

110TH CONGRESS
2D SESSION

H. R. 5682

To improve access to broadband service in rural and underserved areas
of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2008

Mr. ALLEN introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve access to broadband service in rural and underserved areas of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rural America Communication Expansion for the Future Act of 2008”.

1 **TITLE I—TAX INCENTIVES FOR**
2 **BROADBAND SERVICES IN**
3 **RURAL AND UNDERSERVED**
4 **AREAS**

5 **SEC. 101. EXPENSING OF BROADBAND INTERNET ACCESS**
6 **EXPENDITURES.**

7 (a) IN GENERAL.—Part VI of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 (relating to
9 itemized deductions for individuals and corporations) is
10 amended by inserting after section 190 the following new
11 section:

12 **“SEC. 191. BROADBAND EXPENDITURES.**

13 “(a) TREATMENT OF EXPENDITURES.—

14 “(1) IN GENERAL.—A taxpayer may elect to
15 treat any qualified broadband expenditure which is
16 paid or incurred by the taxpayer as an expense
17 which is not chargeable to capital account. Any ex-
18 penditure which is so treated shall be allowed as a
19 deduction.

20 “(2) ELECTION.—An election under paragraph
21 (1) shall be made at such time and in such manner
22 as the Secretary may prescribe by regulation.

23 “(b) QUALIFIED BROADBAND EXPENDITURES.—For
24 purposes of this section—

1 “(1) IN GENERAL.—The term ‘qualified
2 broadband expenditure’ means, with respect to any
3 taxable year, any direct or indirect costs incurred
4 after the date of the enactment of this section and
5 before the date which is 4 years after such date and
6 properly taken into account with respect to—

7 “(A) the purchase or installation of qualifi-
8 fied equipment (including any upgrades there-
9 to), and

10 “(B) the connection of such qualified
11 equipment to any qualified subscriber.

12 “(2) CERTAIN SATELLITE EXPENDITURES EX-
13 CLUDED.—Such term shall not include any costs in-
14 curred with respect to the launching of any satellite
15 equipment.

16 “(3) LEASED EQUIPMENT.—Such term shall in-
17 clude so much of the purchase price paid by the less-
18 sor of qualified equipment subject to a lease de-
19 scribed in subsection (c)(2)(B) as is attributable to
20 expenditures incurred by the lessee which would oth-
21 erwise be described in paragraph (1).

22 “(4) LIMITATION WITH REGARD TO CURRENT
23 GENERATION BROADBAND SERVICES.—Only 50 per-
24 cent of the amounts taken into account under para-
25 graph (1) with respect to qualified equipment

1 through which current generation broadband serv-
2 ices are provided shall be treated as qualified
3 broadband expenditures.

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

6 “(1) IN GENERAL.—Qualified broadband ex-
7 penditures with respect to qualified equipment shall
8 be taken into account with respect to the first tax-
9 able year in which—

10 “(A) current generation broadband services
11 are provided through such equipment to quali-
12 fied subscribers, or

13 “(B) next generation broadband services
14 are provided through such equipment to quali-
15 fied subscribers.

16 “(2) LIMITATION.—

17 “(A) IN GENERAL.—Qualified expenditures
18 shall be taken into account under paragraph (1)
19 only with respect to qualified equipment—

20 “(i) the original use of which com-
21 mences with the taxpayer, and

22 “(ii) which is placed in service, after
23 the date of the enactment of this section.

24 “(B) SALE-LEASEBACKS.—For purposes of
25 subparagraph (A), if property—

1 “(i) is originally placed in service
2 after the date of the enactment of this sec-
3 tion by any person, and

4 “(ii) sold and leased back by such per-
5 son within 3 months after the date such
6 property was originally placed in service,
7 such property shall be treated as originally
8 placed in service not earlier than the date on
9 which such property is used under the leaseback
10 referred to in clause (ii).

11 “(d) SPECIAL ALLOCATION RULES.—

12 “(1) CURRENT GENERATION BROADBAND SERV-
13 ICES.—For purposes of determining the amount of
14 qualified broadband expenditures under subsection
15 (a)(1) with respect to qualified equipment through
16 which current generation broadband services are
17 provided, if the qualified equipment is capable of
18 serving both qualified subscribers and other sub-
19 scribers, the qualified broadband expenditures shall
20 be multiplied by a fraction—

21 “(A) the numerator of which is the sum of
22 the number of potential qualified subscribers
23 within the rural areas and the underserved
24 areas which the equipment is capable of serving
25 with current generation broadband services, and

1 “(B) the denominator of which is the total
2 potential subscriber population of the area
3 which the equipment is capable of serving with
4 current generation broadband services.

5 “(2) NEXT GENERATION BROADBAND SERV-
6 ICES.—For purposes of determining the amount of
7 qualified broadband expenditures under subsection
8 (a)(1) with respect to qualified equipment through
9 which next generation broadband services are pro-
10 vided, if the qualified equipment is capable of serv-
11 ing both qualified subscribers and other subscribers,
12 the qualified expenditures shall be multiplied by a
13 fraction—

14 “(A) the numerator of which is the sum
15 of—

16 “(i) the number of potential qualified
17 subscribers within the rural areas and un-
18 derserved areas, plus

19 “(ii) the number of potential qualified
20 subscribers within the area consisting only
21 of residential subscribers not described in
22 clause (i),

23 which the equipment is capable of serving with
24 next generation broadband services, and

1 “(B) the denominator of which is the total
2 potential subscriber population of the area
3 which the equipment is capable of serving with
4 next generation broadband services.

5 “(e) DEFINITIONS.—For purposes of this section—
6 “(1) ANTENNA.—The term ‘antenna’ means
7 any device used to transmit or receive signals
8 through the electromagnetic spectrum, including sat-
9 ellite equipment.

