

111TH CONGRESS
1ST SESSION

S. _____

To expand broadband deployment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To expand broadband deployment, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Connecting America Act of 2009”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Broadband Internet investment tax credit.
- Sec. 3. Credit to holders of Broadband America Bonds.
- Sec. 4. Office of National Broadband Strategy.
- Sec. 5. Facility modifications.
- Sec. 6. Adoption incentives for broadband.

1 **SEC. 2. BROADBAND INTERNET INVESTMENT TAX CREDIT.**

2 (a) IN GENERAL.—Subpart E of part IV of chapter
3 1 of the Internal Revenue Code of 1986 (relating to rules
4 for computing investment credit) is amended by inserting
5 after section 48C the following new section:

6 **“SEC. 48D. BROADBAND INTERNET INVESTMENT TAX CRED-**
7 **IT.**

8 “(a) GENERAL RULE.—For purposes of section 46,
9 in the case of an eligible taxpayer, the broadband Internet
10 investment tax credit for any taxable year shall be deter-
11 mined—

12 “(1) in the case of a credit calculated according
13 to the requirements under subsection (e)(1), using
14 the subscriber service speeds available on the first
15 day of the taxable year in which a qualified
16 broadband provider makes a qualified investment re-
17 sulting in percentage increases in service speeds es-
18 tablished under such subsection, and

19 “(2) in the case of a credit calculated according
20 to the requirements under subsection (c)(2), when a
21 qualified broadband provider makes a qualified in-
22 vestment resulting in a service speed threshold es-
23 tablished under such subsection.

24 “(b) INVESTMENT REQUIREMENTS.—For purposes
25 of this section—

26 “(1) QUALIFIED INVESTMENT.—

1 “(A) IN GENERAL.—The term ‘qualified
2 investment’ means any expenditure for qualified
3 equipment made by a qualified broadband pro-
4 vider during a taxable year which—

5 “(i) in the case of a credit calculated
6 according to the requirements under sub-
7 section (c)(1)—

8 “(I) increases the available serv-
9 ice speeds to at least 50 megabits per
10 second downstream during the begin-
11 ning of the taxable year in which the
12 qualified broadband provider makes
13 such investment, or

14 “(II) results in the extension of a
15 qualified broadband provider’s exist-
16 ing physical plant to unserved areas
17 and provides broadband service speeds
18 of at least 10 megabits per second
19 downstream, and

20 “(ii) in the case of a credit calculated
21 according to the requirements under sub-
22 section (c)(2), increases the available serv-
23 ice speeds by increasing existing service
24 speeds to an advertised maximum service

1 speed of at least 50 megabits per second
2 downstream.

3 “(B) LOOKBACK PERIOD.—Such term shall
4 include any investment made during the 9-
5 month period ending with the date of the enact-
6 ment of this section is eligible for the
7 broadband Internet investment tax credit if
8 such investment meets all other requirements of
9 this section.

10 “(2) ELIGIBLE TAXPAYER.—The term ‘eligible
11 taxpayer’ means any qualified broadband provider
12 regardless of the technology used to deploy
13 broadband services.

14 “(3) QUALIFIED BROADBAND PROVIDER.—The
15 term ‘qualified broadband provider’ means any—

16 “(A) cable operator,

17 “(B) commercial mobile service carrier,

18 “(C) open video system operator,

19 “(D) satellite carrier,

20 “(E) telecommunications carrier, or

21 “(F) other wireless carrier,

22 offering broadband service to subscribers through
23 qualified equipment.

1 “(4) UNSERVED AREA.—The term ‘unserved
2 area’ means any political subdivision of a State, in-
3 cluding any city, municipality, township, or village—

4 “(A) in which no non-residential sub-
5 scribers maintaining a permanent place of busi-
6 ness and no residential subscribers in a fixed
7 dwelling have access to a terrestrial broadband
8 service, and

9 “(B) which is certified by such State as an
10 unserved area not later than 180 days after the
11 date of the enactment of this section.

