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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

# H. R.

To facilitate the expansion of broadband service to rural and Tribal communities through improved permitting efficiency, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. CURTIS introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To facilitate the expansion of broadband service to rural and Tribal communities through improved permitting efficiency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rural Broadband Per-  
5 mitting Efficiency Act of 2023”.

6 **SEC. 2. STATE AND TRIBAL PERMITTING AUTHORITY.**

7 (a) IN GENERAL.—The Secretary concerned shall es-  
8 tablish (or, in a circumstance that would affect both Secre-

1 taries concerned, the Secretaries concerned shall jointly  
2 establish) a voluntary program under which a State or In-  
3 dian Tribe may offer, and the Secretary concerned may  
4 agree, to enter into a memorandum of understanding to  
5 allow for the State or Indian Tribe to prepare environ-  
6 mental analyses required under the National Environ-  
7 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with  
8 respect to the issuance of a Federal authorization for a  
9 broadband project to be carried out within a right-of-way  
10 on National Forest System land, land managed by the De-  
11 partment of the Interior, or Indian Lands. Under such  
12 a memorandum of understanding, a State or Indian Tribe  
13 may volunteer to cooperate with the signatories to the  
14 memorandum in the preparation of the analyses required  
15 under the National Environmental Policy Act of 1969.

16 (b) ASSUMPTION OF RESPONSIBILITIES.—

17 (1) IN GENERAL.—In entering into a memo-  
18 randum of understanding under this section, the  
19 Secretary concerned may assign to a State or Indian  
20 Tribe, and the State or Indian Tribe may agree to  
21 assume, all or part of the responsibilities of the Sec-  
22 retary concerned for environmental analyses required  
23 under the National Environmental Policy Act of  
24 1969.

1           (2) STATE OR INDIAN TRIBE RESPONSIBILITY.—  
2

3           (A) IN GENERAL.—A State or Indian  
4           Tribe that assumes a responsibility under para-  
5           graph (1) shall be subject to the same proce-  
6           dural and substantive requirements as would  
7           apply if the responsibility were carried out by  
8           the Secretary concerned.

9           (B) EFFECT OF ASSUMPTION OF RESPON-  
10           SIBILITY.—A State or Indian Tribe that as-  
11           sumes a responsibility, including a financial re-  
12           sponsibility, under paragraph (1) shall be solely  
13           responsible and solely liable for carrying out, in  
14           lieu of the Secretary concerned, the responsi-  
15           bility assumed under that paragraph until the  
16           date on which a relevant termination is carried  
17           out under subsection (g).

18           (C) ENVIRONMENTAL REVIEW.—A State  
19           or Indian Tribe that assumes a responsibility  
20           under paragraph (1) shall comply with the envi-  
21           ronmental review procedures under parts 1500–  
22           1508 of title 40, Code of Federal Regulations  
23           (or successor regulations), and the regulations  
24           of the Secretary concerned.

1           (3) FEDERAL RESPONSIBILITY.—Any responsi-  
2           bility of the Secretary concerned described in para-  
3           graph (1) that is not explicitly assumed by a State  
4           or Indian Tribe under that paragraph shall remain  
5           the responsibility of the Secretary concerned.

6           (c) OFFER AND NOTIFICATION.—A State or Indian  
7           Tribe that intends to offer to enter into a memorandum  
8           of understanding under this section shall provide to the  
9           Secretary concerned notice of the intent of the State or  
10          Indian Tribe at least 90 days before the date on which  
11          the State or Indian Tribe submits a formal written offer  
12          to the Secretary concerned.

13          (d) TRIBAL CONSULTATION.—Not later than 90 days  
14          after the date on which the Secretary concerned enters  
15          into a memorandum of understanding under this section  
16          with a State, the Secretary concerned shall initiate con-  
17          sultation with relevant Indian Tribes.

18          (e) MEMORANDUM OF UNDERSTANDING.—A memo-  
19          randum of understanding entered into under this section  
20          shall—

21                 (1) be executed by the Governor or the Gov-  
22                 ernor's designee, in the case of a State, or by the  
23                 officer designated by the governing body of an In-  
24                 dian Tribe, in the case of an Indian Tribe;

25                 (2) be for a term not to exceed 10 years;

1           (3) be in such form as the Secretary concerned  
2           may prescribe;

3           (4) provide that the State or Indian Tribe—

4                 (A) agrees to assume all or part of the re-  
5                 sponsibilities of the Secretary concerned de-  
6                 scribed in subsection (b)(1);

7                 (B) expressly consents, including through  
8                 the adoption of express waivers of sovereign im-  
9                 munity, on behalf of the State or Indian Tribe,  
10                to accept the jurisdiction of the Federal courts  
11                with respect to the compliance, discharge, and  
12                enforcement of any responsibility of the Sec-  
13                retary concerned assumed by the State or In-  
14                dian Tribe;

15                (C) certifies that State laws and regula-  
16                tions, with respect to States, or Tribal laws and  
17                regulations, with respect to Indian Tribes, are  
18                in effect that—

