

---

---

# SENATE BILL No. 436

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-29.

**Synopsis:** Tax credit for broadband equipment investments. Provides a state tax credit to broadband service providers for qualified investments made after June 30, 2004, and before January 1, 2007, for the costs of purchasing, constructing, expanding, improving, or maintaining qualified broadband equipment. Provides that the credit equals the lesser of: (1) 3% of the total qualified investments for the taxable year; or (2) \$22,500.

**Effective:** July 1, 2004.

---

---

**Ford**

---

---

January 12, 2004, read first time and referred to Committee on Finance.

---

---

C  
o  
p  
y



Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

C  
o  
p  
y

# SENATE BILL No. 436



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2004]:

4 **Chapter 29. Broadband Equipment Tax Credit**

5 **Sec. 1. As used in this chapter, "broadband service" means a**  
6 **connection to the Internet at a rate of:**

7 (1) **at least two hundred (200) kilobits per second downstream**  
8 **to a subscriber; and**

9 (2) **at least one hundred twenty-five (125) kilobits per second**  
10 **from the subscriber.**

11 **Sec. 2. As used in this chapter, "broadband service provider"**  
12 **means a person or an entity, including a pass through entity, that**  
13 **provides broadband service to a subscriber.**

14 **Sec. 3. As used in this chapter, "pass through entity" means:**

15 (1) **a corporation that is exempt from the adjusted gross**  
16 **income tax under IC 6-3-2-2.8(2);**

17 (2) **a partnership;**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

(3) a limited liability company; or  
 (4) a limited liability partnership.

Sec. 4. (a) As used in this chapter, "qualified broadband equipment" means any equipment, property, or infrastructure that is:

- (1) located in Indiana;
- (2) used to provide broadband service to subscribers in Indiana; and
- (3) owned by a broadband service provider and located outside a subscriber's premises.

(b) The term does not include computers, modems, set top boxes, and related items used by a subscriber to facilitate broadband connection within the subscriber's home or business.

Sec. 5. As used in this chapter, "qualified investment" means an expenditure that is made by a taxpayer after June 30, 2004, and before January 1, 2007, for the costs of purchasing, constructing, expanding, improving, or maintaining qualified broadband equipment. The term does not include any payments by a lessee of qualified broadband equipment for use of the equipment.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- (2) IC 6-5.5 (financial institutions tax); and
- (3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "subscriber" refers to a customer that receives broadband service from a broadband service provider.

Sec. 8. As used in this chapter, "taxpayer" means a broadband service provider that has state tax liability.

Sec. 9. A taxpayer that makes a qualified investment in a taxable year is entitled to a credit against the taxpayer's state tax liability for the taxable year. The amount of the credit equals the lesser of:

- (1) three percent (3%) of the taxpayer's total qualified investments during the taxable year; or
- (2) twenty-two thousand five hundred dollars (\$22,500).

Sec. 10. (a) If the amount of the credit determined under section 9 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the taxpayer's succeeding taxable

C  
o  
p  
y



1 years. Each time that the credit is carried over to a succeeding  
2 taxable year, the credit is to be reduced by the amount that was  
3 used as a credit during the immediately preceding taxable year.  
4 The credit provided by this chapter may be carried forward and  
5 applied to succeeding taxable years for fourteen (14) taxable years  
6 following the unused credit year, including succeeding taxable  
7 years after December 31, 2006, as long as the unused credit is for  
8 a qualified investment made before January 1, 2007.

9 (b) A credit earned by a taxpayer in a particular taxable year  
10 shall be applied against the taxpayer's state tax liability for that  
11 taxable year before any credit carryover is applied against that  
12 liability under subsection (a).

13 (c) A taxpayer is not entitled to any carryback or refund of any  
14 unused credit.

15 Sec. 11. (a) If a pass through entity is entitled to a credit under  
16 section 9 of this chapter but does not have state tax liability against  
17 which the tax credit may be applied, a shareholder, partner, or  
18 member of the pass through entity is entitled to a tax credit equal  
19 to:

- 20 (1) the tax credit determined for the pass through entity for
- 21 the taxable year; multiplied by
- 22 (2) the percentage of the pass through entity's distributive
- 23 income to which the shareholder, partner, or member is
- 24 entitled.

25 (b) The credit provided under subsection (a) is in addition to a  
26 tax credit to which a shareholder, partner, or member of a pass  
27 through entity is otherwise entitled under this chapter. However,  
28 a pass through entity and a shareholder, partner, or member of the  
29 pass through entity may not claim more than one (1) credit for the  
30 same qualified investment.

31 Sec. 12. To receive the credit provided by this chapter, a  
32 taxpayer must claim the credit on the taxpayer's annual state tax  
33 return or returns in the manner prescribed by the department. The  
34 taxpayer shall submit to the department all information that the  
35 department determines is necessary for the calculation of the credit  
36 provided by this chapter and for the determination of whether an  
37 expenditure was for a qualified investment.

**C**  
**O**  
**P**  
**Y**

