

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 3291  
OFFERED BY MR. CARTER OF GEORGIA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “American Broadband Deployment Act of 2023”.

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

Sec. 1. Short title; table of contents.

TITLE I—STATE AND LOCAL SITING PROCESSES

Sec. 101. Preservation of local zoning authority.

Sec. 102. Removal of barriers to entry.

Sec. 103. Requests for modification of certain existing wireless and tele-  
communications service facilities.

TITLE II—CABLE

Sec. 201. Request for new franchise.

Sec. 202. Request regarding placement, construction, or modification of cable  
equipment.

Sec. 203. Cable franchise term and termination.

Sec. 204. Sales of cable systems.

TITLE III—ENVIRONMENTAL AND HISTORIC PRESERVATION  
REVIEWS

Sec. 301. Application of NEPA and NHPA to certain communications projects.

Sec. 302. Presumption with respect to certain complete FCC forms.

Sec. 303. Rule of construction.

Sec. 304. Definitions.

TITLE IV—OTHER MATTERS

Sec. 401. Timely consideration of applications for Federal easements, rights-of-  
way, and leases.

Sec. 402. Streamlining of certain fees relating to broadband infrastructure required to receive grant funds under BEAD Program.

1           **TITLE I—STATE AND LOCAL**  
2                           **SITING PROCESSES**

3   **SEC. 101. PRESERVATION OF LOCAL ZONING AUTHORITY.**

4           Section 332(c) of the Communications Act of 1934  
5 (47 U.S.C. 332(c)) is amended by striking paragraph (7)  
6 and inserting the following:

7                           “(7) PRESERVATION OF LOCAL ZONING AU-  
8           THORITY.—

9                           “(A) GENERAL AUTHORITY.—Except as  
10                           provided in this paragraph, nothing in this Act  
11                           shall limit or affect the authority of a State or  
12                           local government or instrumentality thereof over  
13                           decisions regarding the placement, construction,  
14                           or modification of personal wireless service fa-  
15                           cilities.

16                           “(B) LIMITATIONS.—

17                           “(i) IN GENERAL.—The regulation of  
18                           the placement, construction, or modifica-  
19                           tion of a personal wireless service facility  
20                           by any State or local government or instru-  
21                           mentality thereof—

22   “(I) shall not discriminate among  
23   personal wireless service facilities or  
24   providers of communications service,

1 including by providing exclusive or  
2 preferential use of facilities to a par-  
3 ticular provider or class of providers  
4 of personal wireless service; and

5 “(II) shall not prohibit or have  
6 the effect of prohibiting the provision,  
7 improvement, or enhancement of per-  
8 sonal wireless service.

9 “(ii) ENGINEERING STANDARDS; AES-  
10 THETIC REQUIREMENTS.—It is not a viola-  
11 tion of clause (i) for a State or local gov-  
12 ernment or instrumentality thereof to es-  
13 tablish for personal wireless service facili-  
14 ties, or structures that support such facili-  
15 ties, objective, reasonable, and nondiscrim-  
16 inatory—

17 “(I) structural engineering stand-  
18 ards based on generally applicable  
19 codes;

20 “(II) safety requirements (sub-  
21 ject to clause (vi)); or

22 “(III) aesthetic or concealment  
23 requirements (unless such require-  
24 ments prohibit or have the effect of  
25 prohibiting the installation or modi-

1                   fication of such facilities or struc-  
2                   tures).

3                   “(iii) TIMEFRAMES.—

4                   “ (I) IN GENERAL.—A State or  
5                   local government or instrumentality  
6                   thereof shall grant or deny a request  
7                   for authorization to place, construct,  
8                   or modify a personal wireless service  
9                   facility not later than—

10                   “(aa) in the case of a re-  
11                   quest for authorization to place,  
12                   construct, or modify a personal  
13                   wireless service facility that is  
14                   not a small personal wireless  
15                   service facility—

16                   “(AA) if the request is  
17                   for authorization to place,  
18                   construct, or modify such fa-  
19                   cility using an existing  
20                   structure, including with re-  
21                   spect to an area that has  
22                   not previously been zoned  
23                   for personal wireless service  
24                   facilities (other than small  
25                   personal wireless service fa-

1 cilities), 90 days after the  
2 date on which the request is  
3 submitted by the requesting  
4 party to the government or  
5 instrumentality; or

6 “(BB) if the request is  
7 for any other action relating  
8 to such facility, 150 days  
9 after the date on which the  
10 request is submitted by the  
11 requesting party to the gov-  
12 ernment or instrumentality;  
13 and

14 “(bb) in the case of a re-  
15 quest for authorization to place,  
16 construct, or modify a small per-  
17 sonal wireless service facility—

18 “(AA) if the request is  
19 for authorization to place,  
20 construct, or modify such fa-  
21 cility using an existing  
22 structure, including with re-  
23 spect to an area that has  
24 not previously been zoned  
25 for personal wireless service

1 facilities, 60 days after the  
2 date on which the request is  
3 submitted by the requesting  
4 party to the government or  
5 instrumentality; or

6 “(BB) if the request is  
7 for any other action relating  
8 to such facility, 90 days  
9 after the date on which the  
10 request is submitted by the  
11 requesting party to the gov-  
12 ernment or instrumentality.

13 “(II) TREATMENT OF BATCHED  
14 REQUESTS.—In the case of requests  
15 described in subclause (I) that are  
16 submitted as part of a single batch by  
17 the requesting party to the govern-  
18 ment or instrumentality on the same  
19 day, the applicable timeframe under  
20 such subclause for each request in the  
21 batch shall be the longest timeframe  
22 under such subclause that would be  
23 applicable to any request in the batch  
24 if such requests were submitted sepa-  
25 rately.

1                   “(III) APPLICABILITY.—The ap-  
2                   plicable timeframe under subclause (I)  
3                   shall apply collectively to all pro-  
4                   ceedings required by a State or local  
5                   government or instrumentality thereof  
6                   for the approval of the request.

7                   “(IV) NO MORITORIA.—A time-  
8                   frame under subclause (I) may not be  
9                   tolled by any moratorium, whether ex-  
10                  press or de facto, imposed by a State  
11                  or local government or instrumentality  
12                  thereof on the submission, acceptance,  
13                  or consideration of any request for au-  
14                  thorization to place, construct, or  
15                  modify a personal wireless service fa-  
16                  cility.

17                  “(V) TOLLING DUE TO INCOM-  
18                  PLETENESS.—

19                  “(aa) INITIAL REQUEST IN-  
20                  COMPLETE.—

21                  “(AA) SMALL PER-  
22                  SONAL WIRELESS SERVICE  
23                  FACILITIES.—If, not later  
24                  than 10 days after the date  
25                  on which a requesting party

1 submits to a State or local  
2 government or instrumen-  
3 tality thereof a request for  
4 authorization to place, con-  
5 struct, or modify a small  
6 personal wireless service fa-  
7 cility, the government or in-  
8 strumentality provides to the  
9 requesting party a written  
10 notice described in item (cc)  
11 with respect to the request,  
12 the timeframe described in  
13 subclause (I) is tolled with  
14 respect to the request and  
15 shall restart at zero on the  
16 date on which the requesting  
17 party submits to the govern-  
18 ment or instrumentality a  
19 supplemental submission in  
20 response to the notice.

21 “(BB) OTHER PER-  
22 SONAL WIRELESS SERVICE  
23 FACILITIES.—If, not later  
24 than 30 days after the date  
25 on which a requesting party

1 submits to a State or local  
2 government or instrumen-  
3 tality thereof a request for  
4 authorization to place, con-  
5 struct, or modify a personal  
6 wireless service facility that  
7 is not a small personal wire-  
8 less service facility, the gov-  
9 ernment or instrumentality  
10 provides to the requesting  
11 party a written notice de-  
12 scribed in item (cc) with re-  
13 spect to the request, the  
14 timeframe described in sub-  
15 clause (I) is tolled with re-  
16 spect to the request until the  
17 date on which the requesting  
18 party submits to the govern-  
19 ment or instrumentality a  
20 supplemental submission in  
21 response to the notice.

22 “(bb) SUPPLEMENTAL SUB-  
23 MISSION INCOMPLETE.—If, not  
24 later than 10 days after the date  
25 on which a requesting party sub-

1 mits to a State or local govern-  
2 ment or instrumentality thereof a  
3 supplemental submission in re-  
4 sponse to a written notice de-  
5 scribed in item (cc), the govern-  
6 ment or instrumentality provides  
7 to the requesting party a written  
8 notice described in item (cc) with  
9 respect to the supplemental sub-  
10 mission, the timeframe under  
11 subclause (I) is further tolled  
12 until the date on which the re-  
13 questing party submits to the  
14 government or instrumentality a  
15 subsequent supplemental submis-  
16 sion in response to the notice.

17 “(cc) WRITTEN NOTICE DE-  
18 SCRIBED.—The written notice de-  
19 scribed in this item is, with re-  
20 spect to a request described in  
21 subclause (I) or a supplemental  
22 submission described in item (aa)  
23 or (bb) submitted to a State or  
24 local government or instrumen-  
25 tality thereof by a requesting

1 party, a written notice from the  
2 government or instrumentality to  
3 the requesting party—

4 “(AA) stating that all  
5 of the information (including  
6 any form or other docu-  
7 ment) required by the gov-  
8 ernment or instrumentality  
9 to be submitted for the re-  
10 quest to be considered com-  
11 plete has not been sub-  
12 mitted;

13 “(BB) identifying the  
14 information described in  
15 subitem (AA) that was not  
16 submitted; and

17 “(CC) including a cita-  
18 tion to a specific provision of  
19 a publicly available rule, reg-  
20 ulation, or standard issued  
21 by the government or instru-  
22 mentality requiring that  
23 such information be sub-  
24 mitted with such a request.

1                   “(dd) LIMITATION ON SUB-  
2                   SEQUENT WRITTEN NOTICE.—If  
3                   a written notice provided by a  
4                   State or local government or in-  
5                   strumentality thereof to a re-  
6                   questing party under item (bb)  
7                   with respect to a supplemental  
8                   submission identifies as not hav-  
9                   ing been submitted any informa-  
10                  tion that was not identified as  
11                  not having been submitted in the  
12                  prior written notice under this  
13                  subclause in response to which  
14                  the supplemental submission was  
15                  submitted, the subsequent writ-  
16                  ten notice shall be treated as not  
17                  having been provided to the re-  
18                  questing party.

19                  “(VI) TOLLING BY MUTUAL  
20                  AGREEMENT.—The timeframe under  
21                  subclause (I) may be tolled by mutual  
22                  agreement between the State or local  
23                  government or instrumentality thereof  
24                  and the requesting party.

25                  “(iv) DEEMED GRANTED.—

1                   “(I) IN GENERAL.—If a State or  
2                   local government or instrumentality  
3                   thereof fails to take final action to  
4                   grant or deny a request within the ap-  
5                   plicable timeframe under subclause (I)  
6                   of clause (iii), the request shall be  
7                   deemed granted on the date on which  
8                   the government or instrumentality re-  
9                   ceives a written notice of the failure  
10                  from the requesting party.

11                  “(II) RULE OF CONSTRUC-  
12                  TION.—In the case of a request that  
13                  is deemed granted under subclause  
14                  (I), the placement, construction, or  
15                  modification requested in the request  
16                  shall be considered to be authorized,  
17                  without any further action by the gov-  
18                  ernment or instrumentality, beginning  
19                  on the date on which the request is  
20                  deemed granted under such subclause.

21                  “(v) WRITTEN DECISION AND  
22                  RECORD.—Any decision by a State or local  
23                  government or instrumentality thereof to  
24                  deny a request for authorization to place,

1           construct, or modify a personal wireless  
2           service facility shall be—

3                   “(I) in writing;

4                   “(II) supported by substantial  
5           evidence contained in a written  
6           record; and

7                   “(III) publicly released, and pro-  
8           vided to the requesting party, on the  
9           same day such decision is made.

10                   “(vi) ENVIRONMENTAL EFFECTS OF  
11           RADIO FREQUENCY EMISSIONS.—No State  
12           or local government or instrumentality  
13           thereof may regulate the operation, place-  
14           ment, construction, or modification of per-  
15           sonal wireless service facilities on the basis  
16           of the environmental effects of radio fre-  
17           quency emissions to the extent that such  
18           facilities or structures comply with the  
19           Commission’s regulations concerning such  
20           emissions.

