

117TH CONGRESS
1ST SESSION

S. 1676

To amend the Internal Revenue Code of 1986 to allow tax-exempt private activity bonds to be used for qualified broadband projects, to provide for tax credit payments to issuers of tax-exempt bonds used to finance broadband infrastructure projects, and to provide an investment credit for qualified broadband projects.

IN THE SENATE OF THE UNITED STATES

MAY 18, 2021

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 allow tax-exempt private activity bonds to be used for qualified broadband projects, to provide for tax credit payments to issuers of tax-exempt bonds used to finance broadband infrastructure projects, and 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 Fi-
5 nancing Flexibility Act”.

TITLE I—TAX-PREFERRED BONDS

SEC. 101. PRIVATE ACTIVITY BONDS FOR QUALIFIED BROADBAND PROJECTS.

(a) IN GENERAL.—Section 142(a) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting “, or”, and by adding at the end the following new paragraph:

“(16) qualified broadband projects.”.

(b) QUALIFIED BROADBAND PROJECTS.—Section 142 of such Code is amended by adding at the end the following new subsection:

“(n) QUALIFIED BROADBAND PROJECT.—

“(1) IN GENERAL.—For purposes of subsection (a)(16), the term ‘qualified broadband project’ means any project which—

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

“(i) which are rural areas (as defined in section 343(a)(13) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13) without regard to subparagraph (B) or (C) thereof), 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 25 megabits per
 5 second downstream and at least 3 mega-
 6 bits service upstream, and

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

14 “(i) did not provide service, or

15 “(ii) did not provide service meeting
 16 the minimum speed requirements described
 17 in subparagraph (A)(ii).

18 “(2) NOTICE TO BROADBAND PROVIDERS.—A
 19 project shall not be treated as a qualified broadband
 20 project unless, before the issue date of any issue the
 21 proceeds of which are to be used to fund the project,
 22 the issuer—

23 “(A) notifies each broadband service pro-
 24 vider providing broadband service in the area
 25 within which broadband services are to be pro-

vided under the project of the project and its
intended scope,

“(B) includes in such notice a request for
information from each such provider with re-
spect to the provider’s ability to deploy, man-
age, and maintain a broadband network capable
of providing gigabit capable Internet access to
residential or commercial locations, and

“(C) allows each such provider at least 90
days to respond to such notice and request.”.

(c) PARTIAL EXCEPTION FROM VOLUME CAP.—

(1) IN GENERAL.—Section 146(g) of the Inter-
nal Revenue Code of 1986 is amended by striking
“and” at the end of paragraph (3), by striking the
period at the end of paragraph (4) and inserting “,
and”, and by inserting immediately after paragraph
(4) the following new paragraph:

“(5) 75 percent of any exempt facility bond
issued as part of an issue described in paragraph
(16) of section 142(a) (relating to qualified
broadband projects).”.

(2) GOVERNMENT-OWNED PROJECTS.—The last
sentence of section 146(g) of such Code is amended
by striking “Paragraph (4)” and inserting “Para-
graphs (4) and (5)”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to obligations issued in calendar
 3 years beginning after the date of the enactment of this
 4 Act.

5 **SEC. 102. CREDIT FOR BROADBAND INFRASTRUCTURE**
 6 **BONDS ALLOWED TO ISSUERS.**

7 (a) IN GENERAL.—Subchapter B of chapter 65 of the
 8 Internal Revenue Code of 1986 is amended by inserting
 9 after section 6430 the following new section:

10 **“SEC. 6431. CREDIT FOR BROADBAND INFRASTRUCTURE**
 11 **BONDS ALLOWED TO ISSUER.**

12 “(a) IN GENERAL.—In the case of a broadband infra-
 13 structure bond, the issuer of such bond shall be allowed
 14 a credit with respect to each interest payment under such
 15 bond which shall be payable by the Secretary as provided
 16 in subsection (b).

17 “(b) PAYMENT OF CREDIT.—The Secretary shall pay
 18 (contemporaneously with each interest payment date
 19 under such bond) to the issuer of such bond (or to any
 20 person who makes such interest payments on behalf of the
 21 issuer) 35 percent of the interest payable under such bond
 22 on such date.

