

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 497

To revitalize our nation's rural communities by expanding broadband services.

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IN THE SENATE OF THE UNITED STATES

MARCH 2, 2005

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

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## A BILL

To revitalize our nation's rural communities by expanding broadband services.

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 Rural Revi-  
5 talization Act of 2005”.

6 **SEC. 2. RURAL BROADBAND OFFICE.**

7 (a) ESTABLISHMENT.—There is established within  
8 the Department of Commerce, the Rural Broadband Of-  
9 fice.

1 (b) DUTIES.—The Office shall coordinate all Federal  
2 Government resources as they relate to the expansion of  
3 broadband technology into rural areas.

4 (c) REPORT.—Not later than 1 year after the date  
5 of the enactment of this Act, and annually thereafter, the  
6 Rural Broadband Office shall submit a report to the Con-  
7 gress that—

8 (1) assesses the availability of, and access to,  
9 broadband technology in rural areas;

10 (2) estimates the number of individuals using  
11 broadband technology in rural areas;

12 (3) estimates the unmet demand for broadband  
13 technology in rural areas; and

14 (4) sets forth a strategic plan to meet the de-  
15 mand described in paragraph (3).

16 **SEC. 3. FULL FUNDING FOR RURAL BROADBAND SERVICES.**

17 It is the sense of Congress that the loan program es-  
18 tablished in section 4 of the Rural Electrification Act of  
19 1936 (7 U.S.C. 901 et seq.), which is essential to the eco-  
20 nomic well-being of small telecommunications providers  
21 and to the quality of life for all rural residents, be funded  
22 fully.

1 **SEC. 4. EXPENSING OF BROADBAND INTERNET ACCESS EX-**  
 2 **PENDITURES FOR RURAL COMMUNITIES.**

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

8 **“SEC. 191. BROADBAND EXPENDITURES FOR RURAL COM-**  
 9 **MUNITIES.**

10 “(a) TREATMENT OF EXPENDITURES.—

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

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

20 “(b) QUALIFIED BROADBAND EXPENDITURES.—For  
 21 purposes of this section—

22 “(1) IN GENERAL.—The term ‘qualified  
 23 broadband expenditure’ means, with respect to any  
 24 taxable year, any direct or indirect costs incurred  
 25 and properly taken into account with respect to—

1           “(A) the purchase or installation of quali-  
2           fied equipment (including any upgrades there-  
3           to), and

4           “(B) the connection of such qualified  
5           equipment to any qualified subscriber.

6           “(2) CERTAIN SATELLITE EXPENDITURES EX-  
7           CLUDED.—Such term shall not include any costs in-  
8           curred with respect to the launching of any satellite  
9           equipment.

10          “(3) LEASED EQUIPMENT.—Such term shall in-  
11          clude so much of the purchase price paid by the les-  
12          sor of qualified equipment subject to a lease de-  
13          scribed in subsection (c)(2)(B) as is attributable to  
14          expenditures incurred by the lessee which would oth-  
15          erwise be described in paragraph (1).

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

18                 “(1) IN GENERAL.—Qualified broadband ex-  
19                 penditures with respect to qualified equipment shall  
20                 be taken into account with respect to the first tax-  
21                 able year in which—

22                         “(A) current generation broadband services  
23                         are provided through such equipment to quali-  
24                         fied subscribers, or

1           “(B) next generation broadband services  
2           are provided through such equipment to quali-  
3           fied subscribers.

4           “(2) LIMITATION.—

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

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

10                   “(ii) which is placed in service, after  
11                   the date of the enactment of this Act.

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

14                   “(i) is originally placed in service  
15                   after the date of the enactment of this Act  
16                   by any person, and

17                   “(ii) sold and leased back by such per-  
18                   son within 3 months after the date such  
19                   property was originally placed in service,  
20                   such property shall be treated as originally  
21                   placed in service not earlier than the date  
22                   on which such property is used under the  
23                   leaseback referred to in clause (ii).

24           “(d) SPECIAL ALLOCATION RULES.—

1           “(1) CURRENT GENERATION BROADBAND SERV-  
2 ICES.—For purposes of determining the amount of  
3 qualified broadband expenditures under subsection  
4 (a)(1) with respect to qualified equipment through  
5 which current generation broadband services are  
6 provided, if the qualified equipment is capable of  
7 serving both qualified subscribers and other sub-  
8 scribers, the qualified broadband expenditures shall  
9 be multiplied by a fraction—

10           “(A) the numerator of which is the sum of  
11 the number of potential qualified subscribers  
12 within the rural areas which the equipment is  
13 capable of serving with current generation  
14 broadband services, and

15           “(B) the denominator of which is the total  
16 potential subscriber population of the area  
17 which the equipment is capable of serving with  
18 current generation broadband services.