21                   “(vii) FEES.—To the extent permitted  
22           by law, a State or local government or in-  
23           strumentality thereof may charge a fee to  
24           consider a request for authorization to  
25           place, construct, or modify a personal wire-

1 less service facility or a fee for use of a  
2 right-of-way or a facility in a right-of-way  
3 owned or managed by the government or  
4 instrumentality for the placement, con-  
5 struction, or modification of a personal  
6 wireless service facility, if the fee is—

7 “(I) competitively neutral, tech-  
8 nology neutral, and nondiscrim-  
9 inatory;

10 “(II) established in advance and  
11 publicly disclosed;

12 “(III) calculated—

13 “(aa) based on actual and  
14 direct costs for—

15 “(AA) review and proc-  
16 essing of requests; and

17 “(BB) repairs and re-  
18 placement of components  
19 and materials directly result-  
20 ing from and affected by the  
21 placement, construction, or  
22 modification (including the  
23 installation or improvement)  
24 of personal wireless service  
25 facilities or repairs and re-

1 placement of equipment that  
2 facilitates the placement,  
3 construction, or modification  
4 (including the installation or  
5 improvement) of such facili-  
6 ties; and

7 “(bb) using, for purposes of  
8 item (aa), only costs that are ob-  
9 jectively reasonable; and

10 “(IV) described to a requesting  
11 party in a manner that distinguishes  
12 between—

13 “(aa) nonrecurring fees and  
14 recurring fees; and

15 “(bb) the use of facilities on  
16 which personal wireless service  
17 facilities are already located and  
18 facilities on which there are no  
19 personal wireless service facilities  
20 as of the date on which the re-  
21 quest is submitted by the re-  
22 questing party to the government  
23 or instrumentality.

24 “(C) JUDICIAL OR ADMINISTRATIVE RE-  
25 VIEW.—

1           “(i) JUDICIAL REVIEW.—Any person  
2           adversely affected by any final action or  
3           failure to act by a State or local govern-  
4           ment or any instrumentality thereof that is  
5           inconsistent with this paragraph may,  
6           within 30 days after the action or failure  
7           to act, commence an action in any court of  
8           competent jurisdiction, which shall hear  
9           and decide the action on an expedited  
10          basis.

11          “(ii) ADMINISTRATIVE REVIEW.—

12                 “(I) IN GENERAL.—Any person  
13                 adversely affected by any final action  
14                 or failure to act by a State or local  
15                 government or any instrumentality  
16                 thereof that is inconsistent with this  
17                 paragraph may petition the Commis-  
18                 sion to review such action or failure to  
19                 act.

20                 “(II) TIMING.—Not later than  
21                 120 days after receiving a petition  
22                 under subclause (I), the Commission  
23                 shall grant or deny such petition.

24                 “(D) WHEN REQUEST CONSIDERED SUB-  
25                 MITTED.—For the purposes of this paragraph,

1 a request to a State or local government or in-  
2 strumentality thereof shall be considered sub-  
3 mitted on the date on which the requesting  
4 party takes the first procedural step within the  
5 control of the requesting party—

6 “(i) to submit such request in accord-  
7 ance with the procedures established by the  
8 government or instrumentality for the re-  
9 view and approval of such a request; or

10 “(ii) in the case of a government or  
11 instrumentality that has not established  
12 specific procedures for the review and ap-  
13 proval of such a request, to submit to the  
14 government or instrumentality the type of  
15 filing that is typically required to initiate a  
16 standard review for a similar facility or  
17 structure.

18 “(E) RULE OF CONSTRUCTION.—Nothing  
19 in this paragraph may be construed to affect  
20 section 6409(a) of the Middle Class Tax Relief  
21 and Job Creation Act of 2012 (47 U.S.C.  
22 1455(a)).

23 “(F) DEFINITIONS.—In this paragraph:

24 “(i) ANTENNA.—The term ‘antenna’  
25 means an apparatus designed for the pur-

1 pose of emitting radiofrequency radiation,  
2 to be operated or operating from a fixed  
3 location for the transmission of writing,  
4 signs, signals, data, images, pictures, and  
5 sounds of all kinds.

6 “(ii) COMMUNICATIONS NETWORK.—  
7 The term ‘communications network’ means  
8 a network used to provide a communica-  
9 tions service.

10 “(iii) COMMUNICATIONS SERVICE.—  
11 The term ‘communications service’ means  
12 each of—

13 “(I) cable service, as defined in  
14 section 602;

15 “(II) information service;

16 “(III) telecommunications serv-  
17 ice; and

18 “(IV) personal wireless service.

19 “(iv) GENERALLY APPLICABLE  
20 CODE.—The term ‘generally applicable  
21 code’ means a uniform building, fire, elec-  
22 trical, plumbing, or mechanical code adopt-  
23 ed by a national code organization, or a  
24 local amendment to such a code, to the ex-  
25 tent not inconsistent with this Act.

1 “(v) NETWORK INTERFACE DEVICE.—

2 The term ‘network interface device’ means  
3 a telecommunications demarcation device  
4 and cross-connect point that—

5 “(I) is adjacent or proximate  
6 to—

7 “(aa) a small personal wire-  
8 less service facility; or

9 “(bb) a structure supporting  
10 a small personal wireless service  
11 facility; and

12 “(II) demarcates the boundary  
13 with any wireline backhaul facility.

14 “(vi) PERSONAL WIRELESS SERV-  
15 ICE.—The term ‘personal wireless service’  
16 means any fixed or mobile service (other  
17 than a broadcasting service) provided via  
18 licensed or unlicensed frequencies, includ-  
19 ing—

20 “(I) commercial mobile service;

21 “(II) commercial mobile data  
22 service (as defined in section 6001 of  
23 the Middle Class Tax Relief and Job  
24 Creation Act of 2012 (47 U.S.C.  
25 1401));

1 “(III) unlicensed wireless service;

2 and

3 “(IV) common carrier wireless  
4 exchange access service.

5 “(vii) PERSONAL WIRELESS SERVICE  
6 FACILITY.—The term ‘personal wireless  
7 service facility’ means a facility used to  
8 provide or support the provision of per-  
9 sonal wireless service.

10 “(viii) SMALL PERSONAL WIRELESS  
11 SERVICE FACILITY.—The term ‘small per-  
12 sonal wireless service facility’ means a per-  
13 sonal wireless service facility in which each  
14 antenna is not more than 3 cubic feet in  
15 volume (excluding a wireline backhaul fa-  
16 cility connected to such personal wireless  
17 service facility).

18 “(ix) UNLICENSED WIRELESS SERV-  
19 ICE.—The term ‘unlicensed wireless serv-  
20 ice’—

21 “(I) means the offering of tele-  
22 communications service using a duly  
23 authorized device that does not re-  
24 quire an individual license; and

1                   “(II) does not include the provi-  
2                   sion of direct-to-home satellite serv-  
3                   ices, as defined in section 303(v).

4                   “(x) WIRELINE BACKHAUL FACIL-  
5                   ITY.—The term ‘wireline backhaul facility’  
6                   means an above-ground or underground  
7                   wireline facility used to transport commu-  
8                   nications service or other electronic com-  
9                   munications from a small personal wireless  
10                  service facility or the adjacent network  
11                  interface device of such facility to a com-  
12                  munications network.”.

13 **SEC. 102. REMOVAL OF BARRIERS TO ENTRY.**

14                  Section 253 of the Communications Act of 1934 (47  
15 U.S.C. 253) is amended to read as follows:

16 **“SEC. 253. REMOVAL OF BARRIERS TO ENTRY.**

17                  “(a) IN GENERAL.—No State or local statute or reg-  
18                  ulation, or other State or local legal requirement, may pro-  
19                  hibit or have the effect of prohibiting the ability of any  
20                  entity to provide or enhance the provision of any interstate  
21                  or intrastate telecommunications service.

22                  “(b) PLACEMENT, CONSTRUCTION, OR MODIFICA-  
23                  TION OF TELECOMMUNICATIONS SERVICE FACILITIES.—

24                  “(1) PROHIBITION ON DISCRIMINATION.—The  
25                  regulation of the placement, construction, or modi-

1        fication of a telecommunications service facility by a  
2        State or local government or instrumentality thereof  
3        may not discriminate—

4                “(A) among telecommunications service fa-  
5        cilities—

6                “(i) based on the technology used to  
7        provide services; or

8                “(ii) based on the services provided;  
9        or

10               “(B) against telecommunications service  
11       facilities, as compared to the regulation of the  
12       placement, construction, or modification of  
13       other facilities.

14               “(2) TIMEFRAME TO GRANT OR DENY RE-  
15       QUESTS.—

16               “(A) IN GENERAL.—A State or local gov-  
17       ernment or instrumentality thereof shall grant  
18       or deny a request for authorization to place,  
19       construct, or modify a telecommunications serv-  
20       ice facility not later than—

21               “(i) if the request is for authorization  
22       to place, construct, or modify such facility  
23       in or on eligible support infrastructure, 90  
24       days after the date on which the request is

1 submitted by the requesting party to the  
2 government or instrumentality; or

3 “(ii) for any other action relating to  
4 such facility, 150 days after the date on  
5 which the request is submitted by the re-  
6 questing party to the government or in-  
7 strumentality.

8 “(B) APPLICABILITY.—The applicable  
9 timeframe under subparagraph (A) shall apply  
10 collectively to all proceedings, including permits  
11 and authorizations, required by a State or local  
12 government or instrumentality thereof for the  
13 approval of the request.

14 “(C) NO MORATORIA.—A timeframe under  
15 subparagraph (A) may not be tolled by any  
16 moratorium, whether express or de facto, im-  
17 posed by a State or local government or instru-  
18 mentality thereof on the submission, accept-  
19 ance, or consideration of requests for authoriza-  
20 tion to place, construct, or modify a tele-  
21 communications service facility.

22 “(D) TOLLING DUE TO INCOMPLETE-  
23 NESS.—

24 “(i) INITIAL REQUEST INCOM-  
25 PLETE.—If, not later than 30 days after

1 the date on which a requesting party sub-  
2 mits to a State or local government or in-  
3 strumentality thereof a request for author-  
4 ization to place, construct, or modify a  
5 telecommunications service facility, the  
6 government or instrumentality provides to  
7 the requesting party a written notice de-  
8 scribed in clause (iii) with respect to the  
9 request, the timeframe described in sub-  
10 paragraph (A) is tolled with respect to the  
11 request until the date on which the re-  
12 questing party submits to the government  
13 or instrumentality a supplemental submis-  
14 sion in response to the notice.

15 “(ii) SUPPLEMENTAL SUBMISSION IN-  
16 COMPLETE.—If, not later than 10 days  
17 after the date on which a requesting party  
18 submits to a State or local government or  
19 instrumentality thereof a supplemental  
20 submission in response to a written notice  
21 described in clause (iii), the government or  
22 instrumentality provides to the requesting  
23 party a written notice described in clause  
24 (iii) with respect to the supplemental sub-  
25 mission, the timeframe under subpara-

1 graph (A) is further tolled until the date  
2 on which the requesting party submits to  
3 the government or instrumentality a subse-  
4 quent supplemental submission in response  
5 to the notice.

6 “(iii) WRITTEN NOTICE DE-  
7 SCRIBED.—The written notice described in  
8 this clause is, with respect to a request de-  
9 scribed in subparagraph (A) or a supple-  
10 mental submission described in clause (i)  
11 or (ii) submitted to a State or local govern-  
12 ment or instrumentality thereof by a re-  
13 questing party, a written notice from the  
14 government or instrumentality to the re-  
15 questing party—

16 “(I) stating that all of the infor-  
17 mation (including any form or other  
18 document) required by the govern-  
19 ment or instrumentality to be sub-  
20 mitted for the request to be consid-  
21 ered complete has not been submitted;

22 “(II) identifying the information  
23 described in subclause (I) that was  
24 not submitted; and

1                   “(III) including a citation to a  
2                   specific provision of a publicly avail-  
3                   able rule, regulation, or standard  
4                   issued by the government or instru-  
5                   mentality requiring that such informa-  
6                   tion be submitted with such a request.

