

116TH CONGRESS
1ST SESSION

S. 2867

To amend the Internal Revenue Code of 1986 to provide an investment credit for qualified broadband projects.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 14, 2019

Ms. HASSAN (for herself and Mrs. CAPITO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide an investment credit for qualified broadband projects.

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 “Rural Broadband In-
5 vestment Tax Credit Act”.

6 **SEC. 2. INVESTMENT CREDIT FOR QUALIFYING**
7 **BROADBAND PROJECTS.**

8 (a) IN GENERAL.—Subpart E of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by inserting after section 48C the fol-
 2 lowing new section:

3 **“SEC. 48D. QUALIFYING BROADBAND PROJECT CREDIT.**

4 “(a) IN GENERAL.—For purposes of section 46, the
 5 qualifying broadband project credit for any taxable year
 6 is an amount equal to 10 percent of the qualified invest-
 7 ment for such taxable year with respect to any qualifying
 8 broadband project.

9 “(b) QUALIFIED INVESTMENT.—

10 “(1) IN GENERAL.—For purposes of subsection
 11 (a), the qualified investment for any taxable year is
 12 the basis of eligible property placed in service by the
 13 taxpayer during such taxable year which is part of
 14 a qualifying broadband project—

15 “(A)(i) the construction, reconstruction, or
 16 erection of which is completed by the taxpayer,
 17 or

18 “(ii) which is acquired by the taxpayer if
 19 the original use of such property commences
 20 with the taxpayer, and

21 “(B) with respect to which depreciation (or
 22 amortization in lieu of depreciation) is allow-
 23 able.

24 “(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED
 25 PROPERTY.—Rules similar to section 48(a)(4) (with-

1 out regard to subparagraph (D) thereof) shall apply
 2 for purposes of this section.

3 “(3) CERTAIN QUALIFIED PROGRESS EXPENDI-
 4 TURES RULES MADE APPLICABLE.—Rules similar to
 5 the rules of subsections (c)(4) and (d) of section 46
 6 (as in effect on the day before the enactment of the
 7 Revenue Reconciliation Act of 1990) shall apply for
 8 purposes of this section.

9 “(c) LIMITATION.—

10 “(1) IN GENERAL.—The amount of the credit
 11 allowed under subsection (a) for any taxable year
 12 with respect to any qualifying broadband project
 13 shall not exceed the broadband credit dollar amount
 14 allocated to such project by a State under this sec-
 15 tion.

16 “(2) BROADBAND CREDIT DOLLAR AMOUNT.—

17 “(A) IN GENERAL.—The aggregate
 18 broadband credit dollar amount which may be
 19 allocated for any calendar year by any State
 20 shall not exceed the sum of—

21 “(i) \$5,000,000, plus

22 “(ii) the amount that bears the same
 23 ratio to \$2,500,000 as the population of
 24 individuals in the state residing in rural

1 areas bears the population of individuals
 2 residing in rural areas in all States.

3 “(B) BROADBAND CREDIT DOLLAR
 4 AMOUNT CARRYFORWARD.—

5 “(i) IN GENERAL.—If the limitation
 6 under subparagraph (A) (determined with-
 7 out regard to this subparagraph) exceeds
 8 the aggregate amount of broadband credit
 9 dollar amounts allocated for any calendar
 10 year, such excess shall be treated as a
 11 broadband credit dollar amount
 12 carryforward and added to the limitation
 13 under such subparagraph for the 2 suc-
 14 ceeding calendar years.

15 “(ii) ORDERING RULES.—Broadband
 16 credit dollar amount carryforwards shall be
 17 treated as used in the order in which they
 18 arose.

19 “(d) QUALIFYING BROADBAND PROJECT.—For pur-
 20 poses of this section—

21 “(1) IN GENERAL.—The term ‘qualifying
 22 broadband project’ means any project which—

23 “(A) is designed solely to provide
 24 broadband service to 1 or more areas—

25 “(i) which are rural areas, and

1 “(ii) in which more than 50 percent of
2 residential households do not have access
3 to fixed, terrestrial broadband service
4 which delivers at least 10 megabits per
5 second downstream and at least 1 megabit
6 service upstream,

7 “(B) results in gigabit capable Internet ac-
8 cess to residential or commercial locations but
9 only if at least 90 percent of the residential or
10 commercial locations provided such access
11 under the project are locations where, before
12 the project, a broadband service provider—

13 “(i) did not provide service, or

14 “(ii) did not provide service which
15 meets the minimum speed requirements
16 described in subparagraph (A)(ii), and

17 “(C) is certified by the Secretary pursuant
18 to paragraph (2).