19           “(2) NEXT GENERATION BROADBAND SERV-  
20 ICES.—For purposes of determining the amount of  
21 qualified broadband expenditures under subsection  
22 (a)(1) with respect to qualified equipment through  
23 which next generation broadband services are pro-  
24 vided, if the qualified equipment is capable of serv-  
25 ing both qualified subscribers and other subscribers,

1 the qualified expenditures shall be multiplied by a  
2 fraction—

3 “(A) the numerator of which is the sum  
4 of—

5 “(i) the number of potential qualified  
6 subscribers within the rural areas, plus

7 “(ii) the number of potential qualified  
8 subscribers within the area consisting only  
9 of residential subscribers not described in  
10 clause (i), which the equipment is capable  
11 of serving with next generation broadband  
12 services, and

13 “(B) the denominator of which is the total  
14 potential subscriber population of the area  
15 which the equipment is capable of serving with  
16 next generation broadband services.

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

18 “(1) ANTENNA.—The term ‘antenna’ means  
19 any device used to transmit or receive signals  
20 through the electromagnetic spectrum, including sat-  
21 ellite equipment.

22 “(2) CABLE OPERATOR.—The term ‘cable oper-  
23 ator’ has the meaning given such term by section  
24 602(5) of the Communications Act of 1934 (47  
25 U.S.C. 522(5)).

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

6           “(4) CURRENT GENERATION BROADBAND SERV-  
7           ICE.—The term ‘current generation broadband serv-  
8           ice’ means the transmission of signals at a rate of  
9           at least 1,000,000 bits per second to the subscriber  
10          and at least 128,000 bits per second from the sub-  
11          scriber.

12          “(5) MULTIPLEXING OR DEMULTIPLEXING.—  
13          The term ‘multiplexing’ means the transmission of 2  
14          or more signals over a single channel, and the term  
15          ‘demultiplexing’ means the separation of 2 or more  
16          signals previously combined by compatible multi-  
17          plexing equipment.

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

24          “(7) NONRESIDENTIAL SUBSCRIBER.—The  
25          term ‘nonresidential subscriber’ means any person

1 who purchases broadband services which are deliv-  
2 ered to the permanent place of business of such per-  
3 son.

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

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

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

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

22 “(A) a cable operator,

23 “(B) a commercial mobile service carrier,

24 “(C) an open video system operator,

25 “(D) a satellite carrier,

1           “(E) a telecommunications carrier,

2           “(F) any other wireless carrier, providing  
3           current generation broadband services or next  
4           generation broadband services to subscribers  
5           through such qualified equipment; or

6           “(G) any carrier or operator using any  
7           other technology.

8           “(12) PROVISION OF SERVICES.—A provider  
9           shall be treated as providing services to 1 or more  
10          subscribers if—

11           “(A) such a subscriber has been passed by  
12           the provider’s equipment and can be connected  
13           to such equipment for a standard connection  
14           fee,

15           “(B) the provider is physically able to de-  
16           liver current generation broadband services or  
17           next generation broadband services, as applica-  
18           ble, to such a subscriber without making more  
19           than an insignificant investment with respect to  
20           such subscriber,

21           “(C) the provider has made reasonable ef-  
22           forts to make such subscribers aware of the  
23           availability of such services,

24           “(D) such services have been purchased by  
25           1 or more such subscribers, and

1           “(E) such services are made available to  
2 such subscribers at average prices comparable  
3 to those at which the provider makes available  
4 similar services in any areas in which the pro-  
5 vider makes available such services.

6           “(13) QUALIFIED EQUIPMENT.—

7           “(A) IN GENERAL.—The term ‘qualified  
8 equipment’ means equipment which provides  
9 current generation broadband services or next  
10 generation broadband services—

11           “(i) at least a majority of the time  
12 during periods of maximum demand to  
13 each subscriber who is utilizing such serv-  
14 ices, and

15           “(ii) in a manner substantially the  
16 same as such services are provided by the  
17 provider to subscribers through equipment  
18 with respect to which no deduction is al-  
19 lowed under subsection (a)(1).