10 “(2) CABLE OPERATOR.—The term ‘cable oper-
11 ator’ has the meaning given such term by section
12 602(5) of the Communications Act of 1934 (47
13 U.S.C. 522(5)).

14 “(3) COMMERCIAL MOBILE SERVICE CAR-
15 RIER.—The term ‘commercial mobile service carrier’
16 means any person authorized to provide commercial
17 mobile radio service as defined in section 20.3 of
18 title 47, Code of Federal Regulations.

19 “(4) CURRENT GENERATION BROADBAND SERV-
20 ICE.—The term ‘current generation broadband serv-
21 ice’ means the transmission of signals at a rate of
22 at least 5,000,000 bits per second to the subscriber
23 and at least 1,000,000 bits per second from the sub-
24 scriber.

1 “(5) MULTIPLEXING OR DEMULTIPLEXING.—

2 The term ‘multiplexing’ means the transmission of 2
3 or more signals over a single channel, and the term
4 ‘demultiplexing’ means the separation of 2 or more
5 signals previously combined by compatible multi-
6 plexing equipment.

7 “(6) NEXT GENERATION BROADBAND SERV-
8 ICE.—The term ‘next generation broadband service’
9 means the transmission of signals at a rate of at
10 least 50,000,000 bits per second to the subscriber
11 and at least 10,000,000 bits per second from the
12 subscriber.

13 “(7) NONRESIDENTIAL SUBSCRIBER.—The
14 term ‘nonresidential subscriber’ means any person
15 who purchases broadband services which are deliv-
16 ered to the permanent place of business of such per-
17 son.

18 “(8) OPEN VIDEO SYSTEM OPERATOR.—The
19 term ‘open video system operator’ means any person
20 authorized to provide service under section 653 of
21 the Communications Act of 1934 (47 U.S.C. 573).

22 “(9) OTHER WIRELESS CARRIER.—The term
23 ‘other wireless carrier’ means any person (other than
24 a telecommunications carrier, commercial mobile
25 service carrier, cable operator, open video system op-

1 erator, or satellite carrier) providing current genera-
2 tion broadband service or next generation broadband
3 service to subscribers through the radio transmission
4 of energy.

5 “(10) PACKET SWITCHING.—The term ‘packet
6 switching’ means controlling or routing the path of
7 any digitized transmission signal which is assembled
8 into packets or cells.

9 “(11) PROVIDER.—The term ‘provider’ means,
10 with respect to any qualified equipment—

11 “(A) a cable operator,
12 “(B) a commercial mobile service carrier,
13 “(C) an open video system operator,
14 “(D) a satellite carrier,
15 “(E) a telecommunications carrier, or
16 “(F) any other wireless carrier,
17 providing current generation broadband services or
18 next generation broadband services to subscribers
19 through such qualified equipment.

20 “(12) PROVISION OF SERVICES.—A provider
21 shall be treated as providing services to 1 or more
22 subscribers if—

23 “(A) such a subscriber has been passed by
24 the provider’s equipment and can be connected

1 to such equipment for a standard connection
2 fee,

3 “(B) the provider is physically able to de-
4 liver current generation broadband services or
5 next generation broadband services, as applica-
6 ble, to such a subscriber without making more
7 than an insignificant investment with respect to
8 such subscriber,

9 “(C) the provider has made reasonable ef-
10 forts to make such subscribers aware of the
11 availability of such services,

12 “(D) such services have been purchased by
13 1 or more such subscribers, and

14 “(E) such services are made available to
15 such subscribers at average prices comparable
16 to those at which the provider makes available
17 similar services in any areas in which the pro-
18 vider makes available such services.

19 “(13) QUALIFIED EQUIPMENT.—

20 “(A) IN GENERAL.—The term ‘qualified
21 equipment’ means equipment which provides
22 current generation broadband services or next
23 generation broadband services—

24 “(i) at least a majority of the time
25 during periods of maximum demand to

1 each subscriber who is utilizing such serv-
2 ices, and

3 “(ii) in a manner substantially the
4 same as such services are provided by the
5 provider to subscribers through equipment
6 with respect to which no deduction is al-
7 lowed under subsection (a)(1).

8 “(B) ONLY CERTAIN INVESTMENT TAKEN
9 INTO ACCOUNT.—Except as provided in sub-
10 paragraph (C) or (D), equipment shall be taken
11 into account under subparagraph (A) only to
12 the extent it—

13 “(i) extends from the last point of
14 switching to the outside of the unit, build-
15 ing, dwelling, or office owned or leased by
16 a subscriber in the case of a telecommuni-
17 cations carrier,

18 “(ii) extends from the customer side
19 of the mobile telephone switching office to
20 a transmission/receive antenna (including
21 such antenna) owned or leased by a sub-
22 scriber in the case of a commercial mobile
23 service carrier,

24 “(iii) extends from the customer side
25 of the headend to the outside of the unit,

1 building, dwelling, or office owned or
2 leased by a subscriber in the case of a
3 cable operator or open video system oper-
4 ator, or

5 “(D) MULTIPLEXING AND
6 DEMULITPLEXING EQUIPMENT.—Multiplexing
7 and demultiplexing equipment shall be taken
8 into account under subparagraph (A) only to
9 the extent it is deployed in connection with
10 equipment described in subparagraph (B) and
11 is uniquely designed to perform the function of
12 multiplexing and demultiplexing packets or cells
13 of data and making associated application
14 adaptons, but only if such multiplexing or
15 demultiplexing equipment is located between
16 packet switching equipment described in sub-
17 paragraph (C) and the subscriber’s premises.