23 “(c) BROADBAND INFRASTRUCTURE BOND.—For
 24 purposes of this section—

1 “(1) IN GENERAL.—The term ‘broadband infra-
2 structure bond’ means any obligation—

3 “(A) the interest on which would (but for
4 this section) be excludable from gross income
5 under section 103,

6 “(B) which is issued by a qualified issuer,

7 “(C) which is issued as part of an issue
8 with respect to which—

9 “(i) the requirements of paragraph
10 (2) are met,

11 “(ii) all of the property to be financed
12 by the net proceeds of the issue is to be
13 owned by a governmental unit (within the
14 meaning of section 142(b)(1)), and

15 “(iii) the aggregate face amount of
16 bonds issued pursuant to the issue, when
17 added to the aggregate face amount of
18 broadband infrastructure bonds previously
19 issued by the issuing authority during the
20 calendar year, does not exceed such issuing
21 authority’s allocation of its State’s volume
22 cap under subsection (d) for such year,
23 and

1 “(D) with respect to which the issuer
 2 makes an irrevocable election to have this sec-
 3 tion apply.

4 “(2) SPECIAL RULES RELATING TO EXPENDI-
 5 TURES.—

6 “(A) IN GENERAL.—An issue shall be
 7 treated as meeting the requirements of this
 8 paragraph if, as of the date of issuance, the
 9 issuer reasonably expects—

10 “(i) 95 percent of the available project
 11 proceeds to be spent in connection with 1
 12 or more qualified broadband projects with-
 13 in the 3-year period beginning on such
 14 date of issuance, and

15 “(ii) a binding commitment with a
 16 third party to spend at least 10 percent of
 17 such available project proceeds will be in-
 18 curred within the 6-month period begin-
 19 ning on such date of issuance.

20 “(B) FAILURE TO SPEND REQUIRED
 21 AMOUNT OF BOND PROCEEDS WITHIN 3
 22 YEARS.—

23 “(i) IN GENERAL.—To the extent that
 24 less than 95 percent of the available
 25 project proceeds of the issue are expended

by the close of the expenditure period, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

“(ii) EXPENDITURE PERIOD.—For purposes of this section, the term ‘expenditure period’ means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

“(iii) EXTENSION OF PERIOD.— Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures in connection with 1 or more qualified broadband

1 projects will continue to proceed with due
2 diligence.

3 “(C) REIMBURSEMENT.—For purposes of
4 this subtitle, available project proceeds of an
5 issue shall be treated as spent in connection
6 with 1 or more qualified broadband projects if
7 such proceeds are used to reimburse the issuer
8 for amounts paid in connection with such
9 projects after the date that an allocation of a
10 State’s volume cap under subsection (d) has
11 been made with respect to such issue, but only
12 if-

13 “(i) prior to the payment of the origi-
14 nal expenditure, the issuer declared its in-
15 tent to reimburse such expenditure with
16 the proceeds of such issue,

17 “(ii) not later than 60 days after pay-
18 ment of the original expenditure, the issuer
19 adopts an official intent to reimburse the
20 original expenditure with such proceeds,
21 and

22 “(iii) the reimbursement is made not
23 later than 18 months after the date the
24 original expenditure is paid.

1 “(3) LIMITATION ON ISSUE PRICE.—An obliga-
 2 tion shall not be treated as a broadband infrastruc-
 3 ture bond if the issue price has more than a de mini-
 4 mis amount (determined under rules similar to the
 5 rules of section 1273(a)(3)) of premium over the
 6 stated principal amount of the obligation.

7 “(4) AVAILABLE PROJECT PROCEEDS.—For
 8 purposes of this subsection, the term ‘available
 9 project proceeds’ means, with respect to any issue,
 10 the sum of—

11 “(A) the excess of—

12 “(i) the proceeds from the sale of an
 13 issue, over

14 “(ii) the issuance costs financed by
 15 the issue (to the extent that such costs do
 16 not exceed 2 percent of such proceeds),
 17 plus

18 “(B) the proceeds from any investment of
 19 the excess described in subparagraph (A).

20 “(5) QUALIFIED BROADBAND PROJECT.— For
 21 purposes of this subsection, the term ‘qualified
 22 broadband project’ has the meaning given such term
 23 by section 142(n).

24 “(d) LIMITATION ON AMOUNT OF BONDS DES-
 25 IGNATED.—

1 “(1) NATIONAL LIMITATION.—There is a na-
 2 tional broadband infrastructure bond limitation for
 3 each calendar year of \$2,500,000,000.

