

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2698

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.

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## IN THE SENATE OF THE UNITED STATES

JUNE 8, 2000

Mr. MOYNIHAN (for himself, Mr. KERRY, Mr. ROCKEFELLER, Ms. SNOWE, Mr. ALLARD, Mr. BAUCUS, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUNNING, Mr. BURNS, Mr. DASCHLE, Mr. DURBIN, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Ms. LANDRIEU, Mrs. LINCOLN, Ms. MIKULSKI, Mr. REID, Mr. ROBB, Mr. ROBERTS, Mr. SCHUMER, Mr. THURMOND, Mr. ENZI, Mrs. BOXER, and Mr. DEWINE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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 2000”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

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

3 (1) The Internet has been the single greatest  
4 contributor to the unprecedented economic expansion  
5 experienced by the United States over the last 8  
6 years.

7 (2) Increasing the speed that Americans can ac-  
8 cess the Internet is necessary to ensure the contin-  
9 ued expansion.

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

17 (4) Similarly, small businesses in low income  
18 and rural areas are also deprived of full information  
19 access because of their dependence on narrowband  
20 facilities.

21 (5) By contrast, many residential users located  
22 in higher income urban and suburban areas and  
23 urban business users can access the Internet from a  
24 variety of carriers at current generation broadband  
25 speeds in excess of 1,500,000 bits per second, giving

1       them a choice among carriers and high-speed access  
2       to a wide array of audio and data applications.

3           (6) The result is a growing disparity in the  
4       speed of access to the Internet and the opportunities  
5       it creates between subscribers located in low income  
6       and rural areas and subscribers located in higher in-  
7       come urban and suburban areas.

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

16          (8) Experts also believe that, under current fi-  
17      nancial and regulatory conditions, the disparity in  
18      access will be exacerbated with the deployment of  
19      next generation broadband capability.

20          (9) The disparity in current broadband access  
21      to the Internet, the slow pace of deployment of next  
22      generation broadband capability, and the projected  
23      disparity in access to such capability will likely prove  
24      detrimental to the on-going economic expansion.

1           (10) It is, therefore, appropriate for Congress  
2           to take action to narrow the current and future dis-  
3           parity in the level of broadband access to the Inter-  
4           net, and to accelerate deployment of next generation  
5           broadband capability.

6           (b) PURPOSE.—The purpose of this Act is to accel-  
7           erate deployment of current generation broadband access  
8           to the Internet for users located in certain low income and  
9           rural areas and to accelerate deployment of next genera-  
10          tion broadband access for all Americans.

11 **SEC. 3. BROADBAND CREDIT.**

12          (a) IN GENERAL.—Subpart E of part IV of chapter  
13          1 of the Internal Revenue Code of 1986 (relating to rules  
14          for computing investment credit) is amended by inserting  
15          after section 48 the following new section:

16 **“SEC. 48A. BROADBAND CREDIT.**

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

19                  “(1) the current generation broadband credit,  
20                  plus

21                  “(2) the next generation broadband credit.

22          “(b) CURRENT GENERATION BROADBAND CREDIT;  
23          NEXT GENERATION BROADBAND CREDIT.—For purposes  
24          of this section—

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

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

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

19           “(1) IN GENERAL.—Qualified expenditures with  
20 respect to qualified equipment shall be taken into ac-  
21 count with respect to the first taxable year in which  
22 current generation broadband services or next gen-  
23 eration broadband services are offered by the tax-  
24 payer through such equipment to subscribers.

1           “(2) OFFER OF SERVICES.—For purposes of  
2 paragraph (1), the offer of current generation  
3 broadband services or next generation broadband  
4 services through qualified equipment occurs when  
5 such class of service is purchased by and provided  
6 to at least 10 percent of the subscribers described  
7 in subsection (b) which such equipment is capable  
8 of serving through the legal or contractual area ac-  
9 cess rights or obligations of the taxpayer.

10           “(d) SPECIAL ALLOCATION RULES.—

11           “(1) CURRENT GENERATION BROADBAND SERV-  
12 ICES.—For purposes of determining the current gen-  
13 eration broadband credit under subsection (a)(1), if  
14 the qualified equipment is capable of serving both  
15 the subscribers described under subsection (b)(1)  
16 and other subscribers, the qualified expenditures  
17 shall be multiplied by a fraction—

18           “(A) the numerator of which is the sum of  
19 the total potential subscriber populations within  
20 the rural areas and the underserved areas  
21 which the equipment is capable of serving, and

22           “(B) the denominator of which is the total  
23 potential subscriber population of the area  
24 which the equipment is capable of serving.