7                   “(iv) LIMITATION ON SUBSEQUENT  
8                   WRITTEN NOTICE.—If a written notice pro-  
9                   vided by a State or local government or in-  
10                  strumentality thereof to a requesting party  
11                  under clause (ii) with respect to a supple-  
12                  mental submission identifies as not having  
13                  been submitted any information that was  
14                  not identified as not having been submitted  
15                  in the prior written notice under this sub-  
16                  paragraph in response to which the supple-  
17                  mental submission was submitted, the sub-  
18                  sequent written notice shall be treated as  
19                  not having been provided to the requesting  
20                  party.

21                  “(E) TOLLING BY MUTUAL AGREEMENT.—  
22                  The timeframe under subparagraph (A) may be  
23                  tolled by mutual agreement between the State  
24                  or local government or instrumentality thereof  
25                  and the requesting party.

1           “(3) DEEMED GRANTED.—

2                   “(A) IN GENERAL.—If a State or local  
3 government or instrumentality thereof has nei-  
4 ther granted nor denied a request within the  
5 applicable timeframe under paragraph (2), the  
6 request shall be deemed granted on the date on  
7 which the government or instrumentality re-  
8 ceives a written notice of the failure to grant or  
9 deny from the requesting party.

10                   “(B) RULE OF CONSTRUCTION.—In the  
11 case of a request that is deemed granted under  
12 subparagraph (A), the placement, construction,  
13 or modification requested in such request shall  
14 be considered to be authorized, without any fur-  
15 ther action by the government or instrumen-  
16 tality, beginning on the date on which such re-  
17 quest is deemed granted under such subpara-  
18 graph.

19           “(4) WRITTEN DECISION AND RECORD.—A de-  
20 cision by a State or local government or instrumen-  
21 tality thereof to deny a request to place, construct,  
22 or modify a telecommunications service facility shall  
23 be—

24                   “(A) in writing;

1           “(B) supported by substantial evidence  
2 contained in a written record; and

3           “(C) publicly released, and provided to the  
4 requesting party, on the same day such decision  
5 is made.

6           “(5) FEES.—

7           “(A) IN GENERAL.—To the extent per-  
8 mitted by law, a State or local government or  
9 instrumentality thereof may charge a fee that  
10 meets the requirements under subparagraph  
11 (B)—

12           “(i) to consider a request for author-  
13 ization to place, construct, or modify a  
14 telecommunications service facility; or

15           “(ii) for use of a right-of-way or a fa-  
16 cility in a right-of-way owned or managed  
17 by the government or instrumentality for  
18 the placement, construction, or modifica-  
19 tion of a telecommunications service facil-  
20 ity.

21           “(B) REQUIREMENTS.—A fee charged  
22 under subparagraph (A) shall be—

23           “(i) competitively neutral, technology  
24 neutral, and nondiscriminatory;

1 “(ii) established in advance and pub-  
2 licly disclosed;

3 “(iii) calculated—

4 “(I) based on actual and direct  
5 costs for—

6 “(aa) review and processing  
7 of requests; and

8 “(bb) repairs and replace-  
9 ment of—

10 “(AA) components and  
11 materials directly resulting  
12 from and affected by the  
13 placement, construction, or  
14 modification (including the  
15 installation or improvement)  
16 of telecommunications serv-  
17 ice facilities; or

18 “(BB) equipment that  
19 facilitates the placement,  
20 construction, or modification  
21 (including the installation or  
22 improvement) of such facili-  
23 ties; and

1                   “(II) using, for purposes of sub-  
2                   clause (I), only costs that are objec-  
3                   tively reasonable; and

4                   “(iv) described to a requesting party  
5                   in a manner that distinguishes between—

6                   “(I) nonrecurring fees and recur-  
7                   ring fees; and

8                   “(II) the use of facilities on  
9                   which telecommunications service fa-  
10                  cilities or infrastructure for compat-  
11                  ible uses are already located and fa-  
12                  cilities on which there are no tele-  
13                  communications service facilities or  
14                  infrastructure for compatible uses as  
15                  of the date on which the request is  
16                  submitted by the requesting party to  
17                  the government or instrumentality.

18                  “(c) JUDICIAL REVIEW.—

19                  “(1) IN GENERAL.—A person adversely affected  
20                  by a State or local statute, regulation, or other legal  
21                  requirement, or by a final action or failure to act by  
22                  a State or local government or instrumentality there-  
23                  of, that is inconsistent with this section may com-  
24                  mence an action in any court of competent jurisdic-  
25                  tion.

1           “(2) TIMING.—

2                   “(A) EXPEDITED BASIS.—A court shall  
3           hear and decide an action commenced under  
4           paragraph (1) on an expedited basis.

5                   “(B) FINAL ACTION OR FAILURE TO  
6           ACT.—An action may only be commenced under  
7           paragraph (1) on the basis of a final action or  
8           failure to act by a State or local government or  
9           instrumentality thereof, if commenced not later  
10          than 30 days after such action or failure to act.

11          “(d) PRESERVATION OF STATE REGULATORY AU-  
12       THORITY.—Nothing in this section shall affect the ability  
13       of a State to impose, on a competitively neutral and non-  
14       discriminatory basis and consistent with section 254, re-  
15       quirements necessary to preserve and advance universal  
16       service, protect the public safety and welfare, ensure the  
17       continued quality of telecommunications services, and  
18       safeguard the rights of consumers.

19          “(e) PRESERVATION OF STATE AND LOCAL GOVERN-  
20       MENT AUTHORITY.—Nothing in this section affects the  
21       authority of a State or local government or instrumen-  
22       tality thereof to manage, on a competitively neutral and  
23       nondiscriminatory basis, the public rights-of-way or to re-  
24       quire, on a competitively neutral and nondiscriminatory  
25       basis, fair and reasonable compensation from tele-

1 communications providers for use of public rights-of-way,  
2 if the compensation required meets the requirements of  
3 subsection (b)(5).

4 “(f) PREEMPTION.—

5 “(1) IN GENERAL.—If, after notice and an op-  
6 portunity for public comment, the Commission deter-  
7 mines that a State or local government or instru-  
8 mentality thereof has permitted or imposed a stat-  
9 ute, regulation, or legal requirement that violates or  
10 is inconsistent with this section, the Commission  
11 shall preempt the enforcement of such statute, regu-  
12 lation, or legal requirement to the extent necessary  
13 to correct such violation or inconsistency.

14 “(2) TIMING.—Not later than 120 days after  
15 receiving a petition for preemption of the enforce-  
16 ment of a statute, regulation, or legal requirement  
17 as described in paragraph (1), the Commission shall  
18 grant or deny the petition.

19 “(g) COMMERCIAL MOBILE SERVICE PROVIDERS;  
20 CABLE OPERATORS.—Nothing in this section shall affect  
21 the application of section 332(c)(3) to commercial mobile  
22 service providers or section 621 to cable operators.

23 “(h) RURAL MARKETS.—It shall not be a violation  
24 of this section for a State to require a telecommunications  
25 carrier that seeks to provide telephone exchange service

1 or exchange access in a service area served by a rural tele-  
2 phone company to meet the requirements in section  
3 214(e)(1) for designation as an eligible telecommuni-  
4 cations carrier for that area before being permitted to pro-  
5 vide such service. This subsection shall not apply—

6 “(1) to a service area served by a rural tele-  
7 phone company that has obtained an exemption, sus-  
8 pension, or modification of section 251(c)(4) that ef-  
9 fectively prevents a competitor from meeting the re-  
10 quirements of section 214(e)(1); and

11 “(2) to a provider of commercial mobile serv-  
12 ices.

13 “(i) WHEN REQUEST CONSIDERED SUBMITTED.—  
14 For the purposes of this section, a request to a State or  
15 local government or instrumentality thereof shall be con-  
16 sidered submitted on the date on which the requesting  
17 party takes the first procedural step within the control of  
18 the requesting party—

19 “(1) to submit such request in accordance with  
20 the procedures established by the government or in-  
21 strumentality for the review and approval of such a  
22 request; or

23 “(2) in the case of a government or instrumen-  
24 tality that has not established specific procedures for  
25 the review and approval of such a request, to submit

1 to the government or instrumentality the type of fil-  
2 ing that is typically required to initiate a standard  
3 review for a similar facility or structure.

4 “(j) DEFINITIONS.—In this section:

5 “(1) ELIGIBLE SUPPORT INFRASTRUCTURE.—

6 The term ‘eligible support infrastructure’ means in-  
7 frastructure that supports or houses a telecommuni-  
8 cations service facility (or that is designed for or ca-  
9 pable of supporting or housing such a facility) at the  
10 time when a request to a State or local government  
11 or instrumentality thereof for authorization to place,  
12 construct, or modify a telecommunications service  
13 facility in or on the infrastructure is submitted by  
14 the requesting party to the government or instru-  
15 mentality.

16 “(2) TELECOMMUNICATIONS SERVICE FACIL-  
17 ITY.—The term ‘telecommunications service facil-  
18 ity’—

19 “(A) means a facility that is designed or  
20 used to provide or facilitate the provision of any  
21 interstate or intrastate telecommunications  
22 service; and

23 “(B) includes a facility described in sub-  
24 paragraph (A) that is used to provide other  
25 services.”.

1 **SEC. 103. REQUESTS FOR MODIFICATION OF CERTAIN EX-**  
2 **ISTING WIRELESS AND TELECOMMUNI-**  
3 **CATIONS SERVICE FACILITIES.**

4 (a) IN GENERAL.—Section 6409 of the Middle Class  
5 Tax Relief and Job Creation Act of 2012 (47 U.S.C.  
6 1455) is amended—

7 (1) in the heading, by striking “**WIRELESS**”  
8 and inserting “**COMMUNICATIONS**”; and

9 (2) in subsection (a)—

10 (A) in paragraph (1), by striking “a State  
11 or local government” and all that follows and  
12 inserting the following: “a State or local gov-  
13 ernment or instrumentality thereof may not  
14 deny, and shall approve—

15 “(A) any eligible facilities request for a  
16 modification of an existing wireless tower, base  
17 station, or eligible support structure that does  
18 not substantially change the physical dimen-  
19 sions of such wireless tower, base station, or eli-  
20 gible support structure; and

21 “(B) any eligible telecommunications facili-  
22 ties request for a modification of an existing  
23 telecommunications service facility in or on eli-  
24 gible support infrastructure that does not sub-  
25 stantially change the physical dimensions of  
26 such facility.”;

1 (B) by amending paragraph (2) to read as  
2 follows:

3 “(2) TIMEFRAME.—

4 “(A) DEEMED APPROVAL.—If a State or  
5 local government or instrumentality thereof  
6 does not, before or on the date that is 60 days  
7 after the date on which a requesting party sub-  
8 mits to the government or instrumentality a re-  
9 quest as an eligible facilities request or an eligi-  
10 ble telecommunications facilities request (as the  
11 case may be), approve the request or make the  
12 determination and provide the written notice  
13 described in subparagraph (B) with respect to  
14 the request, the request is deemed approved on  
15 the day after the date that is 60 days after the  
16 date on which the requesting party submits the  
17 request.

18 “(B) DETERMINATION REQUEST IS NOT  
19 AN ELIGIBLE REQUEST.—

20 “(i) DETERMINATION DESCRIBED.—

21 The determination described in this sub-  
22 paragraph is a determination by a State or  
23 local government or instrumentality thereof  
24 that a request described in subparagraph  
25 (A) is not an eligible facilities request or

1 an eligible telecommunications facilities re-  
2 quest (as the case may be).

3 “(ii) WRITTEN NOTICE DESCRIBED.—

4 The written notice described in this sub-  
5 paragraph is a written notice of the deter-  
6 mination described in clause (i) provided  
7 by the government or instrumentality to  
8 the requesting party that clearly describes  
9 the reasons why the request is not an eligi-  
10 ble facilities request or an eligible tele-  
11 communications facilities request (as the  
12 case may be) and includes a citation to a  
13 specific provision of this subsection or the  
14 regulations promulgated under this sub-  
15 section relied upon for the determination.

