

116TH CONGRESS
2D SESSION

S. 3264

To expedite and streamline the deployment of affordable broadband service
on Tribal land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2020

Mr. UDALL (for himself, Ms. CANTWELL, and Mr. HEINRICH) introduced the
following bill; which was read twice and referred to the Committee on In-
dian Affairs

A BILL

To expedite and streamline the deployment of affordable
broadband service on Tribal land, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Bridging the Tribal Digital Divide Act of 2020”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—INTERAGENCY COORDINATION PROGRAM

Sec. 101. Purpose.

Sec. 102. Interagency working group.
 Sec. 103. Tribal broadband deployment plan.
 Sec. 104. Streamlined applications for support.
 Sec. 105. Tribal Broadband Deployment Advisory Committee.

TITLE II—TRIBAL SET-ASIDE

Sec. 201. Rural Utilities Service.
 Sec. 202. Universal Service Fund.

TITLE III—UNIVERSAL SERVICE ON TRIBAL LAND

Sec. 301. Universal service on Tribal land.

TITLE IV—TRIBAL BROADBAND FACTOR

Sec. 401. Tribal broadband factor.

TITLE V—BROADBAND RIGHTS-OF-WAY

Sec. 501. Pilot program for Tribal grant of rights-of-way for broadband facilities.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-
 4 trator” means the Administrator of the Rural Utili-
 5 ties Service.

6 (2) ASSISTANT SECRETARY.—The term “Assist-
 7 ant Secretary” means the Assistant Secretary of
 8 Commerce for Communications and Information.

9 (3) BROADBAND; BROADBAND SERVICE.—The
 10 term “broadband” or “broadband service” has the
 11 meaning given the term “broadband internet access
 12 service” in section 8.1 of title 47, Code of Federal
 13 Regulations, or any successor regulation.

14 (4) COMMISSION.—The term “Commission”
 15 means the Federal Communications Commission.

1 (5) INDIAN TRIBE.—The term “Indian Tribe”
2 has the meaning given the term in section 3 of the
3 Communications Act of 1934 (47 U.S.C. 153), as
4 amended by section 301 of this Act.

5 (6) TRIBAL BROADBAND BENCHMARK.—The
6 term “Tribal broadband benchmark” means the
7 minimum acceptable level of broadband service on
8 Tribal land, which shall consist of—

9 (A) speed that is not slower than the speed
10 required for the service to qualify as an ad-
11 vanced telecommunications capability, as that
12 term is defined in section 706(d) of the Tele-
13 communications Act of 1996 (47 U.S.C.
14 1302(d)), as of the date on which that speed is
15 measured; and

16 (B) network round trip latency that is at
17 or below 100 milliseconds for not less than 95
18 percent of all peak period measurements of net-
19 work round trip latency.

20 (7) TRIBAL ENTITY.—The term “Tribal entity”
21 has the meaning given the term in section 3 of the
22 Communications Act of 1934 (47 U.S.C. 153), as
23 amended by section 301 of this Act.

1 (8) TRIBAL GOVERNMENT.—The term “Tribal
2 government” means the governing body of a Tribal
3 entity.

4 (9) TRIBAL LAND.—The term “Tribal land”
5 has the meaning given the term in section 3 of the
6 Communications Act of 1934 (47 U.S.C. 153), as
7 amended by section 301 of this Act.

8 (10) UNDERSERVED TRIBAL ENTITY.—

9 (A) IN GENERAL.—The term “underserved
10 Tribal entity” means a Tribal entity, the Tribal
11 land of which—

12 (i) lacks affordable broadband service;

13 or

14 (ii) has subscription rates for
15 broadband service that are below 80 per-
16 cent, as determined by the Commission.

17 (B) ASSOCIATED DEFINITION.—In this
18 paragraph, the term “affordable broadband
19 service” means broadband service on Tribal
20 land, the rates for which are not more than the
21 average rates charged for broadband service in
22 the 5 nearest municipalities to that Tribal land
23 that have a population of more than 10,000 in-
24 dividuals, as determined by the Commission.

(11) WORKING GROUP.—The term “Working Group” means the Tribal Broadband Interagency Working Group established under section 102.

TITLE I—INTERAGENCY COORDINATION PROGRAM

SEC. 101. PURPOSE.

The purpose of this title is to—

(1) expedite and streamline the deployment of affordable broadband service on Tribal land through the coordination of grants or other financial assistance;

(2) improve the effectiveness of Federal assistance in meeting the obligation of the Commission to ensure universal availability of broadband networks to all people of the United States, including individuals living on Tribal land; and

(3) ensure the preservation and protection of self-governance, economic opportunity, health, education, public safety, and welfare of Tribal entities.

SEC. 102. INTERAGENCY WORKING GROUP.

(a) ESTABLISHMENT.—The Assistant Secretary and the Secretary of Agriculture shall jointly establish a working group to be known as the “Tribal Broadband Interagency Working Group” to carry out the duties described in subsection (c).

1 (b) ADMINISTRATION.—

2 (1) CHAIRS.—The Assistant Secretary and the
3 Administrator shall serve as co-chairs of the Work-
4 ing Group.