12 “(5) SERVICE PROVISION.—An entity identified
13 in paragraph (3) shall be considered to be a provider
14 offering broadband service to subscribers if—

15 “(A) such subscriber has been passed by
16 the provider’s equipment and may be connected
17 to such equipment for a fee, and

18 “(B) the provider is physically able to de-
19 liver broadband service.

20 “(6) QUALIFIED EQUIPMENT.—

21 “(A) IN GENERAL.—The term ‘qualified
22 equipment’ means any property—

23 “(i) used to provide broadband serv-
24 ice,

1 “(ii) which meets the eligibility re-
2 quirements of subparagraph (B), and

3 “(iii) for which depreciation (or amor-
4 tization in lieu of depreciation) is allow-
5 able.

6 “(B) ELIGIBILITY.—Not later than 1 year
7 after the date of the enactment of this section,
8 the Secretary shall publish and maintain elec-
9 tronic guidance for qualified broadband pro-
10 viders that includes examples of the types of
11 equipment that qualify for the broadband Inter-
12 net investment tax credit and examples of
13 equipment and uses that do not qualify for such
14 credit. Such guidance shall be placed on the In-
15 ternal Revenue Service Internet site.

16 “(C) LIMITATIONS ON ELIGIBLE EQUIP-
17 MENT.—Equipment meeting the criteria estab-
18 lished in this section shall be eligible for the
19 broadband Internet investment tax credit in
20 taxable years beginning after December 31,
21 2008, and before January 1, 2104:

22 “(i) Equipment that extends from the
23 last point of switching to a subscriber loca-
24 tion in the case of a telecommunications
25 carrier or broadband-over-power-line oper-

1 ator, or extends from the subscriber side of
2 the head end to the subscriber location in
3 the case of a cable operator or open video
4 system operator.

5 “(ii) Equipment that extends from a
6 transmission/receive antenna (including
7 such antenna) which transmits and re-
8 ceives signals to or from multiple sub-
9 scribers, to a transmission/receive antenna
10 (including such antenna) on the outside of
11 subscriber location that is owned or leased
12 in the case of a satellite carrier or other
13 wireless carrier.

14 “(iii) Equipment used to route traffic
15 between the head ends, central offices,
16 transmission/receive antennas, or other ag-
17 gregation points.

18 “(iv) Supporting technological equip-
19 ment used to increase the bandwidth avail-
20 able to subscribers, enable higher quality
21 video resolution or more efficient utiliza-
22 tion of other qualifying equipment, or allow
23 deployment of more content over a greater
24 distance. Such supporting technological
25 equipment shall include broadband elec-

1 trical and optical networking equipment,
2 next generation network service routers
3 and Internet protocol routers, supporting
4 network router management systems, the
5 software contained within the equipment,
6 and other supporting technological equip-
7 ment deemed eligible by the Secretary.

8 “(v) Transmission facilities and other
9 equipment used to connect broadband net-
10 works to Internet backbone facilities,
11 where terrestrial facilities for such connec-
12 tions do not already exist.

13 “(7) CABLE OPERATOR.—The term ‘cable oper-
14 ator’ has the meaning given such term by section
15 602(5) of the Communications Act of 1934 (47
16 U.S.C. 522(5)).

17 “(8) COMMERCIAL MOBILE SERVICE CAR-
18 RIER.—The term ‘commercial mobile service carrier’
19 means any person or entity authorized to provide
20 commercial mobile radio service as defined in section
21 20.3 of title 47 of the Code of Federal Regulations.

22 “(9) OPEN VIDEO SYSTEM OPERATOR.—The
23 term ‘open video system operator’ means any person
24 or entity authorized to provide services under section

1 653 of the Communications Act of 1934 (47 U.S.C.
2 573).

3 “(10) SATELLITE CARRIER.—The term ‘sat-
4 ellite carrier’ means any person or entity using the
5 facilities of a satellite or satellite service, licensed by
6 the Federal Communications Commission to operate
7 in the Fixed-Satellite Service area under part 25 of
8 title 47 of the Code of Federal Regulations or the
9 Direct Broadcast Satellite Service under part 100 of
10 such title, to establish an operate a channel of com-
11 munications for distribution of signals, and owning
12 or leasing a capacity or service on a satellite for the
13 purpose of providing point-to-multipoint distribution.