16 “(C) TOLLING DUE TO INCOMPLETE-  
17 NESS.—

18 “(i) INITIAL REQUEST INCOM-  
19 PLETE.—If, not later than 30 days after  
20 the date on which a requesting party sub-  
21 mits to a State or local government or in-  
22 strumentality thereof a request described  
23 in subparagraph (A), the government or  
24 instrumentality provides to the requesting  
25 party a written notice described in clause

1 (iii) with respect to the request, the 60-day  
2 timeframe under subparagraph (A) is  
3 tolled until the date on which the request-  
4 ing party submits to the government or in-  
5 strumentality a supplemental submission in  
6 response to the notice.

7 “(ii) SUPPLEMENTAL SUBMISSION IN-  
8 COMPLETE.—If, not later than 10 days  
9 after the date on which a requesting party  
10 submits to a State or local government or  
11 instrumentality thereof a supplemental  
12 submission in response to a written notice  
13 described in clause (iii), the government or  
14 instrumentality provides to the requesting  
15 party a written notice described in clause  
16 (iii) with respect to the supplemental sub-  
17 mission, the 60-day timeframe under sub-  
18 paragraph (A) is further tolled until the  
19 date on which the requesting party submits  
20 to the government or instrumentality a  
21 subsequent supplemental submission in re-  
22 sponse to the notice.

23 “(iii) WRITTEN NOTICE DE-  
24 SCRIBED.—The written notice described in  
25 this clause is, with respect to a request de-

1           scribed in subparagraph (A) or a supple-  
2           mental submission described in clause (i)  
3           or (ii) submitted to a State or local govern-  
4           ment or instrumentality thereof by a re-  
5           questing party, a written notice from the  
6           government or instrumentality to the re-  
7           questing party—

8                   “(I) stating that all of the infor-  
9                   mation (including any form or other  
10                  document) required by the govern-  
11                  ment or instrumentality to be sub-  
12                  mitted for the request to be consid-  
13                  ered complete has not been submitted;

14                   “(II) identifying the information  
15                  described in subclause (I) that was  
16                  not submitted; and

17                   “(III) including a citation to a  
18                  specific provision of a publicly avail-  
19                  able rule, regulation, or standard  
20                  issued by the government or instru-  
21                  mentality requiring that such informa-  
22                  tion be submitted with such a request.

23                  “(iv) LIMITATION.—

24                   “(I) INITIAL WRITTEN NOTICE.—

25                  If a written notice provided by a State

1 or local government or instrumentality  
2 thereof to a requesting party under  
3 clause (i) with respect to a request de-  
4 scribed in subparagraph (A) identifies  
5 as not having been submitted any in-  
6 formation that the government or in-  
7 strumentality is prohibited by para-  
8 graph (5) from requiring to be sub-  
9 mitted, such notice shall be treated as  
10 not having been provided to the re-  
11 questing party.

12 “(II) SUBSEQUENT WRITTEN NO-  
13 TICE.—If a written notice provided by  
14 a State or local government or instru-  
15 mentality thereof to a requesting  
16 party under clause (ii) with respect to  
17 a supplemental submission identifies  
18 as not having been submitted any in-  
19 formation that was not identified as  
20 not having been submitted in the prior  
21 written notice under this subpara-  
22 graph in response to which the sup-  
23 plemental submission was submitted,  
24 the subsequent written notice shall be

1 treated as not having been provided to  
2 the requesting party.

3 “(D) TOLLING BY MUTUAL AGREEMENT.—  
4 The 60-day timeframe under subparagraph (A)  
5 may be tolled by mutual agreement between the  
6 State or local government or instrumentality  
7 thereof and the requesting party.”; and

8 (C) by adding at the end the following:

9 “(4) WHEN REQUEST CONSIDERED SUB-  
10 MITTED.—

11 “(A) IN GENERAL.—For the purposes of  
12 this subsection, a request described in para-  
13 graph (2)(A) shall be considered submitted on  
14 the date on which the requesting party takes  
15 the first procedural step within the control of  
16 the requesting party—

17 “(i) to submit such request in accord-  
18 ance with the procedures established by the  
19 government or instrumentality for the re-  
20 view and approval of such a request; or

21 “(ii) in the case of a government or  
22 instrumentality that has not established  
23 specific procedures for the review and ap-  
24 proval of such a request, to submit to the  
25 government or instrumentality the type of

1 filing that is typically required to initiate a  
2 standard review for a similar facility or  
3 structure.

4 “(B) NO PRE-APPLICATION REQUIRE-  
5 MENTS.—A State or local government or instru-  
6 mentality thereof may not require a requesting  
7 party to undertake any process, meeting, or  
8 other step prior to or as a prerequisite to a re-  
9 quest being considered submitted.

10 “(5) LIMITATION ON REQUIRED DOCUMENTA-  
11 TION.—A State or local government or instrumen-  
12 tality thereof may require a requesting party submit-  
13 ting a request as an eligible facilities request or an  
14 eligible telecommunications facilities request to sub-  
15 mit information (including a form or other docu-  
16 ment) with such request only to the extent that such  
17 information is reasonably related to determining  
18 whether such request is an eligible facilities request  
19 or an eligible telecommunications facilities request  
20 (as the case may be) and is identified in a publicly  
21 available rule, regulation, or standard issued by the  
22 government or instrumentality requiring that such  
23 information be submitted with such a request. A  
24 State or local government or instrumentality thereof  
25 may not require a requesting party to submit any

1 other documentation or information with such a re-  
2 quest.

3 “(6) ENFORCEMENT.—

4 “(A) IN GENERAL.—A requesting party  
5 may bring an action in any district court of the  
6 United States to enforce the provisions of this  
7 subsection.

8 “(B) EXPEDITED REVIEW.—A district  
9 court of the United States shall consider an ac-  
10 tion under subparagraph (A) on an expedited  
11 basis.

12 “(7) DEFINITIONS.—In this subsection:

13 “(A) ELIGIBLE FACILITIES REQUEST.—  
14 The term ‘eligible facilities request’ means any  
15 request for a modification of an existing wire-  
16 less tower, base station, or eligible support  
17 structure that does not substantially change the  
18 physical dimensions of such wireless tower, base  
19 station, or eligible support structure and that  
20 involves—

21 “(i) collocation of new transmission  
22 equipment;

23 “(ii) removal of transmission equip-  
24 ment;

1                   “(iii) replacement of transmission  
2                   equipment; or

3                   “(iv) placement, construction, or  
4                   modification of equipment that—

5                   “(I) improves the resiliency of  
6                   the wireless tower, base station, or eli-  
7                   gible support structure; and

8                   “(II) provides a direct benefit to  
9                   public safety, such as—

10                   “(aa) providing backup  
11                   power for the wireless tower, base  
12                   station, or eligible support struc-  
13                   ture;

14                   “(bb) hardening the wireless  
15                   tower, base station, or eligible  
16                   support structure; or

17                   “(cc) providing more reliable  
18                   connection capability using the  
19                   wireless tower, base station, or  
20                   eligible support structure.

21                   “(B) ELIGIBLE SUPPORT INFRASTRUC-  
22                   TURE.—The term ‘eligible support infrastruc-  
23                   ture’ means infrastructure that supports or  
24                   houses a telecommunications service facility at  
25                   the time when an eligible telecommunications

1 facilities request for a modification of such fa-  
2 cility is submitted to a State or local govern-  
3 ment or instrumentality thereof.

4 “(C) ELIGIBLE SUPPORT STRUCTURE.—  
5 The term ‘eligible support structure’ means a  
6 structure that, at the time when an eligible fa-  
7 cilities request for a modification of such struc-  
8 ture is submitted to a State or local government  
9 or instrumentality thereof, supports or could  
10 support transmission equipment.

11 “(D) ELIGIBLE TELECOMMUNICATIONS FA-  
12 CILITIES REQUEST.—The term ‘eligible tele-  
13 communications facilities request’ means any  
14 request for a modification of an existing tele-  
15 communications service facility in or on eligible  
16 support infrastructure that does not substan-  
17 tially change the physical dimensions of such  
18 facility and that involves—

19 “(i) collocation of new telecommuni-  
20 cations service facility equipment;

21 “(ii) removal of telecommunications  
22 service facility equipment; or

23 “(iii) replacement of telecommuni-  
24 cations service facility equipment.

1           “(E) TELECOMMUNICATIONS SERVICE FA-  
2           CILITY.—The term ‘telecommunications service  
3           facility’—

4                   “(i) means a facility that is designed  
5                   or used to provide or facilitate the provi-  
6                   sion of any interstate or intrastate tele-  
7                   communications service; and

8                   “(ii) includes a facility described in  
9                   clause (i) that is used to provide other  
10                  services.

11           “(F) TRANSMISSION EQUIPMENT.—The  
12           term ‘transmission equipment’ has the meaning  
13           given such term in section 1.6100(b)(8) of title  
14           47, Code of Federal Regulations (as in effect on  
15           the date of the enactment of this paragraph).”.

16           (b) IMPLEMENTATION.—Not later than 180 days  
17           after the date of the enactment of this Act, the Federal  
18           Communications Commission shall issue final rules to im-  
19           plement the amendments made by subsection (a).

20           (c) APPLICABILITY.—The amendments made by sub-  
21           section (a) shall apply with respect to any eligible facilities  
22           request or eligible telecommunications facilities request  
23           described in paragraph (1) of section 6409(a) of the Mid-  
24           dle Class Tax Relief and Job Creation Act of 2012 (47  
25           U.S.C. 1455(a)) that is submitted (as determined under

1 paragraph (4) of such section, as added by subsection (a))  
2 by a requesting party on or after the date of the enact-  
3 ment of this Act.

## 4 **TITLE II—CABLE**

### 5 **SEC. 201. REQUEST FOR NEW FRANCHISE.**

6 Section 621 of the Communications Act of 1934 (47  
7 U.S.C. 541) is amended by adding at the end the fol-  
8 lowing:

9 “(g) **TIMING OF DECISION ON REQUEST FOR FRAN-**  
10 **CHISE.—**

11 “(1) **IN GENERAL.—**Not later than 120 days  
12 after the date on which a requesting party submits  
13 to a franchising authority a request for the grant of  
14 a franchise (other than a renewal thereof), the fran-  
15 chising authority shall approve or deny such request.

16 “(2) **DEEMED GRANT OF NEW FRANCHISE.—**If  
17 the franchising authority does not approve or deny  
18 a request under paragraph (1) by the day after the  
19 date on which the time period ends under such para-  
20 graph, such request shall be deemed granted on such  
21 day.

22 “(3) **APPLICABILITY.—**Notwithstanding any  
23 provision of this title, the timeframe under para-  
24 graph (1) shall apply collectively to all proceedings

1 required by a franchising authority for the approval  
2 of the request.

3 “(4) NO MORITORIA.—A timeframe under para-  
4 graph (1) may not be tolled by any moratorium,  
5 whether express or de facto, imposed by a fran-  
6 chising authority on the consideration of any request  
7 for a franchise.

8 “(5) TOLLING DUE TO INCOMPLETENESS.—

9 “(A) INITIAL REQUEST INCOMPLETE.—If,  
10 not later than 30 days after the date on which  
11 a requesting party provides to a franchising au-  
12 thority a written notice described in subpara-  
13 graph (C) with respect to the request, the time-  
14 frame described in paragraph (1) is tolled with  
15 respect to the request until the date on which  
16 the requesting party submits to the franchising  
17 authority a supplemental submission in re-  
18 sponse to the notice.

19 “(B) SUPPLEMENTAL SUBMISSION INCOM-  
20 PLETE.—If, not later than 10 days after the  
21 date on which a requesting party submits to the  
22 franchising authority a supplemental submis-  
23 sion in response to a written notice described in  
24 subparagraph (A), the franchising authority  
25 provides to the requesting party a written no-

1           tice described in subparagraph (A) with respect  
2           to the supplemental submission, the timeframe  
3           under paragraph (1) is further tolled until the  
4           date on which the requesting party submits to  
5           the franchising authority a subsequent supple-  
6           mental submission in response to the notice.

7           “(C) WRITTEN NOTICE DESCRIBED.—The  
8           written notice described in this paragraph is,  
9           with respect to a request described in para-  
10          graph (1) or a supplemental submission de-  
11          scribed in subparagraph (A) or (B) submitted  
12          to a franchising authority by a requesting  
13          party, a written notice from the franchising au-  
14          thority to the requesting party—

15               “(i) stating that all of the information  
16               (including any form or other document) re-  
17               quired by the franchising authority to be  
18               submitted for the request to be considered  
19               complete has not been submitted;

20               “(ii) identifying the information de-  
21               scribed in clause (i) that was not sub-  
22               mitted; and

23               “(iii) including a citation to a specific  
24               provision of a publicly available rule, regu-  
25               lation, or standard issued by the fran-

1 chising authority requiring that such infor-  
2 mation be submitted with such a request.