4 “(2) STATE VOLUME CAP; ALLOCATION.—For
 5 purposes of this subsection, the broadband infra-
 6 structure bonds volume cap of a State for any cal-
 7 endar year is the portion of the national broadband
 8 infrastructure bond limitation under paragraph (1)
 9 equal to the sum of—

10 “(A) \$25,000,000, plus

11 “(B) the amount which bears the same
 12 ratio to \$1,250,000,000 as the—

13 “(i) number of individuals in such
 14 State who reside in rural areas (as defined
 15 in section 343(a)(13) of the Consolidated
 16 Farm and Rural Development Act (7
 17 U.S.C. 1991(a)(13) without regard to sub-
 18 paragraph (B) or (C) thereof), bears to

19 “(ii) the total number of individuals
 20 living in such rural areas in all States.

21 “(3) ALLOCATION OF VOLUME CAP.—

22 “(A) IN GENERAL.—For purposes of this
 23 section—

24 “(i) except as provided in subpara-
 25 graph (C), 50 percent of the State

1 broadband infrastructure bonds volume cap
2 of a State for any calendar year shall be
3 allocated to qualified issuers that are not
4 agencies of the State in the amount deter-
5 mined under subparagraph (B), and

6 “(ii) the remaining 50 percent of such
7 volume cap shall be allocated to qualified
8 issuers in such manner as the State pro-
9 vides.

10 “(B) AMOUNT OF ALLOCATION.—

11 “(i) IN GENERAL.—The amount of
12 the State broadband infrastructure bonds
13 volume cap for any calendar year allocated
14 under this subparagraph to any qualified
15 issuer described in subparagraph (A)(i)
16 shall be equal to the amount which bears
17 the same ratio to the amount described in
18 subparagraph (A)(i) for such calendar year
19 as—

20 “(I) the number of individuals in
21 such State who reside in rural areas
22 (as defined in section 343(a)(13) of
23 the Consolidated Farm and Rural De-
24 velopment Act (7 U.S.C. 1991(a)(13))
25 without regard to subparagraph (B)

1 or (C) thereof) within the jurisdiction
 2 of such qualified issuer, bears to

3 “(II) the total number of individ-
 4 uals living in such rural areas in the
 5 State.

6 “(ii) SPECIAL RULE FOR OVERLAP-
 7 PING JURISDICTIONS.—For purposes of
 8 clause (i)(I), if an area is within the juris-
 9 diction of 2 or more governmental units,
 10 such area shall be treated as only within
 11 the jurisdiction of the unit having jurisdic-
 12 tion over the smallest geographical area
 13 unless such unit agrees to surrender all or
 14 part of such jurisdiction for such calendar
 15 year to the unit with overlapping jurisdic-
 16 tion which has the next smallest geo-
 17 graphical area.

18 “(C) REALLOCATION.—The amount allo-
 19 cated under this paragraph to any qualified
 20 issuer may be reallocated by such issuer to the
 21 State for reallocation to other qualified issuers
 22 (including agencies of the State).

23 “(4) CARRYOVER OF UNUSED LIMITATION.—

24 “(A) IN GENERAL.—If, for any calendar
 25 year, a State’s broadband infrastructure bonds

1 volume cap exceeds the amount of bonds issued
 2 during such year which are designated as
 3 broadband infrastructure bonds under sub-
 4 section (c)(1)(D) with respect to broadband
 5 projects within such State, the broadband infra-
 6 structure bonds volume cap for such State for
 7 the following calendar year shall be increased
 8 by the amount of such excess.

9 “(B) LIMITATION ON CARRYOVER.—Any
 10 carryforward of an excess amount may be car-
 11 ried only to the first 2 years following the un-
 12 used volume cap year. For purposes of the pre-
 13 ceding sentence, a volume cap amount shall be
 14 treated as used on a first-in first-out basis.

15 “(e) OTHER RULES AND DEFINITIONS.—

16 “(1) INTEREST INCLUDIBLE IN INCOME.—For
 17 purposes of this title, interest on any broadband in-
 18 frastructure bond shall be includible in gross income.

19 “(2) CREDIT NOT A FEDERAL GUARANTEE.—
 20 For purposes of section 149(b), a broadband infra-
 21 structure bond shall not be treated as Federally
 22 guaranteed by reason of the credit allowed under
 23 this section.

24 “(3) COORDINATION WITH SECTION 148.—

1 “(A) YIELD REDUCED BY CREDIT.—For
 2 purposes of section 148, the yield on a
 3 broadband infrastructure bond shall be deter-
 4 mined by reducing the otherwise effective yield
 5 by the amount of the credit allowed to the
 6 issuer under this section.