14 “(11) TELECOMMUNICATIONS CARRIER.—The
15 term ‘telecommunications carrier’ has the meaning
16 provided in section 3(44) of the Communications Act
17 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 any commercial mo-
22 bile service carrier.

23 “(12) OTHER WIRELESS CARRIER.—The term
24 ‘other wireless carrier’ means any person or entity
25 (other than a telecommunications carrier, commer-

1 cial mobile service carrier, cable operator, open video
2 system operator, or satellite carrier) offering
3 broadband service to subscribers through the radio
4 transmission of energy.

5 “(c) CALCULATION OF CREDIT.—

6 “(1) PERCENTAGE INCREASE IN SERVICE
7 SPEED; AVAILABILITY TO UNSERVED AREAS.—The
8 broadband Internet investment tax credit for any
9 taxable year calculated according to the require-
10 ments under this paragraph shall be—

11 “(A) 15 percent of the qualified investment
12 for such taxable year which increases existing
13 service speeds for current subscribers by at
14 least 50 percent above the service speeds avail-
15 able on the first day of the taxable year,

16 “(B) 20 percent of such qualified invest-
17 ment which increases existing service speeds for
18 current subscribers to at least 100 percent
19 above such service speeds,

20 “(C) 25 percent of such qualified invest-
21 ment which increases existing service speeds for
22 current subscribers to at least 200 percent
23 above such service speeds, and

24 “(D) 30 percent of such qualified invest-
25 ment which results in the availability of service

1 to an unserved area, but only if such service is
2 at speeds of at least 10 megabits per second
3 downstream.

4 “(2) INCREASE TO ADVERTISED MAXIMUM.—
5 The broadband Internet investment tax credit for
6 any taxable year calculated according to the require-
7 ments under this paragraph shall be—

8 “(A) 15 percent of the qualified investment
9 for such taxable year which improves service
10 speeds to an advertised maximum of at least 50
11 megabits per second downstream,

12 “(B) 20 percent of the qualified invest-
13 ment for such taxable year which improves serv-
14 ice speeds to an advertised maximum of at least
15 75 megabits per second downstream, and

16 “(C) 25 percent of the qualified investment
17 for such taxable year which improves service
18 speeds to an advertised maximum of at least
19 100 megabits per second downstream.

20 “(d) CERTIFICATION REQUIREMENTS.—Not later
21 than 120 days after the date of the enactment of this sec-
22 tion, the Secretary shall promulgate rules setting forth the
23 information a qualified broadband provider claiming a
24 credit under this section must provide to certify service
25 speeds available at the beginning of the taxable year and

1 the available service speeds following the qualified invest-
2 ment. The rules shall require at a minimum that a quali-
3 fied broadband provider submit an affidavit of a corporate
4 officer attesting to the truthfulness and accuracy of the
5 speed certifications and level of investment.

6 “(e) TREATMENT OF PERSON NOT ABLE TO USE
7 CREDIT.—

8 “(1) IN GENERAL.—Except as otherwise pro-
9 vided in this subsection—

10 “(A) any credit allowable under subsection
11 (a) with respect to qualified equipment pur-
12 chased or installed by a qualified broadband
13 provider may be transferred to, and used by, a
14 third party as provided in this subsection, and

15 “(B) the determination as to whether the
16 credit is allowable shall be made without regard
17 to the taxable or tax-exempt status of the per-
18 son.

19 “(2) TRANSFER OF CREDIT.—

20 “(A) IN GENERAL.—A person unable to
21 use the credit allowable under subsection (a)
22 may transfer such credit to another person, for
23 use by such person, in consideration for the
24 purchase or installation of qualified equipment.

1 Such transfer may be revoked only with the
2 consent of the Secretary.

3 “(B) REGULATIONS.—The Secretary shall
4 prescribe such regulations and reporting re-
5 quirements as necessary to ensure that any
6 credit allowable under subsection (a) is claimed
7 once and not reassigned by such other person.

