

111TH CONGRESS  
1ST SESSION

# H. R. 691

To amend the Internal Revenue Code of 1986 to provide a credit against income tax for businesses furnishing broadband services to underserved and rural areas.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2009

Mr. MEEK of Florida introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a credit against income tax for businesses furnishing broadband services to underserved and rural areas.

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 Access  
5 Equality Act of 2009”.

1 **SEC. 2. CREDIT FOR PROPERTY USED TO FURNISH**  
 2 **BROADBAND SERVICES IN UNDERSERVED**  
 3 **AND RURAL AREAS.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-  
 5 chapter A of chapter 1 of the Internal Revenue Code of  
 6 1986 (relating to business related credits) is amended by  
 7 inserting after section 45Q the following new section:

8 **“SEC. 45R. PROPERTY USED TO FURNISH BROADBAND**  
 9 **SERVICES IN UNDERSERVED AND RURAL**  
 10 **AREAS.**

11 “(a) IN GENERAL.—For purposes of section 38, the  
 12 broadband services credit determined under this section  
 13 is an amount equal to the applicable percentage of the cost  
 14 of each qualified broadband property placed in service dur-  
 15 ing the taxable year.

16 “(b) APPLICABLE PERCENTAGE.—

17 “(1) IN GENERAL.—For purposes of subsection  
 18 (a), the applicable percentage is—

19 “(A) 50 percent for qualified broadband  
 20 property for underserved and rural areas in  
 21 which, on the date of the enactment of this sec-  
 22 tion, not more than the greater of—

23 “(i) 5 percent of the households, or

24 “(ii) 20 households,

25 have broadband access, and

1           “(B) 30 percent for qualified broadband  
 2           property for underserved and rural areas which,  
 3           on such date, are not described in paragraph  
 4           (1).

5           “(2) INCREASED PERCENTAGE WHERE HIGH  
 6           SPEED SERVICE PROVIDED.—The applicable percent-  
 7           age determined under paragraph (1) shall be in-  
 8           creased by 10 percentage points for qualified  
 9           broadband property providing transmission service  
 10          at a speed which is not less than—

11           “(A) except in the case of commercial mo-  
 12          bile radio services, 50 megabits per second  
 13          downstream and 20 megabits per second up-  
 14          stream, and

15           “(B) in the case of commercial mobile  
 16          radio services, 10 megabits per second down-  
 17          stream and 2 megabits per second upstream.

18          “(c) DEFINITIONS.—For purposes of this section—

19           “(1) QUALIFIED BROADBAND PROPERTY.—The  
 20          term ‘qualified broadband property’ means section  
 21          1245 property (as defined in section 1245(a)(3))—

22           “(A) which is used to provide broadband  
 23          services in underserved or rural areas to pur-  
 24          chasers of such services,

25           “(B) which is—

1 “(i) tangible property (to which sec-  
2 tion 168 applies), or

3 “(ii) computer software (as defined in  
4 section 197(e)(3)(B)) which is described in  
5 section 197(e)(3)(A) and to which section  
6 167 applies, and

7 “(C) the original use of which commences  
8 with the taxpayer.

9 Such term shall not include any property described  
10 in section 50(b).

11 “(2) BROADBAND.—The term ‘broadband’  
12 means an Internet Protocol-based transmission serv-  
13 ice (at a speed which is not less than 5 megabits per  
14 second downstream and 1 megabit per second up-  
15 stream) that enables users to send and receive voice,  
16 video, data, graphics, or a combination, without re-  
17 gard to any transmission media or technology.

18 “(3) UNDERSERVED AREA.—The term ‘under-  
19 served area’ means—

20 “(A) any census tract that is located in—

21 “(i) an empowerment zone or enter-  
22 prise community designated under section  
23 1391, or

1 “(ii) the District of Columbia Enter-  
2 prise Zone established under section 1400,  
3 or

4 “(B) any census tract—

5 “(i) the poverty level of which is at  
6 least 30 percent (based on the most recent  
7 census data), and

8 “(ii) the median family income of  
9 which does not exceed—

10 “(I) in the case of a census tract  
11 located in a metropolitan statistical  
12 area, 70 percent of the greater of the  
13 metropolitan area median family in-  
14 come or the statewide median family  
15 income, and

16 “(II) in the case of a census tract  
17 located in a nonmetropolitan statis-  
18 tical area, 70 percent of the non-  
19 metropolitan statewide median family  
20 income.

21 “(4) RURAL AREA.—The term ‘rural area’  
22 means any census tract outside a metropolitan sta-  
23 tistical area (as defined by the Office of Manage-  
24 ment and Budget).

1           “(5) REGULATED ENTITIES.—The credit deter-  
2       mined under subsection (a) may not be used to re-  
3       duce a taxpayer’s cost of service, but may be used  
4       to reduce rate base, provided that such reduction is  
5       restored not less rapidly than ratably. For purposes  
6       of determining ratable restorations to rate base, the  
7       period of time used in computing depreciation ex-  
8       pense for purposes of reflecting operating results in  
9       the taxpayer’s regulated books of account shall be  
10      used.

11       “(d) RECAPTURE IN CASE OF DISPOSITIONS, ETC.—  
12      Under regulations prescribed by the Secretary—

13           “(1) EARLY DISPOSITION.—If, before the close  
14       of the period to which section 50(a)(1) applies,  
15       qualified broadband property is disposed of or ceases  
16       to be used to provide broadband services to any un-  
17       derserved area, then the tax under this chapter for  
18       the taxable year in which such disposition or ces-  
19       sation occurs shall be increased by the recapture  
20       percentage (determined under the table contained in  
21       section 50(a)(1)(B)) of the aggregate credits allowed  
22       under subsection (a) for all prior taxable years.

23           “(2) SUBSECTION NOT TO APPLY IN CERTAIN  
24       CASES.—Rules similar to the rules of section  
25       50(a)(4) shall apply for purposes of paragraph (1).

1       “(e) OTHER RULES TO APPLY.—Rules similar to the  
 2 rules of paragraphs (3), (4), and (5) of section 179(d)  
 3 shall apply for purposes of this section.

4       “(f) BASIS REDUCTION.—Rules similar to the rules  
 5 of sections 50(c) (other than paragraph (3)) and  
 6 1016(a)(19) shall apply for purposes of this section.”.

7       (b) CREDIT TO BE PART OF GENERAL BUSINESS  
 8 CREDIT.—Subsection (b) of section 38 of such Code is  
 9 amended by striking “plus” at the end of paragraph (34),  
 10 by striking the period at the end of paragraph (35) and  
 11 inserting “, plus”, and by adding at the end the following  
 12 new paragraph:

13               “(36) the broadband services credit determined  
 14       under section 45R(a).”.

15       (c) CLERICAL AMENDMENT.—The table of sections  
 16 subpart D of part IV of subchapter A of chapter 1 of such  
 17 Code is amended by adding at the end the following new  
 18 item:

“Sec. 45R. Property used to furnish broadband services in underserved and  
 rural areas.”

19       (d) EFFECTIVE DATE.—The amendments made by  
 20 this section shall apply to property placed in service after  
 21 the date of enactment of this Act in taxable years ending  
 22 after such date.

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