3 “(D) LIMITATION ON SUBSEQUENT WRIT-  
4 TEN NOTICE.—If a written notice provided by a  
5 franchising authority to a requesting party  
6 under subparagraph (A) with respect to a sup-  
7 plemental submission identifies as not having  
8 been submitted any information that was not  
9 identified as not having been submitted in the  
10 prior written notice under this subparagraph in  
11 response to which the supplemental submission  
12 was submitted, the subsequent written notice  
13 shall be treated as not having been provided to  
14 the requesting party.

15 “(6) TOLLING BY MUTUAL AGREEMENT.—The  
16 timeframe under paragraph (1) may be tolled by  
17 mutual agreement between the franchising authority  
18 and the requesting party.

19 “(7) WRITTEN DECISION AND RECORD.—Any  
20 decision by a franchising authority to deny a request  
21 for a franchise shall be—

22 “(A) in writing;

23 “(B) supported by substantial evidence  
24 contained in a written record; and

1           “(C) publicly released, and provided to the  
2           requesting party, on the same day such decision  
3           is made.

4           “(8) WHEN REQUEST CONSIDERED SUB-  
5           MITTED.—For the purposes of this subsection, a re-  
6           quest to a franchising authority shall be considered  
7           submitted on the date on which the requesting party  
8           takes the first procedural step within the control of  
9           the requesting party—

10           “(A) to submit such request in accordance  
11           with the procedures established by the fran-  
12           chising authority for the review and approval of  
13           such a request; or

14           “(B) in the case of a franchising authority  
15           that has not established specific procedures for  
16           the review and approval of such a request, to  
17           submit to the franchising authority the type of  
18           filing that is typically required to initiate a  
19           standard review for a request related to a fran-  
20           chise.”.

1 **SEC. 202. REQUEST REGARDING PLACEMENT, CONSTRUC-**  
2 **TION, OR MODIFICATION OF CABLE EQUIP-**  
3 **MENT.**

4 (a) IN GENERAL.—Section 624 of the Communica-  
5 tions Act of 1934 (47 U.S.C. 544) is amended by adding  
6 at the end the following:

7 “(j) REQUEST REGARDING PLACEMENT, CONSTRUC-  
8 TION, OR MODIFICATION OF FACILITIES.—

9 “(1) NO EFFECT ON AUTHORITY OF CERTAIN  
10 ENTITIES.—Except as provided in this subsection,  
11 nothing in this title shall limit or affect the author-  
12 ity of a covered entity over—

13 “(A) decisions regarding the placement,  
14 construction, or modification of covered equip-  
15 ment within the jurisdiction of such covered en-  
16 tity; or

17 “(B) safety standards for the placement,  
18 construction, or modification of such covered  
19 equipment.

20 “(2) LIMITATIONS.—

21 “(A) ABILITY TO PROVIDE OR ENHANCE  
22 SERVICE.—With respect to the regulation by a  
23 covered entity of the placement, construction, or  
24 modification of covered equipment, the covered  
25 entity shall not prohibit or have the effect of  
26 prohibiting the ability of a cable operator to

1 provide, improve, or enhance the provision of  
2 service using covered equipment under a fran-  
3 chise granted by such covered entity, or within  
4 the jurisdiction of such covered entity, as so  
5 may be the case.

6 “(B) TIMING OF DECISIONS ON REQUESTS  
7 FOR AUTHORIZATIONS TO PLACE, CONSTRUCT,  
8 OR MODIFY FACILITY.—

9 “(i) TIMEFRAME.—A covered entity  
10 shall approve or deny a request for author-  
11 ization to place, construct, or modify cov-  
12 ered equipment not later than—

13 “(I) if the request is for author-  
14 ization to place, construct, or modify  
15 covered equipment in or on a covered  
16 easement or eligible support infra-  
17 structure, 90 days after the date on  
18 which requesting party submits the  
19 request to the covered entity; or

20 “(II) if the request is not for au-  
21 thorization to place, construct, or  
22 modify covered equipment in or on a  
23 covered easement or eligible support  
24 infrastructure, 150 days after the  
25 date on which the requesting party

1 submits the request to the covered en-  
2 tity.

3 “(ii) DEEMED GRANTED.—If a cov-  
4 ered entity fails to grant or deny a request  
5 by the applicable timeframe under clause  
6 (i), the request shall be deemed granted  
7 and authorized on the date on which the  
8 covered entity receives written notice of the  
9 failure from the requesting party.

10 “(iii) APPLICABILITY.—Notwith-  
11 standing any provision of this title, the ap-  
12 plicable timeframe under clause (i) shall  
13 apply collectively to all proceedings re-  
14 quired by a covered entity for the approval  
15 of the request.

16 “(iv) NO MORATORIA.—A timeframe  
17 under clause (i) may not be tolled by any  
18 moratorium, whether express or de facto,  
19 imposed by a covered entity on the consid-  
20 eration of any request for authorization to  
21 place, construct, or modify covered equip-  
22 ment.

23 “(v) TOLLING DUE TO INCOMPLETE-  
24 NESS.—

1                   “(I) INITIAL REQUEST INCOM-  
2                   plete.—If, not later than 30 days  
3                   after the date on which a requesting  
4                   party submits to a covered entity a re-  
5                   quest for authorization to place, con-  
6                   struct, or modify covered equipment,  
7                   the covered entity provides to the re-  
8                   questing party a written notice de-  
9                   scribed in subclause (III) with respect  
10                  to the request, the timeframe de-  
11                  scribed in clause (i) is tolled with re-  
12                  spect to the request until the date on  
13                  which the requesting party submits to  
14                  the covered entity a supplemental sub-  
15                  mission in response to the notice.

16                  “(II) SUPPLEMENTAL SUBMIS-  
17                  sion incomplete.—If, not later than  
18                  10 days after the date on which a re-  
19                  questing party submits to the covered  
20                  entity a supplemental submission in  
21                  response to a written notice described  
22                  in subclause (III), the covered entity  
23                  provides to the requesting party a  
24                  written notice described in subclause  
25                  (III) with respect to the supplemental

1 submission, the timeframe under  
2 clause (i) is further tolled until the  
3 date on which the requesting party  
4 submits to the covered entity a subse-  
5 quent supplemental submission in re-  
6 sponse to the notice.

7 “(III) WRITTEN NOTICE DE-  
8 SCRIBED.—The written notice de-  
9 scribed in this subclause is, with re-  
10 spect to a request described in clause  
11 (i) or a supplemental submission de-  
12 scribed in subclause (I) or (II) sub-  
13 mitted to a covered entity by a re-  
14 questing party, a written notice from  
15 the requesting party to the covered  
16 entity—

17 “(aa) stating that all of the  
18 information (including any form  
19 or other document) required by  
20 the covered entity to be sub-  
21 mitted for the request to be con-  
22 sidered complete has not been  
23 submitted;

1                   “(bb) identifying the infor-  
2                   mation described in item (aa)  
3                   that was not submitted; and

4                   “(cc) including a citation to  
5                   a specific provision of a publicly  
6                   available rule, regulation, or  
7                   standard issued by the covered  
8                   entity requiring that such infor-  
9                   mation be submitted with such a  
10                  request.

11                  “(IV) LIMITATION ON SUBSE-  
12                  QUENT WRITTEN NOTICE.—If a writ-  
13                  ten notice provided by covered entity  
14                  to a requesting party under subclause  
15                  (I) with respect to a supplemental  
16                  submission identifies as not having  
17                  been submitted any information that  
18                  was not identified as not having been  
19                  submitted in the prior written notice  
20                  under this subparagraph in response  
21                  to which the supplemental submission  
22                  was submitted, the subsequent written  
23                  notice shall be treated as not having  
24                  been provided to the requesting party.

1                   “(vi) TOLLING BY MUTUAL AGREE-  
2                   MENT.—The timeframe under clause (i)  
3                   may be tolled by mutual agreement be-  
4                   tween the covered entity and the request-  
5                   ing party.

6                   “(vii) WRITTEN DECISION AND  
7                   RECORD.—Any decision by a covered entity  
8                   to deny a request for authorization to  
9                   place, construct, or modify covered equip-  
10                  ment shall be—

11                               “(I) in writing;

12                               “(II) supported by substantial  
13                               evidence contained in a written  
14                               record; and

15                               “(III) publicly released, and pro-  
16                               vided to the requesting party, on the  
17                               same day such decision is made.

18                   “(viii) WHEN REQUEST CONSIDERED  
19                   SUBMITTED.—For the purposes of this  
20                   subparagraph, a request to a covered enti-  
21                   ty shall be considered submitted on the  
22                   date on which the requesting party takes  
23                   the first procedural step within the control  
24                   of the requesting party—

1                   “(I) to submit such request in  
2                   accordance with the procedures estab-  
3                   lished by the covered entity for the re-  
4                   view and approval of such a request;  
5                   or

6                   “(II) in the case of a covered en-  
7                   tity that has not established specific  
8                   procedures for the review and ap-  
9                   proval of such a request, to submit to  
10                  the covered entity the type of filing  
11                  that is typically required to initiate a  
12                  standard review for a similar request  
13                  in a jurisdiction that has not estab-  
14                  lished specific procedures for the rel-  
15                  evant review and approval of such a  
16                  request.

17                  “(3) FEES.—

18                  “(A) IN GENERAL.—A covered entity may  
19                  charge a fee that meets the requirements under  
20                  subparagraph (B) to consider a request for au-  
21                  thorization to place, construct, or modify cov-  
22                  ered equipment.

23                  “(B) REQUIREMENTS.—A fee charged  
24                  under subparagraph (A) shall be—

1 “(i) competitively neutral, technology  
2 neutral, and nondiscriminatory;

3 “(ii) established and publicly disclosed  
4 in advance;

5 “(iii) calculated—

6 “(I) based on actual and direct  
7 costs for—

8 “(aa) review and processing  
9 of requests; and

10 “(bb) repairs and replace-  
11 ment of—

12 “(AA) components and  
13 materials directly resulting  
14 from and affected by the  
15 placement, construction, or  
16 modification of the covered  
17 equipment (including compo-  
18 nents and materials directly  
19 resulting from and affected  
20 by the installation of covered  
21 equipment or, with respect  
22 to the placement, construc-  
23 tion, or modification of the  
24 covered equipment, the im-



1           ment in or on the easement or public right-of-  
2           way is submitted to the covered entity.

3           “(B) COVERED EQUIPMENT.—The term  
4           ‘covered equipment’ means equipment used in  
5           or attached to a cable system to provide service  
6           through such system.

7           “(C) COVERED ENTITY.—The term ‘cov-  
8           ered entity’ means:

9                   “(i) A State.

10                   “(ii) A local government.

11                   “(iii) An instrumentality of a State or  
12                   a local government.

13                   “(iv) A franchising authority.

14           “(D) ELIGIBLE SUPPORT INFRASTRUC-  
15           TURE.—The term ‘eligible support infrastruc-  
16           ture’ means infrastructure that supports or  
17           houses a facility for communication by wire (or  
18           that is designed for or capable of supporting or  
19           housing such a facility) at the time when a re-  
20           quest to a covered entity for authorization to  
21           place, construct, or modify covered equipment  
22           in or on the infrastructure is submitted to the  
23           covered entity.”.

24           (b) ACTION ON PENDING REQUESTS.—

1           (1) APPLICATION.—Paragraphs (2)(B) and (4)  
2           of section 624(j) of the Communications Act of 1934  
3           (47 U.S.C. 544(j)), as added by subsection (a), shall  
4           apply to a—

5                   (A) request submitted to a covered entity  
6                   (as such term is defined in section 624(j) of the  
7                   Communications Act of 1934)—

8                           (i) before the date of the enactment of  
9                           this Act; and

10                           (ii) has not been approved or denied  
11                           by the covered entity on or before such  
12                           date; and

13                   (B) a request submitted to a covered entity  
14                   on or after the date of the enactment of this  
15                   Act.