8 “(C) TRANSFER PROCEEDS TREATED AS
9 ARISING FROM ESSENTIAL GOVERNMENT FUNC-
10 TION.—Any proceeds derived by a State, local,
11 or Indian tribal governmental unit, agency, or
12 instrumentality from the transfer of any credit
13 under subparagraph (A) shall be treated as
14 arising from the exercise of an essential govern-
15 ment function.

16 “(D) EXCEPTION FOR CERTAIN NONTAX-
17 PAYERS.—This paragraph shall not apply to—

18 “(i) any Federal, State, or local gov-
19 ernment (or any political subdivision, agen-
20 cy, or instrumentality thereof),

21 “(ii) any organization described in
22 section 501(c) and exempt from tax under
23 section 501(a), and

24 “(iii) any partnership or other pass-
25 thru entity in which an entity described in

1 clause (i) or (ii) (or such entities in the ag-
2 gregate) hold a partnership (or equity or
3 profits) interest of at least 50 percent.

4 “(3) TREATMENT AS INCOME.—Any proceeds
5 from a transfer under paragraph (2) of any credit
6 shall be treated as income to the transferor of the
7 credit (and deductible to the transferee) for purposes
8 of this subtitle.

9 “(f) TERMINATION.—This section shall not apply to
10 expenditures in taxable years beginning after December
11 31, 2013.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 46(a) of the Internal Revenue Code
14 of 1986 is amended by striking “and” at the end of
15 paragraph (4), by striking the period at the end of
16 paragraph (5) and inserting “, and”, and by adding
17 at the end the following new paragraph:

18 “(6) the broadband Internet investment tax
19 credit.”.

20 (2) The table of sections for subpart E of part
21 IV of chapter 1 of such Code is amended by insert-
22 ing after the item relating to section 48C the fol-
23 lowing new item:

“Sec. 48D. Broadband Internet investment tax credit.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to periods after the date of the

1 enactment of this Act, under rules similar to the rules of
2 section 48(m) of the Internal Revenue Code of 1986 (as
3 in effect on the day before the date of the enactment of
4 the Revenue Reconciliation Act of 1990).

5 **SEC. 3. CREDIT TO HOLDERS OF BROADBAND AMERICA**
6 **BONDS.**

7 (a) IN GENERAL.—Subpart I of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 (relating to qualified tax credit bonds) is amended
10 by adding at the end the following new section:

11 **“SEC. 54G. CREDIT TO HOLDERS OF BROADBAND AMERICA**
12 **BONDS.**

13 “(a) BROADBAND AMERICA BOND.—For purposes of
14 this subpart, the term ‘Broadband America Bond’ means
15 any private activity bond issued as part of an issue if—

16 “(1) 100 percent of the available project pro-
17 ceeds of such issue are to be used for expenditures
18 incurred by any non-governmental entity in the de-
19 ployment of broadband services which meet the re-
20 quirements of this section,

21 “(2) the bond is issued by a qualified issuer,
22 and

23 “(3) the issuer designates such bond for pur-
24 poses of this section.

1 For purposes of this section, the term ‘available project
2 proceeds’ has the meaning given such term by section
3 54A(e)(4) (determined by substituting ‘1 percent’ for ‘2
4 percent’ in subparagraph (A)(ii) thereof).

5 “(b) LIMITATION ON AMOUNT OF BONDS DES-
6 IGNATED.—

7 “(1) NATIONAL LIMITATION.—There is a na-
8 tional Broadband America Bond limitation for the 4-
9 year period beginning on the date of the enactment
10 of this section of \$1,000,000,000, and zero there-
11 after, to be made available from amounts appro-
12 priated under the American Recovery and Reinvest-
13 ment Act of 2009 to the Broadband Technology Op-
14 portunities Program established under section 6001
15 of division B of such Act.

