

111TH CONGRESS  
2D SESSION

# S. 3710

To improve broadband coverage and service throughout the United States, especially in rural and tribal areas, and spectrum coverage for public safety broadband communication services, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2010

Mrs. MURRAY introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To improve broadband coverage and service throughout the United States, especially in rural and tribal areas, and spectrum coverage for public safety broadband communication services, and for other purposes.

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 Program  
5       Reauthorization Act of 2010”.

1 **SEC. 2. USDA BROADBAND LOANS, LOAN GUARANTEES,**  
 2 **AND GRANTS ESTABLISHED UNDER PUBLIC**  
 3 **LAW 111-5.**

4 Title VI of the Rural Electrification Act of 1936 (7  
 5 U.S.C. 950bb et seq.) is amended by adding at the end  
 6 the following:

7 **“SEC. 603. USDA BROADBAND LOANS, LOAN GUARANTEES,**  
 8 **AND GRANTS ESTABLISHED UNDER PUBLIC**  
 9 **LAW 111-5.**

10 “(a) LOANS, LOAN GUARANTEES, AND GRANTS.—

11 “(1) IN GENERAL.—The amounts authorized to  
 12 be appropriated under subsection (f) shall be used to  
 13 cover the cost of broadband loans and loan guaran-  
 14 tees, as authorized by section 601 of this Act and  
 15 for grants (including for technical assistance).

16 “(2) DEFINITION.—For purposes of this sub-  
 17 section, the cost of direct and guaranteed loans shall  
 18 be as defined in section 502 of the Congressional  
 19 Budget Act of 1974.

20 “(b) USE OF FUNDS.—

21 “(1) IN GENERAL.—Notwithstanding section  
 22 601 of this Act, the amounts authorized under this  
 23 section shall be made available for grants, loans, and  
 24 loan guarantees for broadband infrastructure in any  
 25 area of the United States.

1           “(2) LIMITATION.—Of the amounts made avail-  
2           able under this section, at least 75 percent of the  
3           area to be served by a project receiving funds from  
4           such grants, loans, or loan guarantees shall be in a  
5           rural area without sufficient access to high speed  
6           broadband service to facilitate rural economic devel-  
7           opment, as determined by the Secretary of Agri-  
8           culture.

9           “(3) PRIORITY.—In awarding grants, loans, or  
10          loan guarantees under this section, the Secretary of  
11          Agriculture shall give priority—

12               “(A) to project applications for broadband  
13               systems that will deliver end users a choice of  
14               more than 1 service provider;

15               “(B) to projects that provide service to the  
16               highest proportion of rural residents that do  
17               not have access to broadband service;

18               “(C) for project applications from bor-  
19               rowers or former borrowers under title II of the  
20               Rural Electrification Act of 1936 and for  
21               project applications that include such borrowers  
22               or former borrowers;

23               “(D) to project applications that dem-  
24               onstrate that, if the application is approved, all  
25               project elements will be fully funded;

1           “(E) to project applications for activities  
2           that can be completed if the requested funds  
3           are provided, and to activities that can com-  
4           mence promptly following approval; and

5           “(F) to project applications that will ex-  
6           pand broadband opportunities in rural and trib-  
7           al areas.

8           “(c) COORDINATION.—

9           “(1) BROADBAND TECHNOLOGIES OPPOR-  
10          TUNITY PROGRAM.—No area of a project funded  
11          with amounts made available under this section may  
12          receive funding to provide broadband service under  
13          the Broadband Technology Opportunities Program  
14          established under Public Law 111–5.

15          “(2) FCC NATIONAL BROADBAND PLAN.—In  
16          carrying out this section, the Secretary of Agri-  
17          culture shall coordinate and harmonize, to the extent  
18          possible, its activities with the national broadband  
19          plan developed by the Federal Communications  
20          Commission pursuant to Public Law 111–5.