18 “(14) QUALIFIED SUBSCRIBER.—The term
19 ‘qualified subscriber’ means—

20 “(A) with respect to the provision of cur-
21 rent generation broadband services—

1 “(ii) any residential subscriber residing
2 in a dwelling located in a rural area or
3 underserved area which is not a saturated
4 market, and
5 “(B) with respect to the provision of next
6 generation broadband services—

7 “(i) any nonresidential subscriber
8 maintaining a permanent place of business
9 in a rural area or underserved area, or
10 “(ii) any residential subscriber.

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

15 “(16) RURAL AREA.—The term ‘rural area’
16 means any census tract which—

17 “(A) is not within 10 miles of any incorporated
18 or census designated place containing
19 more than 25,000 people, and

20 “(B) is not within a county or county
21 equivalent which has an overall population density
22 of more than 500 people per square mile of
23 land.

24 “(17) RURAL SUBSCRIBER.—The term ‘rural
25 subscriber’ means any residential subscriber residing

1 in a dwelling located in a rural area or nonresiden-
2 tial subscriber maintaining a permanent place of
3 business located in a rural area.

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

16 “(19) SATURATED MARKET.—The term ‘satu-
17 rated market’ means any census tract in which, as
18 of the date of the enactment of this section—

19 “(A) current generation broadband services
20 have been provided by a single provider to 85
21 percent or more of the total number of potential
22 residential subscribers residing in dwellings lo-
23 cated within such census tract, and

24 “(B) such services can be utilized—

1 “(i) at least a majority of the time
2 during periods of maximum demand by
3 each such subscriber who is utilizing such
4 services, and

5 “(ii) in a manner substantially the
6 same as such services are provided by the
7 provider to subscribers through equipment
8 with respect to which no deduction is al-
9 lowed under subsection (a)(1).

10 “(20) SUBSCRIBER.—The term ‘subscriber’
11 means any person who purchases current generation
12 broadband services or next generation broadband
13 services.

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

18 “(A) includes all members of an affiliated
19 group of which a telecommunications carrier is
20 a member, and

21 “(B) does not include a commercial mobile
22 service carrier.

23 “(22) TOTAL POTENTIAL SUBSCRIBER POPU-
24 LATION.—The term ‘total potential subscriber popu-
25 lation’ means, with respect to any area and based on

1 the most recent census data, the total number of po-
2 tential residential subscribers residing in dwellings
3 located in such area and potential nonresidential
4 subscribers maintaining permanent places of busi-
5 ness located in such area.

6 “(23) UNDERSERVED AREA.—The term ‘under-
7 served area’ means—

8 “(A) any census tract which is located in—
9 “(i) an empowerment zone or enter-
10 prise community designated under section
11 1391, or

12 “(ii) the District of Columbia Enter-
13 prise Zone established under section 1400,
14 or

15 “(B) any census tract—

16 “(i) the poverty level of which is at
17 least 30 percent (based on the most recent
18 census data), and

19 “(ii) the median family income of
20 which does not exceed—

21 “(I) in the case of a census tract
22 located in a metropolitan statistical
23 area, 70 percent of the greater of the
24 metropolitan area median family in-

1 come or the statewide median family
2 income, and

8 “(24) UNDERSERVED SUBSCRIBER.—The term
9 ‘underserved subscriber’ means any residential sub-
10 scriber residing in a dwelling located in an under-
11 served area or nonresidential subscriber maintaining
12 a permanent place of business located in an under-
13 served area.

14 "(f) SPECIAL RULES.—

15 “(1) PROPERTY USED OUTSIDE THE UNITED
16 STATES, ETC., NOT QUALIFIED.—No expenditures
17 shall be taken into account under subsection (a)(1)
18 with respect to the portion of the cost of any prop-
19 erty referred to in section 50(b) or with respect to
20 the portion of the cost of any property specified in
21 an election under section 179.

22 “(2) BASIS REDUCTION.—

23 “(A) IN GENERAL.—For purposes of this
24 title, the basis of any property shall be reduced

1 by the portion of the cost of such property
2 taken into account under subsection (a)(1).

3 “(B) ORDINARY INCOME RECAPTURE.—
4 For purposes of section 1245, the amount of
5 the deduction allowable under subsection (a)(1)
6 with respect to any property which is of a char-
7 acter subject to the allowance for depreciation
8 shall be treated as a deduction allowed for de-
9 preciation under section 167.

10 “(3) COORDINATION WITH SECTION 38.—No
11 credit shall be allowed under section 38 with respect
12 to any amount for which a deduction is allowed
13 under subsection (a)(1).”.

14 (b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE
15 TELEPHONE COMPANIES.—Section 512(b) of the Internal
16 Revenue Code of 1986 (relating to modifications) is
17 amended by adding at the end the following new para-
18 graph:

19 “(20) SPECIAL RULE FOR MUTUAL OR COOPER-
20 ATIVE TELEPHONE COMPANIES.—A mutual or coop-
21 erative telephone company which for the taxable year
22 satisfies the requirements of section 501(c)(12)(A)
23 may elect to reduce its unrelated business taxable in-
24 come for such year, if any, by an amount that does
25 not exceed the qualified broadband expenditures

1 which would be taken into account under section
2 191 for such year by such company if such company
3 was not exempt from taxation. Any amount which is
4 allowed as a deduction under this paragraph shall
5 not be allowed as a deduction under section 191 and
6 the basis of any property to which this paragraph
7 applies shall be reduced under section
8 1016(a)(38).”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) Section 263(a)(1) of the Internal Revenue
11 Code of 1986 (relating to capital expenditures) is
12 amended by striking “or” at the end of subparagraph
13 (J), by striking the period at the end of subparagraph
14 (K) and inserting “, or”, and by adding
15 at the end the following new subparagraph:

16 “(L) expenditures for which a deduction is
17 allowed under section 191.”.