16 “(2) ALLOCATION OF LIMITATION.—The na-
17 tional Broadband America Bond limitation shall be
18 allocated by the Secretary, in consultation with the
19 Secretary of Commerce, among Broadband America
20 Bond projects to ensure that no qualified issuer may
21 issue Broadband America Bonds in a face amount
22 exceeding \$5,000,000.

23 “(c) OTHER ALLOCATION LIMITATIONS.—In making
24 any allocation under subsection (b)(2), the Secretary shall
25 comply with the following guidelines:

1 “(1) LIMIT BASED ON EXISTING SERVICE
2 AVAILABILITY.—

3 “(A) IN GENERAL.—An allocation shall not
4 be made to an issuer for a Broadband America
5 Bond project unless the geographic area of such
6 project qualifies as an unserved area.

7 “(B) UNSERVED AREA.—For purposes of
8 subparagraph (A), the term ‘unserved area’
9 means any political subdivision of a State, in-
10 cluding any city, municipality, township, or vil-
11 lage—

12 “(i) in which no non-residential sub-
13 scribers maintaining a permanent place of
14 business and no residential subscribers in a
15 fixed dwelling have access to a terrestrial
16 broadband service, and

17 “(ii) which is certified by such State
18 as an unserved area not later than 180
19 days after the date of the enactment of
20 this section.

21 “(2) LIMIT BASED ON PROJECT SCOPE.—An al-
22 location shall not be made to an issuer for a
23 Broadband America Bond project unless the project
24 funds, when combined with private investment by a
25 provider receiving the project proceeds, will result in

1 the availability of broadband services to at least 70
2 percent of the potential subscribers in the geo-
3 graphic area of such project. For purposes of the
4 preceding sentence, the term ‘potential subscribers’
5 includes all non-residential subscribers maintaining a
6 permanent place of business and residential sub-
7 scribers in a fixed dwelling in the project area.

8 “(3) LIMIT BASED ON TRANSMISSION SPEED.—
9 An allocation shall not be made to an issuer for a
10 Broadband America Bond project unless the project
11 provides broadband subscribers with access to the
12 Internet in the normal course of operations at trans-
13 mission speeds of at least 10 megabits per second
14 downstream.

15 “(d) QUALIFIED ISSUER; SELECTION OF PROVIDERS;
16 NOTICE OF OPPORTUNITY TO BID.—

17 “(1) QUALIFIED ISSUER.—The term ‘qualified
18 issuer’ means a governmental body (as defined in
19 section 54C(d)(3)).

20 “(2) SELECTION OF PROVIDER.—

21 “(A) IN GENERAL.—The qualified issuer,
22 by means of a competitive bidding process es-
23 tablished under subparagraph (B), shall select
24 1 or more broadband providers as recipients of
25 the available project proceeds of an issue and

1 shall contract for the construction of infrastruc-
2 ture providing service to at least 70 percent of
3 all non-residential subscribers maintaining a
4 permanent place of business and residential
5 subscribers in a fixed dwelling in the project
6 area. Not later than 120 days after the date of
7 the enactment of this section, the Secretary
8 shall provide procedures for selecting a
9 broadband provider through a competitive bid-
10 ding process. A governmental body (as defined
11 in section 54C(d)(3)) is not eligible to receive or
12 utilize the proceeds of a bond offering to con-
13 struct, or own, infrastructure for the provision
14 of broadband services.

15 “(B) ELIGIBILITY FOR SELECTION AND
16 PROHIBITION ON CONDITIONS.—All broadband
17 providers shall be eligible to bid for a contract
18 under subparagraph (A), regardless of the tech-
19 nology used to deliver the broadband service,
20 and selection and receipt of available project
21 proceeds may not be conditioned on adoption of
22 open access or non-discrimination principles.

23 “(C) NOTICE OF OPPORTUNITY TO BID.—
24 At least 60 days prior to conducting a bond of-
25 fering under this section, a qualified issuer shall

1 publish notice in each newspaper with circula-
2 tion in the proposed project area, and furnish
3 notice on all government Internet sites in the
4 proposed project area. The Secretary shall pro-
5 vide an area on the agency’s Internet site list-
6 ing all proposed projects with contact informa-
7 tion for the local government official responsible
8 for the proposed bond offering to allow inter-
9 ested bidders to contact the qualified issuer.