1           “(2) NEXT GENERATION BROADBAND SERV-  
 2           ICES.—For purposes of determining the next genera-  
 3           tion broadband credit under subsection (a)(2), if the  
 4           qualified equipment is capable of serving both the  
 5           subscribers described under subsection (b)(2) and  
 6           other subscribers, the qualified expenditures shall be  
 7           multiplied by a fraction—

8                   “(A) the numerator of which is the sum  
 9                   of—

10                           “(i) the total potential subscriber pop-  
 11                           ulations within the rural areas and under-  
 12                           served areas, plus

13                           “(ii) the total potential subscriber  
 14                           population of the area consisting only of  
 15                           residential subscribers not described in  
 16                           clause (i),

17                   which the equipment is capable of serving, and

18                           “(B) the denominator of which is the total  
 19                           potential subscriber population of the area  
 20                           which the equipment is capable of serving.

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

22                   “(1) ANTENNA.—The term ‘antenna’ means  
 23                   any device used to transmit or receive signals  
 24                   through the electromagnetic spectrum, including sat-  
 25                   ellite equipment.

1           “(2) CABLE OPERATOR.—The term ‘cable oper-  
2           ator’ has the meaning given such term by section  
3           602(5) of the Communications Act of 1934 (47  
4           U.S.C. 522(5)).

5           “(3) COMMERCIAL MOBILE SERVICE CAR-  
6           RIER.—The term ‘commercial mobile service carrier’  
7           means any person authorized to provide commercial  
8           mobile radio service as defined in section 20.3 of  
9           title 47, Code of Federal Regulations.

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

16          “(5) NEXT GENERATION BROADBAND SERV-  
17          ICE.—The term ‘next generation broadband service’  
18          means the transmission of signals at a rate of at  
19          least 22,000,000 bits per second to the subscriber  
20          and at least 10,000,000 bits per second from the  
21          subscriber.

22          “(6) NONRESIDENTIAL SUBSCRIBER.—The  
23          term ‘nonresidential subscriber’ means a person or  
24          entity who purchases broadband services which are

1 delivered to the permanent place of business of such  
2 person or entity.

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

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

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

19 “(10) QUALIFIED EQUIPMENT.—

20 “(A) IN GENERAL.—The term ‘qualified  
21 equipment’ means equipment capable of pro-  
22 viding current generation broadband services or  
23 next generation broadband services at any time  
24 to each subscriber who is utilizing such services.

1           “(B) ONLY CERTAIN INVESTMENT TAKEN  
2 INTO ACCOUNT.—Except as provided in sub-  
3 paragraph (C), equipment shall be taken into  
4 account under subparagraph (A) only to the ex-  
5 tent it—

6           “(i) extends from the last point of  
7 switching to the outside of the unit, build-  
8 ing, dwelling, or office owned or leased by  
9 a subscriber in the case of a telecommuni-  
10 cations carrier,

11           “(ii) extends from the customer side  
12 of the mobile telephone switching office to  
13 a transmission/receive antenna (including  
14 such antenna) on the outside of the unit,  
15 building, dwelling, or office owned or  
16 leased by a subscriber in the case of a  
17 commercial mobile service carrier,

18           “(iii) extends from the customer side  
19 of the headend to the outside of the unit,  
20 building, dwelling, or office owned or  
21 leased by a subscriber in the case of a  
22 cable operator or open video system oper-  
23 ator, or

24           “(iv) extends from a transmission/re-  
25 ceive antenna (including such antenna)

1           which transmits and receives signals to or  
2           from multiple subscribers to a trans-  
3           mission/receive antenna (including such  
4           antenna) on the outside of the unit, build-  
5           ing, dwelling, or office owned or leased by  
6           a subscriber in the case of a satellite car-  
7           rier or other wireless carrier, unless such  
8           other wireless carrier is also a tele-  
9           communications carrier.

10           “(C) PACKET SWITCHING EQUIPMENT.—  
11           Packet switching equipment, regardless of loca-  
12           tion, shall be taken into account under subpara-  
13           graph (A) only if it is deployed in connection  
14           with equipment described in subparagraph (B)  
15           and it is uniquely designed to perform the func-  
16           tion of packet switching for current generation  
17           broadband services or next generation  
18           broadband services, but only if such packet  
19           switching is the last in a series of such func-  
20           tions performed in the transmission of a signal  
21           to a subscriber or the first in a series of such  
22           functions performed in the transmission of a  
23           signal from a subscriber.

24           “(11) QUALIFIED EXPENDITURE.—

1           “(A) IN GENERAL.—The term ‘qualified  
2           expenditure’ means any amount chargeable to  
3           capital account with respect to the purchase  
4           and installation of qualified equipment (includ-  
5           ing any upgrades thereto) for which deprecia-  
6           tion is allowable under section 168.

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

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

15          “(13) RURAL SUBSCRIBER.—

16                 “(A) IN GENERAL.—The term ‘rural sub-  
17                 scriber’ means a residential subscriber residing  
18                 in a dwelling located in a rural area or nonresi-  
19                 dential subscriber maintaining a permanent  
20                 place of business located in a rural area.