18 (2) Section 1016(a) of such Code is amended
19 by striking “and” at the end of paragraph (36), by
20 striking the period at the end of paragraph (37) and
21 inserting “, and”, and by adding at the end the following new paragraph:

23 “(38) to the extent provided in section
24 191(f)(2).”.

“Sec. 191. Broadband expenditures.”.

5 (d) DESIGNATION OF CENSUS TRACTS.—

6 (1) IN GENERAL.—The Secretary of the Treas-
7 ury shall, not later than 90 days after the date of
8 the enactment of this Act, designate and publish
9 those census tracts meeting the criteria described in
10 paragraphs (16), (22), and (23) of section 191(e) of
11 the Internal Revenue Code of 1986 (as added by
12 this section). In making such designations, the Sec-
13 retary of the Treasury shall consult with such other
14 departments and agencies as the Secretary deter-
15 mines appropriate.

16 (2) SATURATED MARKET.—

17 (A) IN GENERAL.—For purposes of design-
18 nating and publishing those census tracts meet-
19 ing the criteria described in subsection (e)(19)
20 of such section 191—

21 (i) the Secretary of the Treasury shall
22 prescribe not later than 30 days after the
23 date of the enactment of this Act the form
24 upon which any provider which takes the
25 position that it meets such criteria with re-

6 (ii) the Secretary of the Treasury
7 shall publish an aggregate list of such cen-
8 sus tracts and the applicable providers not
9 later than 30 days after the last date such
10 submissions are allowed under clause (i).

11 (B) NO SUBSEQUENT LISTS REQUIRED.—
12 The Secretary of the Treasury shall not be re-
13 quired to publish any list of census tracts meet-
14 ing such criteria subsequent to the list de-
15 scribed in subparagraph (A)(ii).

16 (e) OTHER REGULATORY MATTERS.—

17 (1) PROHIBITION.—No Federal or State agency
18 or instrumentality shall adopt regulations or rate-
19 making procedures that would have the effect of
20 eliminating or reducing any deduction or portion
21 thereof allowed under section 191 of the Internal
22 Revenue Code of 1986 (as added by this section) or
23 otherwise subverting the purpose of this section.

24 (2) TREASURY REGULATORY AUTHORITY.—It is
25 the intent of Congress in providing the election to

1 deduct qualified broadband expenditures under sec-
2 tion 191 of the Internal Revenue Code of 1986 (as
3 added by this section) to provide incentives for the
4 purchase, installation, and connection of equipment
5 and facilities offering expanded broadband access to
6 the Internet for users in certain low income and
7 rural areas of the United States, as well as to resi-
8 dential users nationwide, in a manner that main-
9 tains competitive neutrality among the various class-
10 es of providers of broadband services. Accordingly,
11 the Secretary of the Treasury shall prescribe such
12 regulations as may be necessary or appropriate to
13 carry out the purposes of section 191 of such Code,
14 including—

15 (A) regulations to determine how and when
16 a taxpayer that incurs qualified broadband ex-
17 penditures satisfies the requirements of section
18 191 of such Code to provide broadband serv-
19 ices, and

20 (B) regulations describing the information,
21 records, and data taxpayers are required to pro-
22 vide the Secretary to substantiate compliance
23 with the requirements of section 191 of such
24 Code.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to expenditures incurred after the
3 date of the enactment of this Act.

4 **SEC. 102. CREDIT FOR OPERATIONAL EXPENSES FOR WIRE-**
5 **LESS BROADBAND NETWORKS SERVING**
6 **RURAL OR UNDERSERVED AREAS.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 (relating to business related credits) is amended by
10 adding at the end the following:

11 **“SEC. 45O. CREDIT FOR OPERATIONAL EXPENSES FOR**
12 **WIRELESS BROADBAND NETWORKS SERVING**
13 **RURAL OR UNDERSERVED AREAS.**

14 “(a) GENERAL RULE.—For purposes of section 38,
15 the wireless broadband operations credit determined under
16 this section for the taxable year is the amount equal to
17 the qualified operational expenses of the taxpayer for the
18 taxable year.

19 “(b) LIMITATION.—The amount allowed as a credit
20 under this section for a taxable year shall not exceed
21 \$10,000.

22 “(c) QUALIFIED OPERATIONAL EXPENSES.—For
23 purposes of this section—

24 “(1) IN GENERAL.—The term ‘qualified oper-
25 ational expenses’ means amounts paid or incurred to

1 provide broadband services in the United States to
2 rural subscribers or underserved subscribers through
3 the radio transmission of energy. Such amounts does
4 not includes amounts properly allocable to capital
5 account.

6 “(2) BROADBAND SERVICES.—The term
7 ‘broadband services’ means the transmission of sig-
8 nals at a rate of at least 5,000,000 bits per second
9 to the subscriber and at least 1,000,000 bits per sec-
10 ond from the subscriber.

11 “(3) OTHER DEFINITIONS.—The terms ‘rural
12 area’, ‘subscriber’, ‘underserved area’, have the
13 meanings given the respective term by 191(e).

14 “(d) RELATED PERSONS.—For purposes of this sec-
15 tion, all persons treated as a single employer under sub-
16 section (a) or (b) of section 52 shall be treated as a single
17 taxpayer.

18 “(e) DENIAL OF DOUBLE BENEFIT.—For purposes
19 of this section, no amount taken into account as a deduc-
20 tion or credit under any other provision of this chapter
21 shall be taken into account under this section.”.

22 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
23 tion 38(b) of such Code (relating to current year business
24 credit) is amended by striking “plus” at the end of para-
25 graph (30), by striking the period at the end of paragraph

1 (31), and inserting “, plus”, and by adding at the end
2 the following:

3 “(32) the wireless broadband operations credit
4 determined under section 45O(a).”.