19                         (i) authorize the State or Indian Tribe  
20                         to take the actions necessary to carry out  
21                         the responsibilities being assumed; and

22                         (ii) are comparable to section 552 of  
23                         title 5, United States Code, including that  
24                         any decision regarding the public avail-  
25                         ability of a document under State or Tribal

1 laws is reviewable by a court of competent  
2 jurisdiction;

3 (D) agrees to maintain the financial re-  
4 sources necessary to carry out the responsibil-  
5 ities being assumed;

6 (E) agrees to provide to the Secretary con-  
7 cerned any information the Secretary concerned  
8 considers necessary to ensure that the State or  
9 Indian Tribe is adequately carrying out the re-  
10 sponsibilities being assumed;

11 (F) agrees to return revenues generated  
12 from the use of public lands authorized under  
13 this section to the United States annually, in  
14 accordance with the Federal Land Policy and  
15 Management Act of 1976 (43 U.S.C. 1701 et  
16 seq.); and

17 (G) agrees to send a copy of all author-  
18 izing documents to the United States for proper  
19 notation and recordkeeping;

20 (5) prioritize and expedite analyses required  
21 under the National Environmental Policy Act of  
22 1969 that are assumed under the memorandum of  
23 understanding;

1 (6) not be entered into with a State with re-  
2 spect to Indian Lands without the consent of the rel-  
3 evant Indian Tribe; and

4 (7) not be entered into with an Indian Tribe  
5 with respect to State lands without the consent of  
6 the relevant State.

7 (f) LIMITATION.—Nothing in this section allows a  
8 State or Indian Tribe to assume—

9 (1) rulemaking authority of the Secretary con-  
10 cerned under Federal law; or

11 (2) Federal Government responsibilities for gov-  
12 ernment-to-government consultation with Indian  
13 Tribes.

14 (g) TERMINATION.—

15 (1) TERMINATION BY THE SECRETARY.—The  
16 Secretary concerned may terminate the participation  
17 of a State or Indian Tribe in the program estab-  
18 lished under this section if—

19 (A) the Secretary concerned determines  
20 that the State or Indian Tribe is not adequately  
21 carrying out the responsibilities assigned to and  
22 assumed by the State or Indian Tribe under a  
23 relevant memorandum of understanding;

24 (B) the Secretary concerned provides to  
25 the State or Indian Tribe—

1 (i) notification of the determination  
2 made under subparagraph (A); and

3 (ii) a period of at least 30 days for  
4 the State or Indian Tribe to take such cor-  
5 rective action as the Secretary concerned  
6 determines necessary to adequately carry  
7 out the responsibilities assigned and as-  
8 sumed; and

9 (C) the State or Indian Tribe, after the no-  
10 tification and period provided under subpara-  
11 graph (B), fails to take satisfactory corrective  
12 action, as determined by the Secretary con-  
13 cerned.

14 (2) TERMINATION BY THE STATE OR INDIAN  
15 TRIBE.—A State or Indian Tribe may terminate the  
16 participation of the State or Indian Tribe in the pro-  
17 gram established under this section at any time by  
18 providing to the Secretary concerned a notice of in-  
19 tent to terminate at least 90 days before the date of  
20 termination.

21 (3) TERMINATION OF MEMORANDUM OF UN-  
22 DERSTANDING WITH STATE OR INDIAN TRIBE.—A  
23 State or Indian Tribe may terminate a joint memo-  
24 randum of understanding under this section at any  
25 time by providing to the Secretary concerned a no-



1           tice of intent to terminate at least 90 days before  
2           the date of termination.

3   **SEC. 3. FEDERAL BROADBAND PERMIT COORDINATION.**

4           (a) MEMORANDUM OF UNDERSTANDING.—Not later  
5 than 90 days after the date of the enactment of this Act,  
6 the Secretary concerned, in consultation with the National  
7 Conference of State Historic Preservation Officers and the  
8 National Association of Tribal Historic Preservation Offi-  
9 cers, shall enter into, in accordance with this section, a  
10 memorandum of understanding with—

11           (1) the Secretary of Agriculture or the Sec-  
12 retary of the Interior (as the case may be);

13           (2) the Director of the Bureau of Indian Af-  
14 fairs; and

15           (3) the Director of the United States Fish and  
16 Wildlife Service.

17           (b) PURPOSE.—The purpose of the memorandum of  
18 understanding entered into under subsection (a) shall be  
19 to coordinate and expedite permitting decisions for  
20 broadband projects.

21           (c) STATE OR TRIBAL PARTICIPATION.—The Sec-  
22 retary concerned may request that the Governor of a State  
23 or the officer designated by the governing body of an In-  
24 dian Tribe with one or more broadband projects be a party

1 to the memorandum of understanding entered into under  
2 subsection (a).