21          “(d) REPORT.—The Secretary of Agriculture shall  
22          submit a report on planned spending and actual obliga-  
23          tions describing the use of the funds made available under  
24          this section not later than 90 days after the date of enact-  
25          ment of this Act, and quarterly thereafter, until all funds

1 are obligated, to the Committees on Appropriations of the  
 2 House of Representatives and the Senate.

3 “(e) CLEARINGHOUSE WEBSITE.—The Secretary of  
 4 Agriculture shall create and maintain a fully searchable  
 5 database, accessible on the Internet at no cost to the pub-  
 6 lic that shall serve as the clearinghouse for all information  
 7 relating to loans, loan guarantees, and grants made in ac-  
 8 cordance with this section, including—

9 “(1) when any grant application was received  
 10 and if such application was accepted, when any  
 11 amounts were awarded to such applicant; and

12 “(2) information related to options, opportuni-  
 13 ties, resources, successful public-private partner-  
 14 ships, funding sources, and tutorials related to the  
 15 expansion of broadband infrastructure and service  
 16 into rural and tribal areas.

17 “(f) AUTHORIZATION OF APPROPRIATIONS.—

18 “(1) IN GENERAL.—There are authorized to be  
 19 appropriated to the Secretary of Agriculture to carry  
 20 out this section—

21 “(A) \$2,000,000,000 for fiscal year 2011;

22 and

23 “(B) such sums as necessary for each fis-  
 24 cal year thereafter.

1           “(2) AVAILABILITY.—Any amounts appro-  
 2           priated to carry out this section shall remain avail-  
 3           able until expended.

4           “(g) DEFINITIONS.—

5           “(1) IN GENERAL.—As used in this section:

6           “(A) RURAL AREA.—

7                   “(i) IN GENERAL.—The term ‘rural  
 8                   area’ means any area, as set forth in the  
 9                   most recent decennial census by the Cen-  
 10                  sus Bureau, which is not located within—

11                           “(I) a city, town, or incorporated  
 12                           area that has a population of greater  
 13                           than 20,000 inhabitants; or

14                           “(II) an urbanized area contig-  
 15                           uous and adjacent to a city or town  
 16                           that has a population of greater than  
 17                           50,000 inhabitants.

18                   “(ii) RULE OF CONSTRUCTION.—For  
 19                   purposes of clause (i)(II), the term ‘urban-  
 20                   ized area’ means a densely populated terri-  
 21                   tory, as defined in the most recent decen-  
 22                   nial census by the Census Bureau.

23           “(B) BROADBAND.—The term ‘broadband’  
 24           means 2-way data transmission with advertised  
 25           speeds of at least 768 kilobytes per second

downstream and at least 200 kilobytes per second upstream to end users, or providing sufficient capacity in a middle mile project to support the provision of broadband service to end users.

“(2) UNSERVED AREA; UNDERSERVED AREA.—

For purposes of the grant program under this section, the Secretary of Agriculture shall define—

“(A) the term ‘unserved area’ to mean any area where at least 90 percent of households in that area lack access to terrestrial broadband service; and

“(B) the term ‘underserved area’ to mean any census tract, as determined by the most recent decennial census by the Census Bureau, where—

“(i) no more than 50 percent of households in a proposed funded service area have access to facilities-based, terrestrial broadband service at greater than 768 kilobytes per seconds;

“(ii) no broadband provider advertises broadband transmission speeds of at least 3 megabits per second downstream; or

1 “(iii) the rate of broadband  
 2 subscribership for the proposed funded  
 3 service area is 40 percent of households or  
 4 less.”.