16           (2) DATE OF RECEIPT.—The date of receipt by  
17           a covered entity of a request described under sub-  
18           section (a)(1) shall be deemed to be the date of the  
19           enactment of this Act.

20 **SEC. 203. CABLE FRANCHISE TERM AND TERMINATION.**

21           (a) ELIMINATION OR MODIFICATION OF REQUIRE-  
22           MENT IN FRANCHISE.—Section 625 of the Communica-  
23           tions Act of 1934 (47 U.S.C. 545) is amended to read  
24           as follows:

1 **“SEC. 625. ELIMINATION OR MODIFICATION OF REQUIRE-**  
2 **MENT IN FRANCHISE.**

3 “(a) IN GENERAL.—During the period in which a  
4 franchise is in effect, the cable operator may obtain the  
5 elimination or modification of any requirement in the fran-  
6 chise by submitting to the franchising authority a request  
7 for the elimination or modification of such requirement.

8 “(b) ELIMINATION OR MODIFICATION OF REQUIRE-  
9 MENT IN FRANCHISE.—

10 “(1) REQUIREMENT.—The franchising author-  
11 ity shall eliminate or modify a requirement in ac-  
12 cordance with a request submitted under subsection  
13 (a) not later than 120 days after the cable operator  
14 submits the request to the franchising authority if  
15 the cable operator demonstrates in the request—

16 “(A) good cause for the elimination or  
17 modification of the requirement, including the  
18 need to eliminate or modify the requirement—

19 “(i) to conform to an applicable Fed-  
20 eral or State law;

21 “(ii) to address changes in technology;

22 or

23 “(iii) in the case of a requirement ap-  
24 plicable to the cable operator, due to com-  
25 mercial impracticability; and

1           “(B) that the mix, quality, and level of  
2           cable services required by the franchise at the  
3           time the franchise was granted will be main-  
4           tained notwithstanding the elimination or modi-  
5           fication of the requirement;

6           “(2) DEFINITION.—In this subsection, the term  
7           ‘commercial impracticability’ means that it is com-  
8           mercially impracticable for the operator to comply  
9           with the requirement as a result of a change in con-  
10          ditions which is beyond the control of the operator  
11          and the nonoccurrence of which was a basic assump-  
12          tion on which the requirement was based.

13          “(c) DEEMED ELIMINATION OR MODIFICATION.—  
14          Except in the case of a request for the elimination or  
15          modification of a requirement for services relating to pub-  
16          lic, educational, or governmental access, if the franchising  
17          authority fails to approve or deny the request submitted  
18          under subsection (a) by the date described under sub-  
19          section (b), the requirement shall be deemed eliminated  
20          or modified in accordance with the request on the day  
21          after such date.

22          “(d) APPEAL.—

23                 “(1) IN GENERAL.—Any cable operator whose  
24                 request for elimination or modification of a require-  
25                 ment in a franchise under subsection (a) has been

1 denied by a final decision of a franchising authority  
2 may seek judicial review of the decision pursuant to  
3 the provisions of section 635.

4 “(2) GRANT OF REQUEST.—In the case of any  
5 proposed elimination or modification of a require-  
6 ment in a franchise under subsection (a), the court  
7 shall grant such elimination or modification only if  
8 the cable operator demonstrates to the court that  
9 the standards in subsection (b) have been met.

10 “(e) WHEN REQUEST CONSIDERED SUBMITTED.—  
11 For the purposes of this section, a request to a franchising  
12 authority shall be considered submitted on the date on  
13 which the requesting party takes the first procedural step  
14 within the control of the requesting party—

15 “(1) to submit such request in accordance with  
16 the procedures established by the franchising au-  
17 thority for the review and approval of such a re-  
18 quest; or

19 “(2) in the case of a franchising authority that  
20 has not established specific procedures for the review  
21 and approval of such a request, to submit to the  
22 franchising authority the type of filing that is typi-  
23 cally required to initiate a standard review for a re-  
24 quest related to a franchise.”

1 (b) IN GENERAL.—Section 626 of the Communica-  
2 tions Act of 1934 (47 U.S.C. 546) is amended to read  
3 as follows:

4 **“SEC. 626. FRANCHISE TERM AND TERMINATION.**

5 “(a) FRANCHISE TERM.—A franchise shall continue  
6 in effect (without any requirement for renewal) until the  
7 date on which the franchise is revoked or terminated in  
8 accordance with subsection (b).

9 “(b) LIMITS.—

10 “(1) PROHIBITION AGAINST REVOCATION; TER-  
11 MINATION.—Except as provided in paragraph (2), a  
12 franchise may not be—

13 “(A) revoked by a franchising authority;

14 “(B) terminated by a cable operator; or

15 “(C) revoked or terminated by operation of  
16 law, including by a term in a franchise that re-  
17 vokes or terminates such franchise on a specific  
18 date, after a period of time, or upon the occur-  
19 rence of an event.

20 “(2) WHEN TERMINATION OR REVOCATION OF  
21 FRANCHISE PERMITTED.—

22 “(A) TERMINATION BY CABLE OPER-  
23 ATOR.—

24 “(i) IN GENERAL.—A cable operator  
25 may terminate a franchise by submitting

1 to the franchising authority a written re-  
2 quest for the franchising authority to re-  
3 voke such franchise.

4 “(ii) TIME OF REVOCATION.—If the  
5 cable operator submits a written request  
6 under clause (i), the franchising authority  
7 shall revoke the franchise on the date that  
8 is 90 days after the request is submitted to  
9 the franchising authority.

10 “(iii) DEEMED TO BE REVOKED.—If a  
11 franchising authority does not approve a  
12 request by the date required under clause  
13 (ii), the franchise is deemed revoked on the  
14 day after such date.

15 “(B) TERMINATION BY FRANCHISING AU-  
16 THORITY.—A franchising authority may revoke  
17 a franchise if the franchising authority—

18 “(i) finds that the cable operator has  
19 knowingly and willfully failed to substan-  
20 tially meet a material requirement imposed  
21 by the franchise;

22 “(ii) provides the cable operator a rea-  
23 sonable opportunity to cure such failure,  
24 after which the cable operator fails to cure  
25 such failure; and

1                   “(iii) does not waive the material re-  
2                   quirement or acquiesce with the failure to  
3                   substantially meet such requirement.

4           “(c) REVIEW OF REVOCATION OF FRANCHISE BY  
5 FRANCHISING AUTHORITY.—

6                   “(1) ADMINISTRATIVE OR JUDICIAL REVIEW.—

7           With respect to a determination by a franchising au-  
8           thority to revoke a franchise under subsection  
9           (b)(2)(B), a cable operator may—

10                   “(A) petition the Commission for review of  
11                   such determination; or

12                   “(B) seek judicial review of such deter-  
13                   mination pursuant to the provisions of section  
14                   635.

15                   “(2) COMMISSION REVIEW.—With respect to a  
16           petition for the review of a determination brought  
17           under paragraph (1)(A), the Commission shall—

18                   “(A) review the determination de novo; and

19                   “(B) invalidate the determination if, based  
20                   on the evidence presented during the review, the  
21                   Commission determines that the franchising au-  
22                   thority has not demonstrated by a preponder-  
23                   ance of the evidence that the franchising au-  
24                   thority revoked the franchise in accordance with  
25                   subsection (b)(2)(B).

1           “(3) STAY OF DETERMINATION TO REVOKE  
2 FRANCHISE.—A revocation of a franchise under sub-  
3 section (b)(2)(B) may be stayed—

4           “(A) in the case the cable operator peti-  
5 tions the Commission for review of the deter-  
6 mination on which such revocation is based, by  
7 the Commission; and

8           “(B) in the case the cable operator seeks  
9 judicial review of the determination on which  
10 such revocation is based, by the court in which  
11 the cable operator seeks judicial review of the  
12 determination.”.

13       (c) TECHNICAL AND CONFORMING AMENDMENTS.—  
14 The Communications Act of 1934 (47 U.S.C. 151 et seq.)  
15 is amended—

16       (1) in section 601—

17           (A) in paragraph (4), by striking the semi-  
18 colon at the end and inserting “; and”;

19           (B) by striking paragraph (5); and

20           (C) by redesignating paragraph (6) as  
21 paragraph (5);

22       (2) in section 602(9)—

23           (A) by striking “initial”; and

1 (B) by striking “, or renewal thereof (in-  
2 cluding a renewal of an authorization which has  
3 been granted subject to section 626),”;

4 (3) in section 611(b), by striking “and may re-  
5 quire as part of a cable operator’s proposal for a  
6 franchise renewal, subject to section 626”;

7 (4) in section 612(b)(3)—

8 (A) by striking “or as part of a proposal  
9 for renewal, subject to section 626,”; and

10 (B) by striking “, or proposal for renewal  
11 thereof,”;

12 (5) in section 621(b)(3)—

13 (A) in subparagraph (C)(ii), by striking  
14 “or franchise renewal”; and

15 (B) in subparagraph (D)—

16 (i) by striking “initial”; and

17 (ii) by striking “, a franchise re-  
18 newal,”;

19 (6) in section 624—

20 (A) in subsection (b)(1), by striking “(in-  
21 cluding requests for renewal proposals, subject  
22 to section 626)”; and

23 (B) in subsection (d)(1), by striking “or  
24 renewal thereof”;

25 (7) in section 635A(a), by striking “renewal,”.

1 (d) EFFECTIVE DATE; APPLICATION.—

2 (1) EFFECTIVE DATE.—This section, and the  
3 amendments made by this section, shall take effect  
4 6 months after the date of the enactment of this  
5 Act.

6 (2) APPLICATION.—This section, and the  
7 amendments made by this section, shall apply to a  
8 franchise granted—

9 (A) on or after the effective date estab-  
10 lished by paragraph (1); or

11 (B) before such date, if—

12 (i) such franchise (including, any re-  
13 newal thereof before the date of the enact-  
14 ment of this Act) is in effect on such date;  
15 or

16 (ii) such franchise is expired and the  
17 cable operator has continued to perform  
18 under the provisions of such franchise as if  
19 such franchise were not expired.

20 **SEC. 204. SALES OF CABLE SYSTEMS.**

21 (a) IN GENERAL.—Section 627 of the Communica-  
22 tions Act of 1934 (47 U.S.C. 547) is amended to read  
23 as follows:

1 **“SEC. 627. CONDITIONS OF SALE OR TRANSFER.**

2       “(a) VALUE OF CABLE SYSTEM AFTER REVOCATION  
3 OF FRANCHISE.—If a franchise held by a cable operator  
4 is revoked under section 626(b)(2)(B) and the franchising  
5 authority acquires ownership of the cable system or effects  
6 a transfer of ownership of the system to another person,  
7 any such acquisition or transfer shall be at fair market  
8 value.

9       “(b) LIMITATIONS ON AUTHORITY OF FRANCHISING  
10 AUTHORITY WITH RESPECT TO TRANSFER OF FRAN-  
11 CHISE.—

12           “(1) IN GENERAL.—A franchising authority  
13 may not preclude a cable operator from transferring  
14 a franchise to any person—

15                   “(A) to which such franchise was not ini-  
16 tially granted; and

17                   “(B) with respect to the terms of the fran-  
18 chise that apply to the cable operator, who  
19 agrees to accept all such terms in effect at the  
20 time of the transfer.

21       “(2) NOTIFICATION.—In the case of the trans-  
22 fer of a franchise to a person to which such fran-  
23 chise was not originally granted, a franchising au-  
24 thority may require a cable operator to which a fran-  
25 chise was initially granted to, not later than 15 days

1 before the transfer of the franchise, notify the fran-  
2 chising authority in writing of such transfer.

3 “(3) TRANSFER OF A FRANCHISE DEFINED.—

4 In this subsection, the term ‘transfer of a franchise’  
5 means the transfer or assignment of any rights  
6 under a franchise through any transaction, including  
7 through—

8 “(A) a merger involving the cable operator  
9 or cable system;

10 “(B) a sale of the cable operator or cable  
11 system;

12 “(C) an assignment of the cable operator  
13 or a cable system;

14 “(D) a restructuring of a cable operator or  
15 a cable system; or

16 “(E) the transfer of control of a cable op-  
17 erator or a cable system.”.