7 “(B) INVESTMENT DURING EXTENSION PE-
 8 RIOD.—An issue shall not be treated as failing
 9 to meet the requirements of section 148 by rea-
 10 son of any investment of available project pro-
 11 ceeds during the expenditure period.

12 “(4) RURAL POPULATIONS.—For purposes of
 13 this section, the determination of the number of in-
 14 dividuals living in rural areas shall be made in con-
 15 sultation with the Secretary of Agriculture.

16 “(5) DEFINITIONS.—For purposes of this sec-
 17 tion—

18 “(A) QUALIFIED ISSUER.—The term
 19 ‘qualified issuer’ means a State or any political
 20 subdivision or instrumentality thereof having
 21 authority to issue private activity bonds.

22 “(B) STATE.—Notwithstanding section
 23 7701(a)(10), the term ‘State’ only includes the
 24 50 States.

1 “(f) REGULATIONS.—The Secretary may prescribe
 2 such regulations and other guidance as may be necessary
 3 or appropriate to carry out this section.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 6401(b)(1) of the Internal Revenue
 6 Code of 1986 is amended by striking “under sub-
 7 parts A, B, D, and G of such part IV” and inserting
 8 “under all subparts of such part IV other than such
 9 subpart C”.

10 (2) The table of sections for subchapter B of
 11 chapter 65 of such Code is amended by inserting
 12 after the item related to section 6430 the following
 13 new section:

“Sec. 6431. Credit for broadband infrastructure bonds allowed to issuer.”.

14 (c) GROSS-UP OF PAYMENT TO ISSUERS IN CASE OF
 15 SEQUESTRATION.—The amount of any payment under
 16 section 6431(b) of the Internal Revenue Code of 1986
 17 made after the date of the enactment of this Act to which
 18 sequestration applies shall be increased by the amount
 19 necessary to preserve the full amount of such payment
 20 payable to the issuer before sequestration. For purposes
 21 of this subsection, the term “sequestration” means any
 22 reduction in direct spending ordered in accordance with
 23 a sequestration report prepared by the Director of the Of-
 24 fice and Management and Budget pursuant to the Bal-

1 anced Budget and Emergency Deficit Control Act of 1985
 2 or the Statutory Pay-As-You-Go Act of 2010.

3 (d) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to bonds issued in calendar years
 5 beginning after the date of the enactment of this Act.

6 **TITLE II—INVESTMENT TAX** 7 **CREDIT**

8 **SEC. 201. INVESTMENT CREDIT FOR QUALIFYING** 9 **BROADBAND PROJECTS.**

10 (a) IN GENERAL.—Subpart E of part IV of sub-
 11 chapter A of chapter 1 of the Internal Revenue Code of
 12 1986 is amended by inserting after section 48C the fol-
 13 lowing new section:

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

15 “(a) IN GENERAL.—For purposes of section 46, the
 16 qualifying broadband project credit for any taxable year
 17 is an amount equal to 10 percent of the qualified invest-
 18 ment for such taxable year with respect to any qualifying
 19 broadband project.

20 “(b) QUALIFIED INVESTMENT.—

21 “(1) IN GENERAL.—For purposes of subsection
 22 (a), the qualified investment for any taxable year is
 23 the basis of eligible property placed in service by the
 24 taxpayer during such taxable year which is part of
 25 a qualifying broadband project—

1 “(A)(i) the construction, reconstruction, or
 2 erection of which is completed by the taxpayer,
 3 or

4 “(ii) which is acquired by the taxpayer if
 5 the original use of such property commences
 6 with the taxpayer, and

7 “(B) with respect to which depreciation (or
 8 amortization in lieu of depreciation) is allow-
 9 able.

10 “(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED
 11 PROPERTY.—Rules similar to section 48(a)(4) (with-
 12 out regard to subparagraph (D) thereof) shall apply
 13 for purposes of this section.

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

20 “(c) LIMITATION.—

21 “(1) IN GENERAL.—The amount of the credit
 22 allowed under subsection (a) for any taxable year
 23 with respect to any qualifying broadband project
 24 shall not exceed the broadband credit dollar amount

1 allocated to such project by a State under this sec-
 2 tion.

3 “(2) BROADBAND CREDIT DOLLAR AMOUNT.—

4 “(A) IN GENERAL.—The aggregate
 5 broadband credit dollar amount which may be
 6 allocated for any calendar year by any State
 7 shall not exceed the sum of—

8 “(i) \$5,000,000, plus

9 “(ii) the amount that bears the same
 10 ratio to \$2,500,000 as the population of
 11 individuals in the state residing in rural
 12 areas bears the population of individuals
 13 residing in rural areas in all States.