10 “(e) RATABLE PRINCIPAL AMORTIZATION RE-
11 QUIRED.—A bond shall not be treated as a Broadband
12 America Bond unless it is part of an issue which provides
13 for an equal amount of principal to be paid by the quali-
14 fied issuer during each 12-month period that the issue is
15 outstanding (other than the first 12-month period).”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Paragraph (1) of section 54A(d) of the In-
18 ternal Revenue Code of 1986 is amended by striking
19 “or” at the end of subparagraph (D), by inserting
20 “or” at the end of subparagraph (E), and by insert-
21 ing after subparagraph (E) the following new sub-
22 paragraph:

23 “(F) a Broadband America Bond.”.

24 (2) Subparagraph (C) of section 54A(d)(2) of
25 such Code is amended by striking “and” at the end

1 of clause (iv), by striking the period at the end of
2 clause (v) and inserting “, and”, and by adding at
3 the end the following new clause:

4 “(vi) in the case of a Broadband
5 America Bond, a purpose specified in sec-
6 tion 54G(a)(1).”.

7 (3) The table of sections for subpart I of part
8 IV of subchapter A of chapter 1 of such Code is
9 amended by adding at the end the following new
10 item:

“Sec. 54G. Credit to holders of Broadband America Bonds.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to obligations issued after the date
13 of the enactment of this Act.

14 **SEC. 4. OFFICE OF NATIONAL BROADBAND STRATEGY.**

15 (a) ESTABLISHMENT.—There is established within
16 the National Telecommunications and Information Ad-
17 ministration of the Department of Commerce the Office
18 of National Broadband Strategy.

19 (b) DUTIES.—The Office of National Broadband
20 Strategy shall—

21 (1) contain an ombudsman function to provide
22 technical assistance to any entity that is applying for
23 funds under any 1 of the following:

24 (A) Public Telecommunications Facili-
25 ties—Planning and Construction grant program

1 administered by the National Telecommuni-
2 cations and Information Administration of the
3 Department of Commerce.

4 (B) Broadband Technology Opportunities
5 Program administered by the National Tele-
6 communications and Information Administra-
7 tion of the Department of Commerce.

8 (C) Investments for Public Works and
9 Economic Development Facilities grant pro-
10 gram administered by the Economic Develop-
11 ment Administration of the Department of
12 Commerce.

13 (D) Rural Telephone Loans and Loan
14 Guarantee program administered by the Rural
15 Utilities Service of the Department of Agri-
16 culture.

17 (E) Distance Learning and Telemedicine
18 Loans and Grant program administered by the
19 Rural Utilities Service of the Department of
20 Agriculture.

21 (F) Rural Broadband Access Loan and
22 Loan Guarantee Program administered by the
23 Rural Utilities Service of the Department of
24 Agriculture.

1 (M) State Library Program administered
2 by the Office of Library Services of the Insti-
3 tute of Museum and Library Services of the
4 National Foundation on the Arts and Human-
5 ities.

6 (N) Native American and Native Hawaiian
7 Library Services program administered by the
8 Office of Library Services of the Institute of
9 Museum and Library Services of the National
10 Foundation on the Arts and Humanities.

11 (O) Appalachian Area Development grant
12 program administered by the Appalachian Re-
13 gional Commission established under chapter
14 143 of title 40, United States Code.

15 (P) Delta Area Economic Development
16 grant program administered by the Delta Re-
17 gional Authority established under section 382B
18 of the Consolidated Farm and Rural Develop-
19 ment Act (7 U.S.C. 2009aa-1).

20 (Q) Denali Commission Program adminis-
21 tered by the Denali Commission established
22 under the Denali Commission Act of 1998 (42
23 U.S.C. 3121 note); and

1 (2) establish and maintain a webpage that con-
2 tains links to the programs described under para-
3 graph (1);

4 (3) provide technical assistance to any new pro-
5 gram that offers or otherwise makes available fund-
6 ing for broadband deployment; and

7 (4) update the webpage established under para-
8 graph (2) to include any new program described
9 under paragraph (3).