5 **SEC. 3. BROADBAND TECHNOLOGY OPPORTUNITIES PRO-**  
 6 **GRAM ESTABLISHED UNDER PUBLIC LAW**  
 7 **111-5.**

8 Section 6001 of Public Law 111-5 is amended—

9 (1) in subsection (d)(2), by striking “the end of  
 10 fiscal year 2010” and inserting “the date that is 2  
 11 years after the date of enactment of the Broadband  
 12 Program Reauthorization Act of 2010”;

13 (2) in subsection (f), by striking “80 percent”  
 14 each place that term appears and inserting “75 per-  
 15 cent”;

16 (3) in subsection (h)—

17 (A) in the matter preceding paragraph (1),  
 18 by inserting “determining eligibility and” before  
 19 “awarding grants”;

20 (B) in paragraph (2)(D), by striking “;  
 21 and” and inserting a semicolon;

22 (C) by adding at the end the following:

23 “(4) give priority to applications that will ex-  
 24 pand broadband opportunities in rural and tribal  
 25 areas; and



1           “(5) allow entities that have received waiver au-  
 2           thority from the Federal Communications Commis-  
 3           sion to use the 763–768/793–798 MHz (700 MHz)  
 4           public safety broadband spectrum to apply for fund-  
 5           ing.”;

6           (4) in subsection (i)—

7                   (A) in paragraph (4), by striking “; and”  
 8                   and inserting a semicolon; and

9                   (B) in paragraph (5), by striking the pe-  
 10                  riod at the end and inserting “, including infor-  
 11                  mation related to options, opportunities, re-  
 12                  sources, successful public-private partnerships,  
 13                  funding sources, and tutorials related to the ex-  
 14                  pansion of broadband infrastructure and service  
 15                  into rural and tribal areas; and”;

16           (5) by adding at the end the following:

17           “(n) COORDINATION WITH FCC NATIONAL  
 18           BROADBAND PLAN.—In carrying out this section, the As-  
 19           sistant Secretary shall coordinate and harmonize, to the  
 20           extent possible, its activities with the national broadband  
 21           plan developed by the Federal Communications Commis-  
 22           sion pursuant to title II of division A of this Act.

23           “(o) AUTHORIZATION OF APPROPRIATIONS.—

1           “(1) IN GENERAL.—There are authorized to be  
2           appropriated to the Assistant Secretary to carry out  
3           this section—

4                   “(A) \$2,000,000,000 for fiscal year 2011;  
5                   and

6                   “(B) such sums as may be necessary for  
7                   each fiscal year thereafter.

8           “(2) ADMINISTRATIVE EXPENSES.—Of the  
9           amounts appropriated under paragraph (1), not  
10          more than 6 percent shall be available for each fiscal  
11          year to pay the administrative expenses to carry out  
12          this section.

13          “(p) DEFINITIONS.—

14                  “(1) IN GENERAL.—As used in this section:

15                          “(A) RURAL AREA.—

16                                  “(i) IN GENERAL.—The term ‘rural  
17                                  area’ means any area, as set forth in the  
18                                  most recent decennial census by the Cen-  
19                                  sus Bureau, which is not located within—

20    “(I) a city, town, or incorporated  
21    area that has a population of greater  
22    than 20,000 inhabitants; or

23    “(II) an urbanized area contig-  
24    uous and adjacent to a city or town

1                   that has a population of greater than  
2                   50,000 inhabitants.

3                   “(ii) RULE OF CONSTRUCTION.—For  
4                   purposes of clause (i)(II), the term ‘urban-  
5                   ized area’ means a densely populated terri-  
6                   tory, as defined in the most recent decen-  
7                   nial census by the Census Bureau.

8                   “(B) BROADBAND.—The term ‘broadband’  
9                   means 2-way data transmission with advertised  
10                  speeds of at least 768 kilobytes per second  
11                  downstream and at least 200 kilobytes per sec-  
12                  ond upstream to end users, or providing suffi-  
13                  cient capacity in a middle mile project to sup-  
14                  port the provision of broadband service to end  
15                  users.