3 (d) DESIGNATION OF QUALIFIED STAFF.—

4 (1) IN GENERAL.—Not later than 30 days after  
5 the date of entrance into a memorandum of under-  
6 standing under subsection (a), the head of each Fed-  
7 eral agency that is a party to the memorandum of  
8 understanding (other than the Secretary concerned)  
9 may, if the head of the Federal agency determines  
10 it to be appropriate, designate to each State or re-  
11 gional office (that has been delegated responsibility  
12 by the Secretary concerned for issuing permits for  
13 broadband projects) an employee of that Federal  
14 agency with expertise in regulatory issues relating to  
15 that Federal agency, including, as applicable, par-  
16 ticular expertise in—

17 (A) planning under the Forest and Range-  
18 land Renewable Resources Planning Act of  
19 1974 (16 U.S.C. 1600 et seq.) and planning  
20 under the Federal Land Policy and Manage-  
21 ment Act of 1976 (43 U.S.C. 1701 et seq.);

22 (B) the preparation of analyses under the  
23 National Environmental Policy Act of 1969 (42  
24 U.S.C. 4321 et seq.); or

1 (C) consultation and the preparation of bi-  
2 ological opinions under section 7 of the Endan-  
3 gered Species Act of 1973 (16 U.S.C. 1536).

4 (2) ESTABLISHMENT OF STREAMLINING  
5 TEAM.—If employees are designated under para-  
6 graph (1), the Secretary concerned shall establish a  
7 broadband permit streamlining team, comprised of  
8 such employees, in each State or regional office that  
9 has been delegated responsibility by the Secretary  
10 concerned for issuing permits for broadband  
11 projects.

12 (3) DUTIES.—Each employee designated under  
13 paragraph (1) shall—

14 (A) be responsible for any issue relating to  
15 any broadband project, within the jurisdiction  
16 of the State or regional office, under the au-  
17 thority of the Federal agency from which the  
18 employee is assigned;

19 (B) participate as part of the team of per-  
20 sonnel working on one or more proposed  
21 broadband projects, including with respect to  
22 planning and environmental analyses; and

23 (C) serve as the designated point of con-  
24 tact with an applicable State or Indian Tribe  
25 that assumes a responsibility under section

1           2(b)(1) relating to an issue described in sub-  
2           paragraph (A) of this paragraph.

3 **SEC. 4. DEFINITIONS.**

4       In this Act:

5           (1) **BROADBAND PROJECT.**—The term  
6           “broadband project” means an installation, by a  
7           broadband provider on Federal land, of wireline or  
8           wireless broadband infrastructure that enables a  
9           user to originate and receive high-quality voice, data,  
10          graphics, and video telecommunications, including  
11          copper lines, fiber optic lines, communications tow-  
12          ers, buildings, or other improvements.

13          (2) **BROADBAND PROVIDER.**—The term  
14          “broadband provider” means a provider of wireline  
15          or wireless broadband infrastructure that enables a  
16          user to originate and receive high-quality voice, data,  
17          graphics, and video telecommunications.

18          (3) **FEDERAL AUTHORIZATION.**—The term  
19          “Federal authorization”—

20                 (A) means any authorization required  
21                 under Federal law with respect to a project;  
22                 and

23                 (B) includes any permits, special use au-  
24                 thorizations, certifications, opinions, or other

1           approvals as may be required under Federal law  
2           with respect to a project.

3           (4) INDIAN LANDS.—The term “Indian Lands”  
4           means land located within the boundaries of an In-  
5           dian reservation, pueblo, or rancheria, the title to  
6           which is held—

7                   (A) by an Indian Tribe;

8                   (B) in trust by the United States for the  
9           benefit of an Indian Tribe;

10                  (C) by an Indian Tribe, subject to restric-  
11           tion against alienation under laws of the United  
12           States; or

13                  (D) by a dependent Indian community.

14           (5) INDIAN TRIBE.—The term “Indian Tribe”  
15           has the meaning given the term “Indian tribe” in  
16           section 102 of the Federally Recognized Indian  
17           Tribe List Act of 1994 (25 U.S.C. 5130).

18           (6) NATIONAL FOREST SYSTEM.—The term  
19           “National Forest System” has the meaning given  
20           that term in section 11(a) of the Forest and Range-  
21           land Renewable Resources Planning Act of 1974 (16  
22           U.S.C. 1609(a)).

23           (7) RIGHT-OF-WAY.—The term “right-of-  
24           way”—

25                   (A) means—

1 (i) the area on, below, or above a  
2 roadway, highway, street, sidewalk, alley,  
3 or similar property (whether currently or  
4 previously used in such manner); and

5 (ii) any land immediately adjacent to  
6 and contiguous with property described in  
7 clause (i) that is within the right-of-way  
8 grant; and

9 (B) does not include a portion of the Inter-  
10 state System (as such term is defined in section  
11 101(a) of title 23, United States Code).

12 (8) SECRETARY CONCERNED.—The term “Sec-  
13 retary concerned” means—

14 (A) the Secretary of Agriculture (acting  
15 through the Chief of the Forest Service), with  
16 respect to National Forest System land; and

17 (B) the Secretary of the Interior, with re-  
18 spect to land managed by the Department of  
19 the Interior (including land held in trust for an  
20 Indian Tribe).

21 (9) STATE.—The term “State” means each  
22 State of the United States, the District of Columbia,  
23 and each territory or possession of the United  
24 States.