18 (b) EFFECTIVE DATE.—This section, and the amend-  
19 ment made by subsection (a), shall take effect 6 months  
20 after the date of the enactment of this Act.

21 (c) APPLICATION.—This section, and the amendment  
22 made by subsection (a), shall apply to a franchise grant-  
23 ed—

24 (1) on or after the effective date established by  
25 subsection (b); or

1 (2) before such date, if—

2 (A) such franchise (including any renewal  
3 term thereof) is in effect on such date; or

4 (B) such franchise is expired and cable op-  
5 erator has continued to perform under the pro-  
6 visions of such franchise as if such franchise  
7 were not expired.

8 **TITLE III—ENVIRONMENTAL**  
9 **AND HISTORIC PRESERVA-**  
10 **TION REVIEWS**

11 **SEC. 301. APPLICATION OF NEPA AND NHPA TO CERTAIN**  
12 **COMMUNICATIONS PROJECTS.**

13 (a) IN GENERAL.—

14 (1) NEPA EXEMPTION.—A Federal authoriza-  
15 tion with respect to a covered project may not be  
16 considered a major Federal action under section  
17 102(2)(C) of the National Environmental Policy Act  
18 of 1969 (42 U.S.C. 4332(2)(C)).

19 (2) NATIONAL HISTORIC PRESERVATION ACT  
20 EXEMPTION.—A covered project may not be consid-  
21 ered an undertaking under section 300320 of title  
22 54, United States Code.

23 (b) GRANT OF EASEMENT ON FEDERAL PROP-  
24 erty.—

1           (1) NEPA EXEMPTION.—A Federal authoriza-  
2           tion with respect to a covered easement for a com-  
3           munications facility may not be considered a major  
4           Federal action under section 102(2)(C) of the Na-  
5           tional Environmental Policy Act of 1969 (42 U.S.C.  
6           4332(2)(C)), if—

7                   (A) a covered easement has previously been  
8                   granted for another communications facility or  
9                   a utility facility with respect to the same build-  
10                  ing or other property owned by the Federal  
11                  Government; or

12                  (B) the covered easement is for a commu-  
13                  nications facility in a public right-of-way.

14           (2) NATIONAL HISTORIC PRESERVATION ACT  
15           EXEMPTION.—A covered easement for a communica-  
16           tions facility may not be considered an undertaking  
17           under section 300320 of title 54, United States  
18           Code, if—

19                   (A) a covered easement has previously been  
20                   granted for another communications facility or  
21                   a utility facility with respect to the same build-  
22                   ing or other property owned by the Federal  
23                   Government; or

24                  (B) the covered easement is for a commu-  
25                  nications facility in a public right-of-way.

1           (c) REQUESTS FOR MODIFICATION OF CERTAIN EX-  
2    ISTING WIRELESS AND TELECOMMUNICATIONS SERVICE  
3    FACILITIES.—Section 6409(a)(3) of the Middle Class Tax  
4    Relief and Job Creation Act of 2012 (47 U.S.C.  
5    1455(a)(3)) is amended to read as follows:

6           “(3) APPLICATION OF NEPA; NHPA.—

7                   “(A) NEPA EXEMPTION.—A Federal au-  
8           thorization with respect to an eligible facilities  
9           request or an eligible telecommunications facili-  
10          ties request may not be considered a major  
11          Federal action under section 102(2)(C) of the  
12          National Environmental Policy Act of 1969 (42  
13          U.S.C. 4332(2)(C)).

14                   “(B) NATIONAL HISTORIC PRESERVATION  
15          ACT EXEMPTION.—An eligible facilities request  
16          or an eligible telecommunications facilities re-  
17          quest may not be considered an undertaking  
18          under section 300320 of title 54, United States  
19          Code.

20                   “(C) FEDERAL AUTHORIZATION DE-  
21          FINED.—In this paragraph, the term ‘Federal  
22          authorization’—

23                           “(i) means any authorization required  
24                           under Federal law with respect to an eligi-

1 ble facilities request or an eligible tele-  
2 communications facilities request; and

3 “(ii) includes any permits, special use  
4 authorizations, certifications, opinions, or  
5 other approvals as may be required under  
6 Federal law with respect to an eligible fa-  
7 cilities request or an eligible telecommuni-  
8 cations facilities request.”.

9 **SEC. 302. PRESUMPTION WITH RESPECT TO CERTAIN COM-**  
10 **plete FCC FORMS.**

11 (a) PRESUMPTION.—If an Indian Tribe is shown to  
12 have received a complete FCC Form 620 or FCC Form  
13 621 (or any successor form), or can be reasonably ex-  
14 pected to have received a complete FCC Form 620 or FCC  
15 Form 621 (or any successor form), and has not acted on  
16 a request contained in such complete form by the date that  
17 is 45 days after the date of such receipt or reasonably  
18 expected receipt—

19 (1) the Commission and a court of competent  
20 jurisdiction (as the case may be) shall presume the  
21 applicant with respect to such complete form has  
22 made a good faith effort to provide the information  
23 reasonably necessary for such Indian Tribe to ascer-  
24 tain whether historic properties of religious or cul-  
25 tural significance to such Indian Tribe may be af-

1        fected by the undertaking related to such complete  
2        form; and

3            (2) such Indian Tribe shall be presumed to  
4        have disclaimed interest in such undertaking.

5        (b) OVERCOMING PRESUMPTION.—

6            (1) IN GENERAL.—An Indian Tribe may over-  
7        come a presumption under subsection (a) upon mak-  
8        ing, to the Commission or a court of competent ju-  
9        risdiction, a favorable demonstration with respect to  
10       1 or more of the factors described in paragraph (2).

11           (2) FACTORS CONSIDERED.—In making a de-  
12       termination regarding a presumption under sub-  
13       section (a), the Commission or court of competent  
14       jurisdiction shall give substantial weight to—

15            (A) whether the applicant with respect to  
16       the relevant complete form failed to make a  
17       reasonable attempt to follow up with the appli-  
18       cable Indian Tribe not earlier than 30 days,  
19       and not later than 50 days, after the applicant  
20       submitted a complete FCC Form 620 or FCC  
21       Form 621 (as the case may be) to such Indian  
22       Tribe; and

23            (B) whether the rules of the Commission,  
24       or FCC Form 620 or FCC Form 621, are

1 found to be in violation of a Nationwide Pro-  
2 grammatic Agreement of the Commission.

3 **SEC. 303. RULE OF CONSTRUCTION.**

4 Nothing in this title or any amendment made by this  
5 title may be construed to affect the obligation of the Com-  
6 mission to evaluate radiofrequency exposure under the Na-  
7 tional Environmental Policy Act of 1969 (42 U.S.C. 4321  
8 et seq.).

9 **SEC. 304. DEFINITIONS.**

10 In this title:

11 (1) CHIEF EXECUTIVE.—The term “Chief Ex-  
12 ecutive” means the person who is the Chief, Chair-  
13 man, Governor, President, or similar executive offi-  
14 cial of an Indian tribal government.

15 (2) COMMISSION.—The term “Commission”  
16 means the Federal Communications Commission.

17 (3) COMMUNICATIONS FACILITY.—The term  
18 “communications facility” has the meaning given the  
19 term “communications facility installation” in sec-  
20 tion 6409(d) of the Middle Class Tax Relief and Job  
21 Creation Act of 2012 (47 U.S.C. 1455(d)).

22 (4) COVERED EASEMENT.—The term “covered  
23 easement” means an easement, right-of-way, or lease  
24 with respect to a building or other property owned  
25 by the Federal Government, excluding Tribal land

1 held in trust by the Federal Government (unless the  
2 Indian tribal government with respect to such land  
3 requests that the Commission not exclude the land  
4 for purposes of this definition), for the right to in-  
5 stall, construct, modify, or maintain a communica-  
6 tions facility or a utility facility.

7 (5) COVERED PROJECT.—The term “covered  
8 project” means any of the following:

9 (A) A project—

10 (i) for—

11 (I) the mounting or installation  
12 of a personal wireless service facility  
13 with another personal wireless service  
14 facility that exists at the time at  
15 which a request for authorization of  
16 such mounting or installation is sub-  
17 mitted to a State or local government  
18 or instrumentality thereof or to an In-  
19 dian tribal government; or

20 (II) the modification of a per-  
21 sonal wireless service facility; and

22 (ii) for which a permit, license, or ap-  
23 proval from the Commission is required or  
24 that is otherwise subject to the jurisdiction  
25 of the Commission.

1 (B) A project—

2 (i) for the placement, construction, or  
3 modification of a telecommunications serv-  
4 ice facility in or on eligible support infra-  
5 structure; and

6 (ii) for which a permit, license, or ap-  
7 proval from the Commission is required or  
8 that is otherwise subject to the jurisdiction  
9 of the Commission.

10 (C) A project to deploy a small personal  
11 wireless service facility.

12 (D) A project—

13 (i) for the deployment or modification  
14 of a communications facility that is to be  
15 carried out entirely within a floodplain (as  
16 defined in section 9.4 of title 44, Code of  
17 Federal Regulations, as in effect on the  
18 date of the enactment of this Act); and

19 (ii) for which a permit, license, or ap-  
20 proval from the Commission is required or  
21 that is otherwise subject to the jurisdiction  
22 of the Commission.

23 (E) A project—

24 (i) for the deployment or modification  
25 of a communications facility that is to be

1 carried out entirely within a brownfield site  
2 (as defined in section 101 of the Com-  
3 prehensive Environmental Response, Com-  
4 pensation, and Liability Act of 1980 (42  
5 U.S.C. 9601)); and

6 (ii) for which a permit, license, or ap-  
7 proval from the Commission is required or  
8 that is otherwise subject to the jurisdiction  
9 of the Commission.

10 (F) A project to permanently remove cov-  
11 ered communications equipment or services (as  
12 defined in section 9 of the Secure and Trusted  
13 Communications Networks Act of 2019 (47  
14 U.S.C. 1608)) and to replace such covered com-  
15 munications equipment or services with commu-  
16 nications equipment or services (as defined in  
17 such section) that are not covered communica-  
18 tions equipment or services (as so defined).

19 (G) A project that—

20 (i) is to be carried out entirely within  
21 an area for which the President, the Gov-  
22 ernor of a State, or the Chief Executive of  
23 an Indian tribal government has declared a  
24 major disaster or an emergency;

1 (ii) is to be carried out not later than  
2 5 years after the date on which the Presi-  
3 dent, Governor, or Chief Executive made  
4 such declaration; and

5 (iii) replaces a communications facility  
6 damaged by such disaster or emergency or  
7 makes improvements to a communications  
8 facility in such area that could reasonably  
9 be considered as necessary for recovery  
10 from such disaster or emergency or to pre-  
11 vent or mitigate any future disaster or  
12 emergency.

13 (H) A project for the placement and instal-  
14 lation of a new communications facility if—

15 (i) such new facility—

16 (I) will be located within a public  
17 right-of-way; and

18 (II) is not more than 50 feet tall  
19 or 10 feet taller than any existing  
20 structure in the public right-of-way,  
21 whichever is higher;

22 (ii) such new facility is—

23 (I) a replacement for an existing  
24 communications facility; and

1 (II) the same as, or substantially  
2 similar to (as such term is defined by  
3 the Commission), the existing commu-  
4 nications facility that such new com-  
5 munications facility is replacing;

6 (iii) such new facility is a type of com-  
7 munications facility that—

8 (I) is described in section  
9 6409(d)(1)(B) of the Middle Class  
10 Tax Relief and Job Creation Act of  
11 2012 (47 U.S.C. 1455(d)(1)(B)); and

12 (II) meets the size limitation of a  
13 small antenna established by the Com-  
14 mission; or

15 (iv) the placement and installation of  
16 such new facility involves the expansion of  
17 the site of an existing communications fa-  
18 cility not more than 30 feet in any direc-  
19 tion.

20 (6) ELIGIBLE SUPPORT INFRASTRUCTURE.—

21 The term “eligible support infrastructure” means in-  
22 frastructure that supports or houses a facility for  
23 communication by wire (or that is designed for or  
24 capable of supporting or housing such a facility) at  
25 the time when a request to a State or local govern-

1       ment or instrumentality thereof, or to an Indian  
2       tribal government, for authorization to place, con-  
3       struct, or modify a telecommunications service facil-  
4       ity in or on the infrastructure is submitted to the  
5       government or instrumentality.