14 “(B) BROADBAND CREDIT DOLLAR
 15 AMOUNT CARRYFORWARD.—

16 “(i) IN GENERAL.—If the limitation
 17 under subparagraph (A) (determined with-
 18 out regard to this subparagraph) exceeds
 19 the aggregate amount of broadband credit
 20 dollar amounts allocated for any calendar
 21 year, such excess shall be treated as a
 22 broadband credit dollar amount
 23 carryforward and added to the limitation
 24 under such subparagraph for the 2 suc-
 25 ceeding calendar years.

1 “(ii) ORDERING RULES.—Broadband
 2 credit dollar amount carryforwards shall be
 3 treated as used in the order in which they
 4 arose.

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

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

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

11 “(i) which are rural areas, and

12 “(ii) in which more than 50 percent of
 13 residential households do not have access
 14 to fixed, terrestrial broadband service
 15 which delivers at least 25 megabits per
 16 second downstream and at least 3 mega-
 17 bits service upstream,

18 “(B) results in gigabit capable Internet ac-
 19 cess to residential locations, commercial loca-
 20 tions, or a combination of residential and com-
 21 mercial locations, but only if at least 90 percent
 22 of the locations provided such access under the
 23 project are locations where, before the project,
 24 a broadband service provider—

25 “(i) did not provide service, or

1 “(ii) did not provide service which
2 meets the minimum speed requirements
3 described in subparagraph (A)(ii), and

4 “(C) is certified by the Secretary pursuant
5 to paragraph (2).

6 “(2) QUALIFYING BROADBAND PROJECT CER-
7 TIFICATION PROGRAM.—

8 “(A) IN GENERAL.—Not later than 180
9 days after the date of enactment of this section,
10 the Secretary, in consultation with the Chair-
11 man of the Federal Communications Commis-
12 sion and the Secretary of Agriculture, shall es-
13 tablish a qualifying broadband project certifi-
14 cation program to consider and award certifi-
15 cations for qualified investments eligible for
16 credits under this section.

17 “(B) APPLICATION PERIOD.—

18 “(i) IN GENERAL.—Each applicant for
19 certification under this paragraph shall
20 submit an application containing such in-
21 formation as the Secretary may require
22 during each annual application period.

23 “(ii) ANNUAL APPLICATION PE-
24 RIOD.—For purposes of this paragraph,
25 the term ‘annual application period’ means

1 a 60-day period beginning each calendar
2 year on the date determined by the Sec-
3 retary.

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

6 “(i) the project is nominated by a
7 State or local government in a single, uni-
8 form application that is submitted to the
9 Secretary by each State on behalf of
10 projects nominated by the State and by its
11 localities, and

12 “(ii) such State or local government
13 provides written assurances within the ap-
14 plication under clause (i) that the project
15 satisfies the requirements of subpara-
16 graphs (A) and (B) of paragraph (1).

17 “(D) CERTIFICATION.—Not later than 60
18 days after the end of the annual application pe-
19 riod, the Secretary, in consultation with the
20 Chairman of the Federal Communications Com-
21 mission and the Secretary of Agriculture, shall
22 award certifications under this section.

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

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

4 “(2) RURAL AREA.—The term ‘rural area’ has
5 the meaning given such term under section
6 343(a)(13) of the Consolidated Farm and Rural De-
7 velopment Act (7 U.S.C. 1991(a)(13)), determined
8 without regard to subparagraph (B) or (C) thereof.

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

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 46 of the Internal Revenue Code of
13 1986 is amended by striking “and” at the end of
14 paragraph (5), by striking the period at the end of
15 paragraph (6) and inserting “, and”, and by adding
16 at the end the following new paragraph:

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

18 (2) Section 49(a)(1)(C) of such Code is amend-
19 ed by striking “and” at the end of clause (iv), by
20 striking the period at the end of clause (v) and in-
21 serting “, and”, and by adding at the end the fol-
22 lowing new clause:

23 “(vi) the basis of any property which
24 is part of a qualifying broadband project
25 under section 48D.”.

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

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

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

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to periods after December 31,
 10 2021, in taxable years ending after such date, under rules
 11 similar to the rules of section 48(m) of such Code (as in
 12 effect on the day before the date of the enactment of the
 13 Revenue Reconciliation Act of 1990).

○