16                  “(2) UNSERVED AREA; UNDERSERVED AREA.—  
17                  For purposes of the grant program under this sec-  
18                  tion, the Assistant Secretary shall define—

19                         “(A) the term ‘unserved area’ to mean any  
20                         area where at least 90 percent of households in  
21                         that area lack access to terrestrial broadband  
22                         service; and

23                         “(B) the term ‘underserved area’ to mean  
24                         any census tract, as determined by the most re-

1 cent decennial census by the Census Bureau,  
 2 where—

3 “(i) no more than 50 percent of  
 4 households in a proposed funded service  
 5 area have access to facilities-based, terres-  
 6 trial broadband service at greater than 768  
 7 kilobytes per seconds;

8 “(ii) no broadband provider advertises  
 9 broadband transmission speeds of at least  
 10 3 megabits per second downstream; or

11 “(iii) the rate of broadband  
 12 subscribership for the proposed funded  
 13 service area is 40 percent of households or  
 14 less.”.

15 **SEC. 4. OFFSETS.**

16 (a) REPEAL OF EXPENSING AND 60-MONTH AMORTI-  
 17 ZATION OF INTANGIBLE DRILLING COSTS.—Subsection  
 18 (c) of section 263 of the Internal Revenue Code of 1986  
 19 is amended by striking the period at the end of the third  
 20 sentence and inserting “, or to any costs paid or incurred  
 21 after December 31, 2010.”.

22 (b) REPEAL OF PERCENTAGE DEPLETION FOR OIL  
 23 AND GAS WELLS.—

1           (1) IN GENERAL.—Section 613 of the Internal  
2       Revenue Code of 1986 is amended by adding at the  
3       end the following new subsection:

4       “(f) TERMINATION OF PERCENTAGE DEPLETION  
5       FOR OIL AND GAS PROPERTIES.—In the case of oil and  
6       gas properties, this section shall not apply to any taxable  
7       year beginning after December 31, 2010.”.

8           (2) LIMITATIONS ON PERCENTAGE DEPLETION  
9       IN CASE OF OIL AND GAS WELLS.—Section 613A of  
10      such Code is amended by adding at the end the fol-  
11      lowing new subsection:

12      “(f) TERMINATION.—This section shall not apply to  
13      any taxable year beginning after December 31, 2010.”.

14      (c) DENIAL OF DEDUCTION FOR INCOME ATTRIB-  
15      UTABLE TO DOMESTIC PRODUCTION OF OIL, NATURAL  
16      GAS, OR PRIMARY PRODUCTS THEREOF.—

17           (1) IN GENERAL.—Subparagraph (B) of section  
18      199(c)(4) of the Internal Revenue Code of 1986 is  
19      amended by striking “or” at the end of clause (ii),  
20      by striking the period at the end of clause (iii) and  
21      inserting “, or”, and by inserting after clause (iii)  
22      the following new clause:

23                   “(iv) the production, refining, proc-  
24                   essing, transportation, or distribution of

1 oil, natural gas, or any primary product  
2 thereof.”.

3 (2) PRIMARY PRODUCT.—Section 199(c)(4)(B)  
4 of such Code is amended by adding at the end the  
5 following flush sentence:

6 “For purposes of clause (iv), the term ‘primary  
7 product’ has the same meaning as when used in  
8 section 927(a)(2)(C), as in effect before its re-  
9 peal.”.

10 (3) CONFORMING AMENDMENTS.—

11 (A) Section 199(c)(4) of such Code is  
12 amended—

13 (i) in subparagraph (A)(i)(III) by  
14 striking “electricity, natural gas,” and in-  
15 serting “electricity”, and

16 (ii) in subparagraph (B)(ii) by strik-  
17 ing “electricity, natural gas,” and inserting  
18 “electricity”.

19 (B) Section 199(d) of such Code is amend-  
20 ed by striking paragraph (9) and by redesign-  
21 ating paragraph (10) as paragraph (9).

22 (4) EFFECTIVE DATE.—The amendments made  
23 by this subsection shall apply to taxable years begin-  
24 ning after December 31, 2010.

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