

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas *As Engrossed: H3/11/05 H3/28/05 H3/31/05*

2 85th General Assembly

A Bill

3 Regular Session, 2005

HOUSE BILL 2953

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5 By: Representatives Dobbins, Stovall, Jackson

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For An Act To Be Entitled

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AN ACT TO IMPROVE ECONOMIC AND EDUCATIONAL

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OPPORTUNITIES BY FURTHERING THE GOAL OF PROVIDING

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ALL ARKANSANS WITH THE ABILITY TO CONNECT TO THE

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WORLD WIDE WEB VIA BROADBAND; TO ESTABLISH THE

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BROADBAND INCENTIVE ACT OF 2005; AND FOR OTHER

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PURPOSES.

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16

Subtitle

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TO ESTABLISH THE BROADBAND INCENTIVE ACT

18

OF 2005.

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. Arkansas Code Title 15, Subtitle 1, Chapter 4 is amended to

24

add an additional subchapter to read as follows:

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15-4-3101. Title.

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This act shall be known as the "Broadband Incentive Act of 2005".

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15-4-3102. Definitions.

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As used in this subchapter:

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(1) "Broadband provider" means any person or legal entity that

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provides broadband services within the State of Arkansas;

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(2)(A) "Broadband technology" means any equipment or software:

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(i) Capable of being used for the transmission of

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information at a rate, prior to taking into account the effects of any signal

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degradation, that is not less than three hundred eighty-four kilobits per

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second (384Kbps) in at least one direction; and



1 (ii) Capable of being used with:

2 (a) Wireline telecommunications services;

3 (b) Wireless telecommunications services;

4 (c) Satellite-based telecommunications

5 services;

6 (d) Cable television services;

7 (e) Power-line based high speed

8 telecommunications services; or

9 (f) Any combination of the services listed in
10 subdivisions (2)(A)(ii)(a)-(e) of this section.

11 (B) "Broadband technology" includes, but is not limited
12 to:

13 (i) Asynchronous transfer mode switches;

14 (ii) Routers;

15 (iii) Servers;

16 (iv) Multiplexers;

17 (v) Fiber optics; and

18 (vi) Equipment related to the items listed in
19 subdivisions (2)(B)(i)-(vi) of this section;

20 (3) "Cost of deployed broadband technology" means:

21 (A) The cost of the broadband technology deployed to
22 provide broadband services in this state; and

23 (B) The cost of equipment placement, including labor costs
24 and other one-time costs typically capitalized pursuant to Generally Accepted
25 Accounting Principles as prescribed by the Financial Accounting Standards
26 Board; and

27 (4) "State income tax credit" means a credit against the tax
28 liability imposed by the Income Tax Act of 1929, § 26-51-101 et seq.

29 (5) "Underserved area" means an area of the State of Arkansas in
30 which broadband internet service is not available by cable, wire, or radio
31 frequency on June 1, 2005.

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33 15-4-3103. Income tax credit.

34 (a) A broadband provider who offers broadband service to the residents
35 of an underserved area shall be entitled to a state income tax credit in the
36 amount of fifteen percent (15%) of the cost of deployed broadband technology

1 used to provide the broadband service within the underserved area.

2 (b) The income tax credit provided under this section shall be
3 applicable to the owner of the broadband technology deployed regardless of
4 whether the technology is leased by a third party for the purpose of
5 providing broadband based services to the consumer.

6 (c) The costs of deployed technology eligible for the tax credit
7 provided by this subchapter shall remain deductible for state income tax
8 purposes.

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10 15-4-3104. Eligibility for tax credit.

11 (a) Broadband technology deployed on or after June 1, 2005, shall be
12 eligible for the tax credit under this subchapter.

13 (b) Broadband technology deployed after June 1, 2011, shall not be
14 eligible for the tax credit.

15 (c) The tax credit for the cost of deployed broadband technology
16 allowed under this subchapter will expire six (6) tax years following the tax
17 year in which the credit was earned.

18 (d) If the tax credit for any tax year exceeds fifty percent (50%) of
19 the income tax liability for that tax year, the unused portions may be
20 carried forward for six (6) consecutive tax years following the tax year in
21 which the credit was earned.

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23 15-4-3105. Reporting.

24 (a) Each broadband provider claiming the tax credit for any tax year
25 shall submit a detailed accounting of the applicable tax year's broadband
26 deployment to the Director of the Department of Finance and Administration.

27 (b) The report shall be submitted within thirty (30) calendar days
28 after the broadband provider files its income tax return and shall contain
29 sufficient information to accurately determine that the credits claimed are
30 consistent with this subchapter.

31 (c)(1) If the director discovers any discrepancies or excess credits,
32 the director shall notify the broadband provider within thirty (30) calendar
33 days after receipt of the report.

34 (2) The Arkansas Tax Procedure Act, § 26-18-101 et seq. shall be
35 applicable to the tax credit provided under this subchapter. The notice
36 requirement in subdivision (c)(1) of this section is in addition to the

1 provisions of the Arkansas Tax Procedure Act § 26-18-101 et seq.

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3 SECTION 2. Arkansas Code Title 26, Chapter 52, Subchapter 5 is amended
4 to add an additional section to read as follows:

5 26-52-523. Broadband technology.

6 (a) The Director of the Department of Finance and Administration shall
7 refund any state sales or use tax to a broadband provider paid by the
8 broadband provider on the purchase of broadband technology deployed in
9 underserved areas between June 1, 2005 and June 1, 2011, if the broadband
10 provider furnishes the director the following:

11 (1) A written request for a refund under § 26-18-507;

12 (2) Evidence that the sales or use tax was paid by the broadband
13 provider; and

14 (3) Other information required by the director.

15 (b)(1) A claim for refund of sales or use tax under this section is
16 subject to the Arkansas Tax Procedure Act, § 26-18-101 et seq.

17 (2) Any claim for refund shall be in writing and filed within
18 three (3) years after the date the tax was paid by the broadband provider.

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20 /s/ Dobbins, et al
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