20           “(B) ONLY CERTAIN INVESTMENT TAKEN  
21 INTO ACCOUNT.—Except as provided in sub-  
22 paragraph (C) or (D), equipment shall be taken  
23 into account under subparagraph (A) only to  
24 the extent it—

1           “(i) extends from the last point of  
2 switching to the outside of the unit, build-  
3 ing, dwelling, or office owned or leased by  
4 a subscriber in the case of a telecommuni-  
5 cations carrier,

6           “(ii) extends from the customer side  
7 of the mobile telephone switching office to  
8 a transmission/receive antenna (including  
9 such antenna) owned or leased by a sub-  
10 scriptioner in the case of a commercial mobile  
11 service carrier,

12           “(iii) extends from the customer side  
13 of the headend to the outside of the unit,  
14 building, dwelling, or office owned or  
15 leased by a subscriber in the case of a  
16 cable operator or open video system oper-  
17 ator, or

18           “(iv) extends from a transmission/re-  
19 ceive antenna (including such antenna)  
20 which transmits and receives signals to or  
21 from multiple subscribers, to a trans-  
22 mission/receive antenna (including such  
23 antenna) on the outside of the unit, build-  
24 ing, dwelling, or office owned or leased by  
25 a subscriber in the case of a satellite car-

1 rier or other wireless carrier, unless such  
2 other wireless carrier is also a tele-  
3 communications carrier.

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

18 “(D) MULTIPLEXING AND  
19 DEMULTIPLEXING EQUIPMENT.—Multiplexing  
20 and demultiplexing equipment shall be taken  
21 into account under subparagraph (A) only to  
22 the extent it is deployed in connection with  
23 equipment described in subparagraph (B) and  
24 is uniquely designed to perform the function of  
25 multiplexing and demultiplexing packets or cells

1 of data and making associated application  
2 adaptations, but only if such multiplexing or  
3 demultiplexing equipment is located between  
4 packet switching equipment described in sub-  
5 paragraph (C) and the subscriber's premises.

6 “(14) QUALIFIED SUBSCRIBER.—The term  
7 ‘qualified subscriber’ means—

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

10 “(i) any nonresidential subscriber  
11 maintaining a permanent place of business  
12 in a rural area, or

13 “(ii) any residential subscriber resid-  
14 ing in a dwelling located in a rural area  
15 which is not a saturated market, and

16 “(B) with respect to the provision of next  
17 generation broadband services—

18 “(i) any nonresidential subscriber  
19 maintaining a permanent place of business  
20 in a rural area, or

21 “(ii) any residential subscriber.

22 “(15) RESIDENTIAL SUBSCRIBER.—The term  
23 ‘residential subscriber’ means any individual who  
24 purchases broadband services which are delivered to  
25 such individual's dwelling.

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

3           “(A) is not within 5 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          “(17) RURAL SUBSCRIBER.—The term ‘rural  
11 subscriber’ means any residential subscriber residing  
12 in a dwelling located in a rural area or nonresiden-  
13 tial subscriber maintaining a permanent place of  
14 business located in a rural area.

15          “(18) SATELLITE CARRIER.—The term ‘sat-  
16 ellite carrier’ means any person using the facilities  
17 of a satellite or satellite service licensed by the Fed-  
18 eral Communications Commission and operating in  
19 the Fixed-Satellite Service under part 25 of title 47  
20 of the Code of Federal Regulations or the Direct  
21 Broadcast Satellite Service under part 100 of title  
22 47 of such Code to establish and operate a channel  
23 of communications for distribution of signals, and  
24 owning or leasing a capacity or service on a satellite

1 in order to provide such point-to-multipoint distribu-  
2 tion.

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

6 “(A) current generation broadband services  
7 have been provided by a single provider to 85  
8 percent or more of the total number of potential  
9 residential subscribers residing in dwellings lo-  
10 cated within such census tract, and

11 “(B) such services can be utilized—

12 “(i) at least a majority of the time  
13 during periods of maximum demand by  
14 each such subscriber who is utilizing such  
15 services, and

16 “(ii) in a manner substantially the  
17 same as such services are provided by the  
18 provider to subscribers through equipment  
19 with respect to which no deduction is al-  
20 lowed under subsection (a)(1).

21 “(20) SUBSCRIBER.—The term ‘subscriber’  
22 means any person who purchases current generation  
23 broadband services or next generation broadband  
24 services.