5 (c) CLERICAL AMENDMENT.—The table of sections
6 for subpart D of part IV of subchapter A of chapter 1
7 of such Code is amended by at the end the following:

“Sec. 45O. Credit for operational expenses for wireless broadband networks
serving rural or underserved areas.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 the date of the enactment of this Act.

11 **TITLE II—NTIA GRANT 12 PROGRAM**

13 **SEC. 201. ESTABLISHMENT OF NTIA GRANT PROGRAM FOR 14 BROADBAND DEPLOYMENT IN RURAL AND 15 UNDERSERVED AREAS.**

16 The National Telecommunications and Information
17 Administration Organization Act (47 U.S.C. 901 et seq.)
18 is amended by adding at the end the following new section:
19 **“SEC. 159. RURAL BROADBAND DEPLOYMENT GRANT PRO-
20 GRAM.**

21 “(a) ESTABLISHMENT.—The Secretary of Commerce,
22 acting through the NTIA, shall establish a competitive
23 program to provide an eligible unit of local government

1 with a grant of not more than \$75,000 to establish pub-
2 licly-available networks of broadband service.

3 “(b) ELIGIBILITY.—In order to be eligible to receive
4 a grant under this section, an eligible unit of local govern-
5 ment shall prepare and submit an application at such
6 time, in such form, and with such information and assur-
7 ances as the Secretary may require, including an assur-
8 ance that the eligible unit of local government will take
9 such steps as are necessary to maintain the equipment and
10 devices, including hiring and training personnel, to main-
11 tain the project for a 5-year period beginning on either
12 the date when such network is established or 1 year after
13 the grant is received, whichever is earlier.

14 “(c) DEFINITIONS.—In this section:

15 “(1) BROADBAND SERVICE.—The term
16 ‘broadband service’ means the transmission of sig-
17 nals at a rate of at least 5,000,000 bits per second
18 to the subscriber and at least 1,000,000 bits per sec-
19 ond from the subscriber.

20 “(2) ELIGIBLE UNIT OF LOCAL GOVERN-
21 MENT.—The term ‘eligible unit of local government’
22 means a unit of local government that contains with-
23 in its jurisdiction at least one rural area or under-
24 served area.

1 “(3) RURAL AREA.—The term ‘rural area’
2 means any census tract which—

3 “(A) is not within 10 miles of any incor-
4 porated or census designated place containing
5 more than 25,000 people, and

6 “(B) is not within a county or county
7 equivalent which has an overall population den-
8 sity of more than 500 people per square mile of
9 land.

10 “(4) UNDERSERVED AREA.—The term ‘under-
11 served area’ means—

12 “(A) any census tract which is located in—
13 “(i) an empowerment zone or enter-
14 prise community designated under section
15 1391, or

16 “(ii) the District of Columbia Enter-
17 prise Zone established under section 1400,
18 or

19 “(B) any census tract—

20 “(i) the poverty level of which is at
21 least 30 percent (based on the most recent
22 census data), and

23 “(ii) the median family income of
24 which does not exceed—

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

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

12 “(d) REPORT REQUIREMENT.—The Secretary of
13 Commerce shall submit to Congress a report during each
14 of fiscal years 2010 through 2014 on how funds were ex-
15 pended during the previous fiscal year.

16 “(e) AUTHORIZATION OF APPROPRIATIONS.—For
17 grants under this section, there are authorized to be ap-
18 propriated to the Secretary of Commerce \$15,000,000 for
19 each of fiscal years 2009 through 2013.”.

1 **TITLE III—EXTENSION OF PUB-**
2 **LIC SAFETY INTEROPERABLE**
3 **COMMUNICATIONS GRANT**
4 **PROGRAM**

5 **SEC. 301. EXTENSION OF PUBLIC SAFETY INTEROPERABLE**
6 **COMMUNICATIONS GRANT PROGRAM.**

7 Section 3006(a)(2) of the Digital Television Transi-
8 tion and Public Safety Act of 2005 (Public Law 109–171;
9 120 Stat. 24) is amended by striking “fiscal year 2010”
10 and inserting “fiscal year 2013”.

11 **TITLE IV—FARM BILL**
12 **PROVISIONS**

13 **SEC. 401. EXPANSION OF 911 ACCESS.**

14 Section 315(b) of the Rural Electrification Act of
15 1936 (7 U.S.C. 904e(b)) is amended by striking “2002
16 through 2007” and inserting “2009 through 2013”.

17 **SEC. 402. ACCESS TO BROADBAND TELECOMMUNICATIONS**
18 **SERVICES IN RURAL AREAS.**

19 (a) **DEFINITIONS.**—Section 601(b) of the Rural Elec-
20 trification Act of 1936 (7 U.S.C. 950bb(b)) is amended
21 by striking paragraph (2) and inserting the following:

22 **“(2) ELIGIBLE RURAL COMMUNITY.**—The term
23 ‘eligible rural community’ means any area of the
24 United States that is not—

1 “(A) included within the boundaries of any
2 city, town, borough, or village, whether incor-
3 porated or unincorporated, with a population of
4 more than 40,000 inhabitants; or
5 “(B) the urbanized area contiguous and
6 adjacent to such a city or town.”.

7 (b) PRIORITIZATION OF APPLICATIONS.—

8 (1) DEFINITION.—Section 601(b) of such Act
9 (7 U.S.C. 950bb(b)), as amended by subsection (a)
10 of this section, is amended by adding at the end the
11 following:

12 “(3) INCUMBENT SERVICE PROVIDER.—The
13 term ‘incumbent service provider’ means, with re-
14 spect to an application submitted pursuant to this
15 section, an entity that is providing broadband service
16 to at least 5 percent of the households in the service
17 area proposed in the application.”.