10 (c) NATIONAL ADVISORY PANEL.—

11 (1) ESTABLISHMENT.—Not later than 90 days
12 after the date of enactment of this Act, the Office
13 of National Broadband Strategy shall establish an
14 National Advisory Panel on broadband deployment
15 and adoption comprised of representatives of rel-
16 evant sectors of the business community, public in-
17 terest groups, and other appropriate groups and
18 Federal agencies to review and evaluate—

19 (A) the status of industry efforts to pro-
20 mote broadband in underserved and unserved
21 areas;

22 (B) the effectiveness of Federal Govern-
23 ment programs that provide funding for the de-
24 ployment of broadband, including any program
25 described under subsection (b)(1);

1 (C) the effect of broadband deployment
2 levels within the United States on national eco-
3 nomic competitiveness with respect to member
4 countries of the Organization for Economic Co-
5 operation and Development; and

6 (D) the feasibility of creating a single ap-
7 plication process for all Federal broadband
8 grant programs leveraging available technology.

9 (2) REPORT.—Not later than 1 year after the
10 date that National Advisory Panel is established
11 under paragraph (1), and for each year thereafter,
12 the Panel shall submit a report to Congress that—

13 (A) describes in detail any legislative, ad-
14 ministrative, or regulatory recommendations to
15 improve broadband in underserved and
16 unserved areas, including any information re-
17 lated to such recommendations; and

18 (B) includes recommendations as to what
19 reforms to Federal Government programs could
20 increase the effectiveness of such programs, in-
21 cluding changes to eligibility criteria for pro-
22 gram applicants, funding levels, and stream-
23 lining application procedures.

24 (3) FACA NOT APPLICABLE.—The Federal Ad-
25 visory Committee Act (5 U.S.C. App.) shall not

1 apply to the activities of the National Advisory
2 Panel established under paragraph (1).

3 (d) DEFINITION OF TECHNICAL ASSISTANCE.—For
4 purposes of this section, the term “technical assistance”
5 includes the provision of—

6 (1) general information about the operation and
7 eligibility requirements of programs described under
8 subsection (b);

9 (2) advice and assistance in completing grant or
10 program application materials; and

11 (3) any other assistance deemed appropriate by
12 the Secretary of Commerce.

13 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
14 authorized to be appropriated to carry out this section
15 \$2,000,000 for each of the fiscal years 2010 through
16 2014.

17 **SEC. 5. FACILITY MODIFICATIONS.**

18 Notwithstanding section 704 of the Telecommuni-
19 cations Act of 1996, or any regulation pursuant thereto,
20 or any other provision of law, a State or local government
21 may not deny, and shall approve, any eligible facilities re-
22 quest for a modification of an existing wireless tower that
23 does not substantially change the physical dimensions of
24 such tower. For purposes of the preceding sentence, the

1 term “eligible facilities request” means any request for
2 modification of an existing wireless tower that involves—

- 3 (1) collocation of new transmission equipment;
- 4 (2) removal of transmission equipment; and
- 5 (3) replacement of transmission equipment.

6 **SEC. 6. ADOPTION INCENTIVES FOR BROADBAND.**

7 (a) TELEHEALTH IMPROVEMENT.—

8 (1) IN GENERAL.—Section 254(h) of the Com-
9 munications Act of 1934 (47 U.S.C. 254(h)) is
10 amended—

11 (A) in paragraph (1)(A)—

12 (i) by striking “telecommunications
13 services” and inserting “telecommuni-
14 cations services, advanced telecommuni-
15 cations services and information services,
16 and network management services”; and

17 (ii) by striking “reasonably com-
18 parable to rates charged” and inserting
19 “not to exceed 60 percent less than rates
20 charged”; and

21 (B) in paragraph (7)(B)(vi), by striking
22 “clinics; and” and inserting “clinics and any
23 rural healthcare provider, including any—

24 “(I) private physician office or
25 clinic;

1 “(II) nursing home or other long
2 term care facility;
3 “(III) hospice service facility;
4 “(IV) pharmacy;
5 “(V) dental clinic;
6 “(VI) behavioral health facility;
7 and
8 “(VII) facility deemed eligible by
9 the Department of Veterans Affairs to
10 provide health care services to vet-
11 erans;”.