6           (7)   EMERGENCY.—The term “emergency”  
7       means—

8           (A) in the case of an emergency declared  
9           by the President, an emergency declared by the  
10          President under section 501 of the Robert T.  
11          Stafford Disaster Relief and Emergency Assist-  
12          ance Act (42 U.S.C. 5191); and

13          (B) in the case of an emergency declared  
14          by the Governor of a State or the Chief Execu-  
15          tive of an Indian tribal government, any occa-  
16          sion or instance with respect to which the Gov-  
17          ernor or Chief Executive declares that an emer-  
18          gency exists (or makes a similar declaration)  
19          under State or Tribal law (as the case may be).

20          (8)   FEDERAL AUTHORIZATION.—The term  
21       “Federal authorization”—

22           (A) means any authorization required  
23           under Federal law with respect to a covered  
24           project or a covered easement; and

1 (B) includes any permits, special use au-  
2 thorizations, certifications, opinions, or other  
3 approvals as may be required under Federal law  
4 with respect to a covered project or a covered  
5 easement.

6 (9) GOVERNOR.—The term “Governor” means  
7 the chief executive of any State.

8 (10) INDIAN TRIBAL GOVERNMENT.—The term  
9 “Indian tribal government” means the governing  
10 body of an Indian Tribe.

11 (11) INDIAN TRIBE.—The term “Indian Tribe”  
12 has the meaning given the term “Indian tribe”  
13 under section 102 of the Federally Recognized In-  
14 dian Tribe List Act of 1994 (25 U.S.C. 5130).

15 (12) MAJOR DISASTER.—The term “major dis-  
16 aster” means—

17 (A) in the case of a major disaster de-  
18 clared by the President, a major disaster de-  
19 clared by the President under section 401 of  
20 the Robert T. Stafford Disaster Relief and  
21 Emergency Assistance Act (42 U.S.C. 5170);  
22 and

23 (B) in the case of a major disaster de-  
24 clared by the Governor of a State or the Chief  
25 Executive of an Indian tribal government, any

1 occasion or instance with respect to which the  
2 Governor or Chief Executive declares that a dis-  
3 aster exists (or makes a similar declaration)  
4 under State or Tribal law (as the case may be).

5 (13) PERSONAL WIRELESS SERVICE FACIL-  
6 ITY.—The term “personal wireless service facility”  
7 has the meaning given such term in subparagraph  
8 (F) of section 332(c)(7) of the Communications Act  
9 of 1934 (47 U.S.C. 332(c)(7)), as amended by this  
10 Act.

11 (14) PUBLIC RIGHT-OF-WAY.—The term “pub-  
12 lic right-of-way”—

13 (A) means—

14 (i) the area on, below, or above a pub-  
15 lic roadway, highway, street, sidewalk,  
16 alley, or similar property (whether cur-  
17 rently or previously used in such manner);  
18 and

19 (ii) any land immediately adjacent to  
20 and contiguous with property described in  
21 clause (i) that is within the right-of-way  
22 grant; and

23 (B) does not include a portion of the Inter-  
24 state System (as such term is defined in section  
25 101(a) of title 23, United States Code).

1           (15) SMALL PERSONAL WIRELESS SERVICE FA-  
2           CILITY.—The term “small personal wireless service  
3           facility” means a personal wireless service facility in  
4           which each antenna is not more than 3 cubic feet in  
5           volume (excluding a wireline backhaul facility con-  
6           nected to such personal wireless service facility).

7           (16) STATE.—The term “State” means each  
8           State of the United States, the District of Columbia,  
9           and each territory or possession of the United  
10          States.

11          (17) TELECOMMUNICATIONS SERVICE.—The  
12          term “telecommunications service” has the meaning  
13          given such term in section 3 of the Communications  
14          Act of 1934 (47 U.S.C. 153).

15          (18) TELECOMMUNICATIONS SERVICE FACIL-  
16          ITY.—The term “telecommunications service facil-  
17          ity”—

18                 (A) means a facility that is designed or  
19                 used to provide or facilitate the provision of any  
20                 interstate or intrastate telecommunications  
21                 service; and

22                 (B) includes a facility described in sub-  
23                 paragraph (A) that is used to provide other  
24                 services.

1           (19) UTILITY FACILITY.—The term “utility fa-  
2           cility” means any privately, publicly, or cooperatively  
3           owned line, facility, or system for producing, trans-  
4           mitting, or distributing power, electricity, light, heat,  
5           gas, oil, crude products, water, steam, waste, storm  
6           water not connected with highway drainage, or any  
7           other similar commodity, including any fire or police  
8           signal system or street lighting system, that directly  
9           or indirectly serves the public.

10           (20) WIRELINE BACKHAUL FACILITY.—The  
11           term “wireline backhaul facility” means an above-  
12           ground or underground wireline facility used to  
13           transport communications service or other electronic  
14           communications from a small personal wireless serv-  
15           ice facility or its adjacent network interface device to  
16           a communications network.

## 17           **TITLE IV—OTHER MATTERS**

### 18           **SEC. 401. TIMELY CONSIDERATION OF APPLICATIONS FOR** 19                           **FEDERAL EASEMENTS, RIGHTS-OF-WAY, AND** 20                           **LEASES.**

21           (a) IN GENERAL.—Section 6409(b)(3) of the Middle  
22           Class Tax Relief and Job Creation Act of 2012 (47 U.S.C.  
23           1455(b)(3)) is amended—

24                   (1) in subparagraph (A), by striking “an execu-  
25           tive agency receives a duly filed application” and in-

1       serting “an application is submitted to an executive  
2       agency”; and

3               (2) by adding at the end the following:

4               “(E) DEEMED GRANTED.—If an executive  
5       agency fails to grant or deny an application  
6       under subparagraph (A) within the timeframe  
7       under such subparagraph, the application shall  
8       be deemed granted on the day after the last day  
9       of such timeframe.

10              “(F) TOLLING DUE TO INCOMPLETE-  
11       NESS.—

12              “(i) INITIAL APPLICATION INCOM-  
13       plete.—If, not later than 30 days after  
14       the date on which an applicant submits to  
15       an executive agency an application under  
16       subparagraph (A), the executive agency  
17       provides to the applicant a written notice  
18       described in clause (iii) with respect to the  
19       application, the timeframe described in  
20       subparagraph (A) is tolled with respect to  
21       the application until the date on which the  
22       applicant submits to the executive agency a  
23       supplemental submission in response to the  
24       notice.

1           “(ii) SUPPLEMENTAL SUBMISSION IN-  
2           COMPLETE.—If, not later than 10 days  
3           after the date on which an applicant sub-  
4           mits to an executive agency a supplemental  
5           submission in response to a written notice  
6           described in clause (iii), the executive  
7           agency provides to the applicant a written  
8           notice described in clause (iii) with respect  
9           to the supplemental submission, the time-  
10          frame under subparagraph (A) is further  
11          tolled until the date on which the applicant  
12          submits to the executive agency a subse-  
13          quent supplemental submission in response  
14          to the notice.

15           “(iii) WRITTEN NOTICE DE-  
16          SCRIBED.—The written notice described in  
17          this clause is, with respect to an applica-  
18          tion under subparagraph (A) or a supple-  
19          mental submission described in clause (i)  
20          or (ii) submitted to an executive agency by  
21          an applicant, a written notice from the ex-  
22          ecutive agency to the applicant—

23           “(I) stating that all of the infor-  
24          mation (including any form or other  
25          document) required by the executive

1 agency to be submitted for the appli-  
2 cation to be considered complete has  
3 not been submitted;

4 “(II) identifying the information  
5 described in subclause (I) that was  
6 not submitted; and

7 “(III) including a citation to a  
8 specific provision of a publicly avail-  
9 able rule, regulation, or standard  
10 issued by the executive agency requir-  
11 ing that such information be sub-  
12 mitted with such an application.

13 “(iv) LIMITATION ON SUBSEQUENT  
14 WRITTEN NOTICE.—If a written notice pro-  
15 vided by an executive agency to an appli-  
16 cant under clause (ii) with respect to a  
17 supplemental submission identifies as not  
18 having been submitted any information  
19 that was not identified as not having been  
20 submitted in the prior written notice under  
21 this subparagraph in response to which the  
22 supplemental submission was submitted,  
23 the subsequent written notice shall be  
24 treated as not having been provided to the  
25 applicant.

1                   “(G) TOLLING BY MUTUAL AGREEMENT.—

2                   The timeframe under subparagraph (A) may be  
3                   tolled by mutual agreement between the execu-  
4                   tive agency and the applicant.

5                   “(H) WHEN APPLICATION CONSIDERED  
6                   SUBMITTED.—For the purposes of this para-  
7                   graph, an application shall be considered sub-  
8                   mitted to an executive agency on the date on  
9                   which the applicant takes the first procedural  
10                  step within the control of the applicant to sub-  
11                  mit such application in accordance with the pro-  
12                  cedures established by the executive agency for  
13                  the review and approval of such an applica-  
14                  tion.”.

15                  (b) APPLICABILITY.—The amendments made by sub-  
16                  section (a) shall apply with respect to any application  
17                  under subsection (b) of section 6409 of the Middle Class  
18                  Tax Relief and Job Creation Act of 2012 (47 U.S.C.  
19                  1455) that is submitted (as determined under subsection  
20                  (b)(3)(H) of such section) to an executive agency (as de-  
21                  fined in subsection (d) of such section) on or after the  
22                  date of the enactment of this Act.

1 **SEC. 402. STREAMLINING OF CERTAIN FEES RELATING TO**  
2 **BROADBAND INFRASTRUCTURE REQUIRED**  
3 **TO RECEIVE GRANT FUNDS UNDER BEAD**  
4 **PROGRAM.**

5 Section 60102(e) of the Infrastructure Investment  
6 and Jobs Act (47 U.S.C. 1702(e)) is amended by adding  
7 at the end the following:

8 “(5) STREAMLINING OF CERTAIN FEES RELAT-  
9 ING TO BROADBAND INFRASTRUCTURE REQUIRED.—  
10 After the date of the enactment of this paragraph,  
11 the Assistant Secretary may not make available to  
12 an eligible entity grant funds under this section (ex-  
13 cept for grant funds under paragraph (1)(C)) if the  
14 eligible entity, or any political subdivision of the eli-  
15 gible entity, charges a fee to consider a request for  
16 authorization to place, construct, or modify infra-  
17 structure for the provision of broadband service, or  
18 a fee for use of a right-of-way or infrastructure in  
19 a right-of-way owned or managed by the entity or  
20 political subdivision for the placement, construction,  
21 or modification of infrastructure for the provision of  
22 broadband service, unless such fee is—

23 “(A) competitively neutral, technology neu-  
24 tral, and nondiscriminatory;

25 “(B) established in advance and publicly  
26 disclosed;

1                   “(C) calculated—  
2                    “(i) based on actual and direct costs,  
3                   such as costs for—  
4                    “(I) review and processing of re-  
5                   quests; and  
6                    “(II) repairs and replacement  
7                   of—  
8                    “(aa) components and mate-  
9                   rials directly resulting from and  
10                  affected by the placement, con-  
11                  struction, or modification (includ-  
12                  ing the installation or improve-  
13                  ment) of infrastructure for the  
14                  provision of broadband service; or  
15                  “(bb) equipment that facili-  
16                  tates the placement, construction,  
17                  or modification (including the in-  
18                  stallation or improvement) of  
19                  such infrastructure; and  
20                  “(ii) using, for purposes of clause (i),  
21                  only costs that are objectively reasonable;  
22                  and  
23                  “(D) described to a requesting party in a  
24                  manner that distinguishes between—

1                   “(i) nonrecurring fees and recurring  
2                   fees; and  
3                   “(ii) the use of infrastructure on  
4                   which infrastructure for the provision of  
5                   broadband service is already located and  
6                   infrastructure on which there is no infra-  
7                   structure for the provision of broadband  
8                   service as of the date on which the request  
9                   is submitted to the eligible entity or polit-  
10                  ical subdivision.”.

Amend the title so as to read: “A bill to streamline Federal, State, and local permitting and regulatory reviews to expedite the deployment of communications facilities, and for other purposes.”.