18 (2) PRIORITY BASED ON NUMBER OF INCUM-
19 BENT SERVICE PROVIDERS.—Section 601(c) of such
20 Act (7 U.S.C. 950bb(c)) is amended by adding at
21 the end the following:

22 “(3) APPLICATIONS PRIORITIZED BASED ON
23 NUMBER OF INCUMBENT SERVICE PROVIDERS.—

24 “(A) IN GENERAL.—In making or guaran-
25 teeing loans under paragraph (1), the Secretary

1 shall give priority, in the following order, to ap-
2 plications from eligible rural communities that
3 have—

4 “(i) no incumbent service provider;
5 “(ii) 1 incumbent service provider; or
6 “(iii) 2 incumbent service providers
7 who, together, serve not more than 25 per-
8 cent of the households in the service area
9 proposed in the application.

10 “(B) PROHIBITIONS.—In carrying out this
11 section, the Secretary may not—

12 “(i) make a loan to an eligible com-
13 munity in which there are 3 or more in-
14 cumbent service providers, unless—

15 “(I) the loan is to an incumbent
16 service provider of the community;

17 “(II) the other providers in that
18 community are notified of the applica-
19 tion before approval by the Secretary,
20 and have sufficient time to comment
21 on the application; and

22 “(III) the application includes
23 substantially increasing—

1 “(aa) the quality of
2 broadband service in the commu-
3 nity; and

4 “(bb) the provision of
5 broadband service to unserved
6 households inside and outside the
7 community; or

8 “(ii) make a loan for new construction
9 to any community in which more than 75
10 percent of the households may obtain af-
11 fordable broadband service, on request,
12 from at least 1 incumbent service pro-
13 vider.”.

14 (c) PAPERWORK REDUCTION.—Section 601(c) of
15 such Act (7 U.S.C. 950bb(c)), as amended by subsection
16 (b)(2) of this section, is amended by adding at the end
17 the following:

18 “(4) PAPERWORK REDUCTION.—The Secretary
19 shall take steps to reduce the cost and paperwork
20 associated with applying for a loan or loan guar-
21 antee under this section by first-time applicants,
22 particularly those who are smaller and start-up
23 Internet providers, including by providing for a new
24 application which shall maintain the ability of the

1 Secretary to make an analysis of the risk associated
2 with the loan involved.”.

3 (d) INCREASE IN MAXIMUM NUMBER OF SUB-
4 SCRIBER LINES THAT MAY BE SERVED BY AN ELIGIBLE
5 ENTITY.—Section 601(d)(3) of such Act (7 U.S.C.
6 950bb(d)(3)) is amended by striking “2” and inserting
7 “10”.

8 (e) LIMITATION ON FUNDS TO ENTITIES WITH
9 MORE THAN 2 PERCENT OF SUBSCRIBER LINES.—Sec-
10 tion 601(d) of such Act (7 U.S.C. 950bb(d)) is amended
11 by adding at the end the following:

12 “(4) LIMITATION ON FUNDS TO ENTITIES WITH
13 MORE THAN 2 PERCENT OF SUBSCRIBER LINES.—
14 Not more than 25 percent of the loans made under
15 this section in a single fiscal year may be approved
16 for entities that serve more than 2 percent of the
17 telephone subscriber lines in the United States.”.

18 (f) LOAN TERM NOT TO EXCEED 35 YEARS.—Sec-
19 tion 601(g)(2) of such Act (7 U.S.C. 950bb(g)(2)) is
20 amended by striking “not to exceed the useful life of the
21 assets constructed, improved, or acquired with the pro-
22 ceeds of the loan or extension of credit.” and inserting
23 “of such length, not exceeding 35 years, as the borrower
24 may request, so long as the Secretary determines that the
25 loan is adequately secured. In determining the term of a

1 loan or loan guarantee, the Secretary shall consider whether
2 the recipient is or would be serving an area that is not
3 receiving broadband services.”

4 (g) ADEQUACY OF SECURITY.—Section 601 of such
5 Act (7 U.S.C. 950bb) is amended by redesignating sub-
6 sections (h) through (k) as subsections (i) through (l), re-
7 spectively, and inserting after subsection (g) the following:

8 “(h) ADEQUACY OF SECURITY.—The Secretary shall
9 ensure that the type, amount, and method of security used
10 to secure any loan or loan guarantee provided under this
11 section is commensurate to the risk involved with the loan
12 or loan guarantee, particularly when the loan or loan guar-
13 antee is issued to a financially healthy, strong, and stable
14 entity. In determining the amount and method of security,
15 the Secretary shall consider reducing the security in areas
16 that do not have broadband service.”.

17 (h) GENERAL REPORT ON PROGRAM.—Section 601
18 of such Act (7 U.S.C. 950bb), as amended by subsection
19 (g) of this section, is amended by redesignating sub-
20 sections (k) and (l) as subsections (l) and (m), respec-
21 tively, and inserting after subsection (j) the following:

22 “(k) GENERAL PROGRAM REPORT.—Not later than
23 December 1 of each year, the Secretary shall prepare and
24 submit to the Committee on Agriculture of the House of
25 Representatives and the Committee on Agriculture, Nutri-

1 tion, and Forestry of the Senate a report that details for
2 the preceding fiscal year—

3 “(1) the loans made under this section;

4 “(2) the communities served under this section;

5 “(3) the speed of the broadband service offered
6 by applicants for, and recipients of, loans or loan
7 guarantees under this section;

8 “(4) the type of services offered by the appli-
9 cants and recipients;

10 “(5) the length of time to approve applications
11 submitted pursuant to this section; and

12 “(6) the outreach efforts undertaken by the De-
13 partment of Agriculture to encourage persons in
14 areas without broadband service to submit applica-
15 tions pursuant to this section.”.