12 (2) REQUIRED FCC ACTIONS.—In carrying out
13 the pilot program to fund the construction of
14 broadband infrastructure to connect rural health
15 care providers, as such program was established in
16 *In the matter of Rural Health Care Support Mecha-*
17 *nism*, WC Docket No. 02-60, the Federal Commu-
18 nications Commission shall abolish the 85 percent
19 cost limitation requirement set forth in paragraph
20 14 of such Order.

21 (b) PLUGGED IN PROGRAMS.—

22 (1) DEFINITIONS.—In this section:

23 (A) ELIGIBLE EDUCATIONAL INSTITUTION
24 OR AGENCY.—The term “eligible educational in-
25 stitution or agency” means—

1 (i) a secondary school, as such term is
2 defined in section 9101 of the Elementary
3 and Secondary Education Act of 1965 (20
4 U.S.C. 7801);

5 (ii) a 2-year institution of higher edu-
6 cation, as such term is defined in section
7 101 of the Higher Education Act of 1965
8 (20 U.S.C. 1001);

9 (iii) an adult education center that is
10 operated by, or on behalf of, a State; or

11 (iv) a State educational agency, as
12 such term is defined in section 9101 of the
13 Elementary and Secondary Education Act
14 of 1965 (20 U.S.C. 7801).

15 (B) PLUGGED IN PROGRAM.—The term
16 “PlugGED In program” means a program of
17 education that—

18 (i) leads to a recognized equivalent of
19 a secondary school diploma;

20 (ii) integrates the instruction for such
21 recognized equivalent with training in tech-
22 nology skills;

23 (iii) integrates instruction related to
24 the resources available through broadband

1 internet usage for educational development
2 and career development; and

3 (iv) is sponsored by a private tech-
4 nology company that will provide 1 or
5 more of the following:

6 (I) Educational materials for the
7 program curriculum.

8 (II) Assistance in designing the
9 program curriculum.

10 (III) Matching funds for the pro-
11 gram, in an amount of not less than
12 10 percent of the amount of the grant
13 funds provided under this subsection
14 to the eligible educational institution
15 or agency receiving the grant.

16 (C) SECRETARY.—The term “Secretary”
17 means the Secretary of Education, acting
18 through the Assistant Secretary of the Office of
19 Vocational and Adult Education.

20 (2) PROGRAM AUTHORIZED.—From amounts
21 appropriated under this subsection, the Secretary
22 shall administer a grant program that awards grants
23 to eligible educational institutions or agencies to en-
24 able such eligible educational institutions and agen-
25 cies to carry out PlugGED In programs.

1 (3) APPLICATION.—An eligible educational in-
2 stitution or agency desiring a grant under this sub-
3 section shall submit an application to the Secretary
4 at such time, in such manner, and containing such
5 information as the Secretary may provide, includ-
6 ing—

7 (A) a description of the private technology
8 company that will be a sponsor of the PlugGED
9 In program and the type of assistance the spon-
10 sor will provide; and

11 (B) an assurance that the eligible edu-
12 cational institution or agency will annually sub-
13 mit to the Secretary information on the number
14 of participants in the PlugGED In program
15 who have obtained employment within 6 months
16 after completing the program, and the types of
17 such employment.

18 (4) COMPILATION OF DATA.—The Secretary
19 shall annually prepare and submit to the Committee
20 on Education and Labor of the House of Represent-
21 atives and the Committee on Health, Education,
22 Labor, and Pensions of the Senate a compilation of
23 the data described in subsection (3)(B).

24 (5) AUTHORIZATION OF APPROPRIATIONS.—
25 There is authorized to be appropriated to carry out

1 this subsection \$10,000,000 for each of the fiscal
2 years 2010 through 2014.