19 “(2) QUALIFYING BROADBAND PROJECT CER-
20 TIFICATION PROGRAM.—

21 “(A) IN GENERAL.—Not later than 180
22 days after the date of enactment of this section,
23 the Secretary, in consultation with the Chair-
24 man of the Federal Communications Commis-
25 sion and the Secretary of Agriculture, shall es-

1 tablish a qualifying broadband project certifi-
 2 cation program to consider and award certifi-
 3 cations for qualified investments eligible for
 4 credits under this section.

5 “(B) APPLICATION PERIOD.—

6 “(i) IN GENERAL.—Each applicant for
 7 certification under this paragraph shall
 8 submit an application containing such in-
 9 formation as the Secretary may require
 10 during each annual application period.

11 “(ii) ANNUAL APPLICATION PE-
 12 RIOD.—For purposes of this paragraph,
 13 the term ‘annual application period’ means
 14 a 60-day period beginning each calendar
 15 year on the date determined by the Sec-
 16 retary.

17 “(C) NOMINATION.—A project may not be
 18 certified under this paragraph unless—

19 “(i) the project is nominated by a
 20 State or local government in a single, uni-
 21 form application that is submitted to the
 22 Secretary by each State on behalf of
 23 projects nominated by the State and by its
 24 localities, and

1 “(ii) such State or local government
 2 provides written assurances within the ap-
 3 plication under clause (i) that the project
 4 satisfies the requirements of subpara-
 5 graphs (A) and (B) of paragraph (1).

6 “(D) CERTIFICATION.—Not later than 60
 7 days after the end of the annual application pe-
 8 riod, the Secretary, in consultation with the
 9 Chairman of the Federal Communications Com-
 10 mission and the Secretary of Agriculture, shall
 11 award certifications under this section.

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

13 “(1) ELIGIBLE PROPERTY.—The term ‘eligible
 14 property’ means any property which is a part of a
 15 qualifying broadband project.

16 “(2) RURAL AREA.—The term ‘rural area’ has
 17 the meaning given such term under section
 18 343(a)(13) of the Consolidated Farm and Rural De-
 19 velopment Act (7 U.S.C. 1991(a)(13)), determined
 20 without regard to subparagraph (B) or (C) thereof.

21 “(3) STATE.—The term ‘State’ means the 50
 22 States.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 46 of the Internal Revenue Code of
 25 1986 is amended by striking “and” at the end of

1 paragraph (5), by striking the period at the end of
 2 paragraph (6) and inserting “, and”, and by adding
 3 at the end the following new paragraph:

4 “(7) the qualifying broadband project credit.”.

5 (2) Section 49(a)(1)(C) of such Code is amend-
 6 ed by striking “and” at the end of clause (iv), by
 7 striking the period at the end of clause (v) and in-
 8 serting “, and”, and by adding at the end the fol-
 9 lowing new clause:

10 “(vi) the basis of any property which
 11 is part of a qualifying broadband project
 12 under section 48D.”.

13 (3) Section 50(a)(2)(E) of such Code is amend-
 14 ed by striking “or 48C(b)(2)” and inserting
 15 “48C(b)(2), or 48D(b)(3)”.

16 (4) The table of sections for subpart E of part
 17 IV of subchapter A of chapter 1 of such Code is
 18 amended by inserting after the item relating to sec-
 19 tion 48C the following new item:

“Sec. 48D. Qualifying broadband project credit.”.

20 (c) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to periods after December 31,
 22 2019, in taxable years ending after such date, under rules
 23 similar to the rules of section 48(m) of such Code (as in

- 1 effect on the day before the date of the enactment of the
- 2 Revenue Reconciliation Act of 1990).