16 (i) NATIONAL CENTER FOR RURAL TELECOMMUNI-
17 CATIONS ASSESSMENT.—Section 601 of such Act (7
18 U.S.C. 950bb), as amended by subsections (g) and (h) of
19 this section, is amended by redesignating subsections (l)
20 and (m) as subsections (m) and (n), respectively, and in-
21 serting after subsection (k) the following:

22 “(l) NATIONAL CENTER FOR RURAL TELECOMMUNI-
23 CATIONS ASSESSMENT.—

24 “(1) ESTABLISHMENT OF CENTER.—The Sec-
25 retary shall designate a National Center for Rural

1 Telecommunications Assessment (in this subsection
2 referred to as the ‘Center’).

3 “(2) CRITERIA.—The Secretary shall use the
4 following criteria in making the designation:

5 “(A) The Center must be an entity with a
6 focus on rural policy research and a minimum
7 of 5 years experience in rural telecommuni-
8 cations research and assessment.

9 “(B) The Center must be capable of as-
10 sessing broadband services in rural areas.

11 “(C) The Center must have significant ex-
12 perience with other rural economic development
13 centers and organizations in the assessment of
14 rural policies and formulation of policy solu-
15 tions at the local, State, and Federal level.

16 “(3) BOARD.—The management of the Center
17 shall be vested in a board of directors that is capable
18 of oversight of the duties set forth in paragraph (4).

19 “(4) DUTIES.—The Center shall—

20 “(A) assess the effectiveness of programs
21 provided under subsection (d) in increasing
22 broadband penetration and purchase in rural
23 areas, especially in those rural communities
24 identified by the Secretary as having no service

1 before award of a broadband loan or loan guar-
2 antee under subsection (d);

3 “(B) develop assessments of broadband
4 availability in rural areas, working with existing
5 rural development centers selected by the Cen-
6 ter;

7 “(C) identify policies and initiatives at the
8 local, State and Federal level that have in-
9 creased broadband penetration and purchase in
10 rural areas;

11 “(D) conduct a national study of rural
12 households and businesses focusing on the
13 adoption of, barriers to, and utilization of
14 broadband services; and

15 “(E) provide reports to the public on the
16 activities undertaken under this section.

17 “(5) REPORTING REQUIREMENTS.—The Center
18 shall report by December 1 of each year to the Sec-
19 retary its activities, the results of its research, and
20 any such information the Secretary may request re-
21 garding the prior fiscal year. In reporting to the
22 Secretary the Center shall include the following:

23 “(A) Assessments of the programs pro-
24 vided under subsection (b).

1 “(B) Annual assessments on broadband
2 availability in rural areas under consideration
3 by the Center.

4 “(C) Annual assessments on the effects of
5 the policy initiatives identified in paragraph
6 (2)(C).

7 “(D) Results from the national study of
8 rural households and businesses conducted
9 under paragraph (4)(D).

10 “(6) AUTHORIZATION OF APPROPRIATIONS.—
11 There are authorized to be appropriated to the Sec-
12 retary to carry out this subsection not more than
13 \$1,000,000 for each of the fiscal years 2009 through
14 2013.”.

15 (j) FUNDING.—Section 601(m) of such Act (7 U.S.C.
16 950bb(l)) as so redesignated by subsections (g) through
17 (i) of this section, is amended—

18 (1) by striking paragraph (1);
19 (2) by redesignating paragraphs (2), (3), and
20 (4) as paragraphs (1), (2), and (3), respectively;
21 (3) in paragraph (1)(B) (as so redesignated),
22 by striking “2007” and inserting “2013”;
23 (4) in paragraph (2) (as so redesignated), by
24 striking “2003 through 2007” and inserting “2009
25 through 2013”; and

“(D) ELIGIBLE TRIBAL COMMUNITIES.—

4 Of the amounts made available under subparagraph
5 graph (A) for a fiscal year, 10 percent shall be
6 reserved for entities serving eligible tribal com-
7 munities.

“(E) UNOBLIGATED AMOUNTS.—Any

9 amounts in the reserve established for eligible
10 tribal communities for a fiscal year under sub-
11 paragraph (D) that are not obligated by June
12 30 of the fiscal year shall be available to the
13 Secretary to make loans and loan guarantees
14 under this section to eligible entities in any
15 State, as determined by the Secretary.”.

(k) EXTENSION OF AUTHORITY TO ISSUE LOANS.—

17 Section 601(n) of such Act (7 U.S.C. 950bb(m)), as so
18 redesignated by subsections (f) through (h) of this section,
19 is amended by striking “2007” and inserting “2013”.

20 SEC. 403. COMMUNITY CONNECT GRANT PROGRAM.

21 Title VI of the Rural Electrification Act of 1936 (7
22 U.S.C. 950bb) is amended by adding at the end the fol-
23 lowing:

1 **“SEC. 602. COMMUNITY CONNECT GRANT PROGRAM.**

2 “(a) ESTABLISHMENT.—The Secretary shall estab-
3 lish a grant program to be known as the ‘Community Con-
4 nect Grant Program’ to provide financial assistance to eli-
5 gible applicants to provide broadband transmission service
6 that fosters economic growth and delivers enhanced edu-
7 cational, health care, and public safety services.

8 “(b) ELIGIBILITY.—To be eligible for a grant under
9 this section, the applicant must—

10 “(1) be legally organized as an incorporated
11 tribal organization, an Indian tribe, or tribal organi-
12 zation, as defined in subsections (b) and (c) of sec-
13 tion 4 of the Indian Self-Determination and Edu-
14 cation Assistance Act (25 U.S.C. 450b(b) and (c)),
15 a State or local unit of government, or other legal
16 entity, including a cooperative, private corporation,
17 or limited liability company organized on a for-profit
18 or not-for-profit basis;

19 “(2) have the legal capacity and authority to
20 own and operate broadband facilities as proposed in
21 its application, to enter into contracts, and to other-
22 wise comply with applicable Federal statutes and
23 regulations; or

24 “(3) be in an eligible rural community (as de-
25 fined in section 601(b)(2) of the Rural Electrifica-
26 tion Act of 1936).

