 This Act shall become effective on January 1, 2004.

29 **SECTION 3.**

30 All laws and parts of laws in conflict with this Act are repealed.