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HOUSE BILL NO. 2806

Offered January 19, 2001

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12.1, relating to Broadband Internet Access Tax Credit.*

 Patron—Hull

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12.1 as follows:

§ 58.1-439.12.1. Broadband Internet Access Tax Credit.

A. As used in this section:

"Current generation broadband service" means the transmission of signals at a rate of at least 1,500,000 bits per second to the subscriber and at least 200,000 bits per second from the subscriber.

"Next generation broadband service" means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 10,000,000 bits per second from the subscriber.

"Nonresidential subscriber" means a person or entity that purchases broadband services that are delivered to the permanent place of business of such person or entity.

"Qualified equipment" means equipment capable of providing current generation broadband services or next generation broadband services at any time to each subscriber who is utilizing such services.

"Qualified expenditure" means any amount chargeable to capital account with respect to the purchase and installation of qualified equipment, including any upgrades thereto, for which depreciation is allowable under section 168 of the Internal Revenue Code.

"Residential subscriber" means an individual who purchases broadband services that are delivered to such individual's dwelling.

"Rural subscriber" means a residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

"Rural area" means any census tract that (i) is not within ten miles of any incorporated or census designated place containing more than 25,000 people, and (ii) is not within a county or county equivalent that has an overall population density of more than 500 people per square mile of land.

"Subscriber" means a person who purchases current generation broadband services or next generation broadband services.

"Underserved subscriber" means a residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

"Underserved area" means any census tract (i) the poverty level of which is at least thirty percent based on the most recent census data, (ii) the median family income of which does not exceed (a) in the case of a census tract located in a metropolitan statistical area, seventy percent of the greater of the metropolitan area median family income or the statewide median family income, and (b) in the case of a census tract located in a nonmetropolitan statistical area, seventy percent of the nonmetropolitan statewide median family income.

B. For taxable years beginning on or after January 1, 2002, but before January 1, 2005, a taxpayer shall be allowed a credit against the taxes imposed by §§ 58.1-320 and 58.1-400 as set forth in this section for the purpose of accelerating deployment of (i) current generation broadband access to the Internet for users located in certain low income and rural areas and (ii) next generation broadband access for all Virginians. The tax credit for any taxable year shall equal the sum of (a) the current generation broadband credit, plus (b) the next generation broadband credit.

C. For purposes of this section, the current generation broadband credit for any taxable year shall equal ten percent of the qualified expenditures incurred with respect to qualified equipment offering current generation broadband services to rural subscribers or underserved subscribers and taken into account with respect to such taxable year. The next generation broadband credit for any taxable year shall equal twenty percent of the qualified expenditures incurred with respect to qualified equipment offering next generation broadband services to all rural subscribers, all underserved subscribers, or any other residential subscribers and taken into account with respect to such taxable year.

D. For purposes of this section, the offer of current generation broadband services or next generation broadband services through qualified equipment occurs when such class of service is

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59 *purchased by and provided to at least ten percent of the subscribers described in subsection C that such*
60 *equipment is capable of serving through the legal or contractual area access rights or obligations of the*
61 *taxpayer.*

62 *E. The total credit allowed under this section for all taxpayers in any taxable year shall not exceed*
63 *\$750,000. If the amount of credits otherwise allowable under this section exceed the \$750,000 limit for*
64 *any taxable year, such credits shall be allocated to taxpayers on a pro rata basis by the Department of*
65 *Taxation.*

66 *F. The amount of any credit attributable to a partnership, electing small business corporation (S*
67 *corporation), or limited liability company shall be allocated to the individual partners, shareholders, or*
68 *members, respectively, in proportion to their ownership or interest in such business entities.*