1 “(c) INELIGIBLE GRANT PURPOSES.—A grant made
2 under this section may not be used—

3 “(1) to finance the duplication of any
4 broadband transmission service provided by another
5 entity; or

6 “(2) with respect to facilities, to provide local
7 exchange telecommunications service to any person
8 or entity receiving the service.

9 “(d) PRIORITY.—In making grants under this sec-
10 tion, the Secretary shall give priority to grants that will
11 enhance community access to telemedicine and distance
12 learning resources.

13 “(e) MATCHING CONTRIBUTIONS.—

14 “(1) IN GENERAL.—To be eligible to receive a
15 grant under subsection (a), a grant applicant shall
16 provide a matching contribution of at least 15 per-
17 cent of the grant amount requested, in funds and in-
18 kind contributions in a proportion to be determined
19 by the Secretary.

20 “(2) LIMITATIONS.—

21 “(A) Costs incurred by or on behalf of an
22 applicant, for facilities, installed equipment, or
23 other services rendered before submission of a
24 completed application shall not be considered to

1 be for an eligible grant purpose or a matching
2 contribution.

3 “(B) Any financial assistance from Federal
4 sources shall not be considered to be a match-
5 ing contribution for purposes of this section,
6 unless there is a Federal statutory exception
7 specifically authorizing the Federal financial as-
8 sistance to be so considered.

9 "(f) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated to the Secretary to carry
11 out this section not more than \$25,000,000 for each of
12 the fiscal years 2009 through 2013.".

13 SEC. 404. ASSISTANCE FOR RURAL PUBLIC TELEVISION
14 STATIONS.

15 Section 2333 of the Food, Agriculture, Conservation
16 and Trade Act of 1990 (7 U.S.C. Sec. 950aaa-2) is
17 amended by adding at the end the following:

18 “(j) DIGITAL SERVICE TRANSITION ASSISTANCE FOR
19 PUBLIC TELEVISION STATIONS.—The Secretary may pro-
20 vide grants under this section to noncommercial education
21 television broadcast stations that serve rural areas for the
22 purposes of developing digital facilities, equipment, and in-
23 frastructure to enhance digital services to rural areas.”.

1 **SEC. 405. TELEMEDICINE AND DISTANCE LEARNING SERV-**2 **ICES IN RURAL AREAS.**

3 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
4 2335A of the Food, Agriculture, Conservation and Trade
5 Act of 1990 (7 U.S.C. 950aaa–5) is amended by striking
6 “2007” and inserting “2013”.

7 (b) CONFORMING AMENDMENT.—Section 1(b) of
8 Public Law 102–551 (7 U.S.C. 950aaa note) is amended
9 by striking “2007” and inserting “2013”.

10 **SEC. 406. GUARANTEES FOR BONDS AND NOTES ISSUED**11 **FOR ELECTRIFICATION OR TELEPHONE PUR-**
12 **POSES.**

13 Section 313A(f) of the Rural Electrification Act of
14 1936 (7 U.S.C. 940c–1(f)) is amended by striking “2007”
15 and inserting “2013”.

16 **SEC. 407. COMPREHENSIVE RURAL BROADBAND STRATEGY.**

17 Not later than 180 days after the date of the enact-
18 ment of this Act, the Secretary of Agriculture shall submit
19 to the President, the Committee on Agriculture of the
20 House of Representatives, and the Committee on Agri-
21 culture, Nutrition, and Forestry of the Senate a report
22 describing a comprehensive rural broadband strategy that
23 includes—

24 (1) recommendations—

25 (A) to promote interagency coordination of
26 Federal agencies in regards to policies, proce-

1 dures, and targeted resources, and to improve
2 and streamline the polices, programs, and serv-
3 ices;

4 (B) to coordinate among Federal agencies
5 regarding existing rural broadband or rural ini-
6 tiatives that could be of value to rural
7 broadband development;

8 (C) to address both short- and long-term
9 solutions and needs assessments for a rapid
10 build-out of rural broadband solutions and ap-
11 plications for Federal, State, regional, and local
12 government policy makers;

13 (D) to identify how specific Federal agency
14 programs and resources can best respond to
15 rural broadband requirements and overcome ob-
16 stacles that currently impede rural broadband
17 deployment; and

18 (E) to promote successful model deploy-
19 ments and appropriate technologies being used
20 in rural areas so that State, regional, and local
21 governments can benefit from the cataloguing
22 and successes of other State, regional, and local
23 governments; and

4 **TITLE V—TELEHEALTH**

5 **PROGRAMS**

6 SEC. 601. TELEHEALTH PROGRAMS.

7 (a) TELEHEALTH NETWORK AND TELEHEALTH RE-
8 SOURCE CENTERS GRANT PROGRAMS.—Subsection (s) of
9 section 330I of the Public Health Service Act (42 U.S.C.
10 254c-14) is amended to read as follows:

11 "(s) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to carry out this sec-
13 tion—

14 “(1) for grants under subsection (d)(1),
15 \$5,000,000 for each of fiscal years 2009 through
16 2013; and

17 “(2) for grants under subsection (d)(2),
18 \$5,000,000 for each of fiscal years 2009 through
19 2013.”

20 (b) TELEMEDICINE; INCENTIVE GRANTS REGARDING
21 COORDINATION AMONG STATES.—Subsection (b) of sec-
22 tion 330L of the Public Health Service Act (42 U.S.C.
23 245c-18) is amended to read as follows:

24 "(b) AUTHORIZATION OF APPROPRIATIONS.—To
25 carry out subsection (a), there is authorized to be appro-

1 priated \$5,000,000 for each of fiscal years 2009 through
2 2013.”.

○