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

5           “(A) includes all members of an affiliated  
6 group of which a telecommunications carrier is  
7 a member, and

8           “(B) does not include a commercial mobile  
9 service carrier.

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

18          “(f) SPECIAL RULES.—

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

1           “(2) BASIS REDUCTION.—

2                   “(A) IN GENERAL.—For purposes of this  
3 title, the basis of any property shall be reduced  
4 by the portion of the cost of such property  
5 taken into account under subsection (a)(1).

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

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

17           (b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE  
18 TELEPHONE COMPANIES.—Section 512(b) (relating to  
19 modifications) is amended by adding at the end the fol-  
20 lowing new paragraph:

21                   “(18) SPECIAL RULE FOR MUTUAL OR COOPER-  
22 ATIVE TELEPHONE COMPANIES.—A mutual or coop-  
23 erative telephone company which for the taxable year  
24 satisfies the requirements of section 501(c)(12)(A)  
25 may elect to reduce its unrelated business taxable in-

1       come for such year, if any, by an amount that does  
2       not exceed the qualified broadband expenditures  
3       which would be taken into account under section  
4       191 for such year by such company if such company  
5       was not exempt from taxation. Any amount which is  
6       allowed as a deduction under this paragraph shall  
7       not be allowed as a deduction under section 191 and  
8       the basis of any property to which this paragraph  
9       applies shall be reduced under section  
10      1016(a)(32).”.

11      (c) CONFORMING AMENDMENTS.—

12           (1) Section 263(a)(1) of the Internal Revenue  
13      Code of 1986 (relating to capital expenditures) is  
14      amended by striking “or” at the end of subpara-  
15      graph (H), by striking the period at the end of sub-  
16      paragraph (I) and inserting “, or”, and by adding  
17      at the end the following new subparagraph:

18                   “(J) expenditures for which a deduction is  
19                   allowed under section 191.”.

20           (2) Section 1016(a) of such Code is amended  
21      by striking “and” at the end of paragraph (30), by  
22      striking the period at the end of paragraph (31) and  
23      inserting “, and”, and by adding at the end the fol-  
24      lowing new paragraph:

1           “(32) to the extent provided in section  
2           191(f)(2).”.

3           (3) The table of sections for part VI of sub-  
4           chapter A of chapter 1 of such Code is amended by  
5           inserting after the item relating to section 190 the  
6           following new item:

“Sec. 191. Broadband expenditures for rural communities.”.

7           (d) DESIGNATION OF CENSUS TRACTS.—

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

18          (2) SATURATED MARKET.—

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

23                    (i) the Secretary of the Treasury shall  
24                    prescribe not later than 30 days after the  
25                    date of the enactment of this Act the form

1           upon which any provider which takes the  
2           position that it meets such criteria with re-  
3           spect to any census tract shall submit a  
4           list of such census tracts (and any other  
5           information required by the Secretary) not  
6           later than 60 days after the date of the  
7           publication of such form, and

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

13                   (B) NO SUBSEQUENT LISTS REQUIRED.—

14          The Secretary of the Treasury shall not be re-  
15          quired to publish any list of census tracts meet-  
16          ing such criteria subsequent to the list de-  
17          scribed in subparagraph (A)(ii).

18                   (e) OTHER REGULATORY MATTERS.—

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

1           (2) TREASURY REGULATORY AUTHORITY.—It is  
2 the intent of Congress in providing the election to  
3 deduct qualified broadband expenditures under sec-  
4 tion 191 of the Internal Revenue Code of 1986 (as  
5 added by this section) to provide incentives for the  
6 purchase, installation, and connection of equipment  
7 and facilities offering expanded broadband access to  
8 the Internet for users in certain rural areas of the  
9 United States, as well as to residential users nation-  
10 wide, in a manner that maintains competitive neu-  
11 trality among the various classes of providers of  
12 broadband services. Accordingly, the Secretary of  
13 the Treasury shall prescribe such regulations as may  
14 be necessary or appropriate to carry out the pur-  
15 poses of section 191 of such Code, including—

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

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

1       (f) NO IMPLICATION REGARDING THE NEED FOR  
2 NEXT GENERATION INCENTIVE IN URBAN AREAS.—  
3 Nothing in this section shall be construed to imply that  
4 an incentive for next generation broadband is not needed  
5 in urban areas.

6       (g) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to expenditures incurred after the  
8 date of the enactment of this Act and before the date  
9 which is 12 months after the date of the enactment of  
10 this Act.

○