21                 “(B) RURAL AREA.—The term ‘rural area’  
22                 means any census tract which—

23                         “(i) is not within 10 miles of any in-  
24                         corporated or census designated place con-  
25                         taining more than 25,000 people, and

1                   “(ii) is not within a county or county  
2                   equivalent which has an overall population  
3                   density of more than 500 people per  
4                   square mile of land.

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

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

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

1           “(A) includes all members of an affiliated  
2           group of which a telecommunications carrier is  
3           a member, and

4           “(B) does not include a commercial mobile  
5           service carrier.

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

14          “(18) UNDERSERVED SUBSCRIBER.—

15                 “(A) IN GENERAL.—The term ‘under-  
16                 served subscriber’ means a residential sub-  
17                 scriber residing in a dwelling located in an un-  
18                 derserved area or nonresidential subscriber  
19                 maintaining a permanent place of business lo-  
20                 cated in an underserved area.

21                 “(B) UNDERSERVED AREA.—The term  
22                 ‘underserved area’ means any census tract—

23                         “(i) the poverty level of which is at  
24                         least 30 percent (based on the most recent  
25                         census data),

1           “(ii) the median family income of  
2           which does not exceed—

3                   “(I) in the case of a census tract  
4                   located in a metropolitan statistical  
5                   area, 70 percent of the greater of the  
6                   metropolitan area median family in-  
7                   come or the statewide median family  
8                   income, and

9                   “(II) in the case of a census tract  
10                  located in a nonmetropolitan statis-  
11                  tical area, 70 percent of the non-  
12                  metropolitan statewide median family  
13                  income, or

14                  “(iii) which is located in an empower-  
15                  ment zone or enterprise community des-  
16                  ignated under section 1391.

17           “(f) DESIGNATION OF CENSUS TRACTS.—The Sec-  
18           retary shall, not later than 90 days after the date of the  
19           enactment of this section, designate and publish those cen-  
20           sus tracts meeting the criteria described in paragraphs  
21           (13)(B) and (18)(B) of subsection (e), and such tracts  
22           shall remain so designated for the period ending with the  
23           termination date described in subsection (g).

24           “(g) TERMINATION.—This section shall not apply to  
25           expenditures incurred after December 31, 2005.”

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

7 “(4) the broadband credit.”

8 (c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE  
9 TELEPHONE COMPANIES.—Section 501(c)(12)(B) of the  
10 Internal Revenue Code of 1986 (relating to list of exempt  
11 organizations) is amended by striking “or” at the end of  
12 clause (iii), by striking the period at the end of clause (iv)  
13 and inserting “, or”, and by adding at the end the fol-  
14 lowing new clause:

15 “(v) from sources not described in  
16 subparagraph (A), but only to the extent  
17 such income does not in any year exceed  
18 an amount equal to the credit for qualified  
19 expenditures which would be determined  
20 under section 48A for such year if the mu-  
21 tual or cooperative telephone company was  
22 not exempt from taxation.”

23 (d) CONFORMING AMENDMENT.—The table of sec-  
24 tions for subpart E of part IV of subchapter A of chapter  
25 1 of the Internal Revenue Code of 1986 is amended by

1 inserting after the item relating to section 48 the following  
 2 new item:

“Sec. 48A. Broadband credit.”

3 (e) **EFFECTIVE DATES.**—

4 (1) **IN GENERAL.**—Except as provided in para-  
 5 graph (2), the amendments made by this section  
 6 shall apply to expenditures incurred after December  
 7 31, 2000.

8 (2) **SPECIAL RULE.**—The amendments made by  
 9 subsection (e) shall apply to amounts received after  
 10 December 31, 2000.

11 **SEC. 4. REGULATORY MATTERS.**

12 No Federal or State agency or instrumentality shall  
 13 adopt regulations or ratemaking procedures that would  
 14 have the effect of confiscating any credit or portion thereof  
 15 allowed under section 48A of the Internal Revenue Code  
 16 of 1986 (as added by section 3) or otherwise subverting  
 17 the purpose of this Act.

18 **SEC. 5. STUDY AND REPORT.**

19 (a) **SENSE OF CONGRESS.**—It is the sense of Con-  
 20 gress that in order to maintain competitive neutrality, the  
 21 credit allowed under section 48A of the Internal Revenue  
 22 Code of 1986 (as added by section 3) should be adminis-  
 23 tered in such a manner so as to ensure that each class  
 24 of carrier receives the same level of financial incentive to

1 deploy current generation broadband services and next  
2 generation broadband services.

3 (b) STUDY AND REPORT.—The Secretary of the  
4 Treasury shall, within 180 days after the effective date  
5 of section 3, study the impact of the credit allowed under  
6 section 48A of the Internal Revenue Code of 1986 (as  
7 added by section 3) on the relative competitiveness of po-  
8 tential classes of carriers of current generation broadband  
9 services and next generation broadband services, and shall  
10 report to Congress the findings of such study, together  
11 with any legislative or regulatory proposals determined to  
12 be necessary to ensure that the purposes of such credit  
13 can be furthered without impacting competitive neutrality  
14 among such classes of carriers.

○