5 (2) MEMBERSHIP; STAFFING.—The Assistant
6 Secretary and the Administrator, in consultation
7 with the Tribal Broadband Deployment Advisory
8 Committee established under section 105, shall de-
9 termine the membership and staffing of the Working
10 Group.

11 (c) DUTIES.—The Working Group shall—

12 (1)(A) serve as a forum for improving coordina-
13 tion across Federal broadband programs that are
14 available to Tribal entities;

15 (B) reduce regulatory barriers to broadband de-
16 ployment on Tribal land;

17 (C) promote awareness of the value and avail-
18 ability of Federal support for broadband deployment
19 on Tribal land; and

20 (D) develop common Federal goals, perform-
21 ance measures, and plans to deploy affordable
22 broadband to Tribal land;

23 (2) not later than 1 year after the date of en-
24 actment of this Act, and biennially thereafter, issue

1 a strategic plan regarding Tribal broadband deploy-
2 ment activities, priorities, and objectives;

3 (3) promote coordination of the activities of
4 Federal agencies on Tribal broadband deployment
5 activities, including the activities of—

6 (A) the Department of Agriculture;

7 (B) the Department of Commerce;

8 (C) the Department of Education;

9 (D) the Department of Health and Human
10 Services;

11 (E) the Department of Housing and Urban
12 Development;

13 (F) the Department of the Interior;

14 (G) the Department of Labor;

15 (H) the Commission;

16 (I) the Institute of Museum and Library
17 Services; and

18 (J) any other Federal agency that the
19 Working Group considers appropriate;

20 (4) provide technical assistance for the develop-
21 ment of Tribal broadband deployment plans to meet
22 the Tribal broadband benchmark;

23 (5) under section 104, develop a streamlined
24 and standardized application process for grants and

1 other financial assistance to advance the deployment
2 of broadband on Tribal land;

3 (6) promote information exchange between Fed-
4 eral agencies—

5 (A) to identify and document Federal and
6 non-Federal programs and funding opportuni-
7 ties that support Tribal broadband deployment;
8 and

9 (B) if practicable, to leverage existing pro-
10 grams by encouraging joint solicitations, block
11 grants, and matching programs with non-Fed-
12 eral entities; and

13 (7) develop a standardized form that identifies
14 all applicable Federal statutory provisions, regula-
15 tions, policies, or procedures that the Working
16 Group determines are necessary to adhere to in
17 order to implement a Tribal broadband deployment
18 plan.

19 **SEC. 103. TRIBAL BROADBAND DEPLOYMENT PLAN.**

20 (a) IDENTIFICATION OF UNDERSERVED TRIBAL EN-
21 TITIES.—Not later than 180 days after the date of enact-
22 ment of this Act, the Chairman of the Commission, in co-
23 ordination with the Secretary of the Interior, shall identify
24 each underserved Tribal entity and publish a list of such
25 entities in the Federal Register.

1 (b) NOTICE TO UNDERSERVED TRIBAL ENTITIES.—

2 Not later than 30 days after the date on which the list
3 is published in the Federal Register under subsection (a),
4 the Working Group shall send notice to each underserved
5 Tribal entity on the list inviting the entity to request tech-
6 nical assistance for the development of a Tribal broadband
7 deployment plan under this section.

8 (c) TECHNICAL ASSISTANCE.—At the request of an
9 underserved Tribal entity, the Working Group shall pro-
10 vide the entity with technical assistance to facilitate the
11 development, adoption, and deployment of a Tribal
12 broadband development plan detailing the current and
13 projected efforts of the entity to meet the Tribal broad-
14 band benchmark.

15 (d) PLAN ELEMENTS.—Each Tribal broadband de-
16 ployment plan developed under this section shall—

17 (1) describe a comprehensive strategy identi-
18 fying the full range of options to meet the Tribal
19 broadband benchmark;

20 (2) describe all available Federal programs that
21 are available to assist the applicable underserved
22 Tribal entity in meeting the Tribal broadband
23 benchmark;

24 (3) describe the way in which Federal program
25 activities and funds shall be integrated, consolidated,

1 and delivered to the applicable underserved Tribal
2 entity to meet the Tribal broadband benchmark;

3 (4) describe the results expected from imple-
4 menting the plan, including the expected number of
5 additional households or participants that would be
6 served due to the implementation of the plan;

7 (5) identify the projected non-Federal expendi-
8 tures under the plan;

9 (6) identify any agency of the applicable under-
10 served Tribal entity that will be involved in the deliv-
11 ery of the services integrated under the plan;

12 (7) identify all applicable Federal, State, and
13 Tribal statutory provisions, regulations, policies, or
14 procedures that the Working Group determines are
15 necessary to adhere to in order to implement the
16 plan;

17 (8) identify opportunities for the applicable un-
18 derserved Tribal entity to purchase spectrum; and

19 (9) identify—

20 (A) deployment obstacles; and

21 (B) activities that are necessary to ensure
22 access to affordable broadband, including dig-
23 ital literacy training, technical support, privacy
24 and cybersecurity expertise, or other end-user
25 technology needs.

1 (e) PROMOTING BROADBAND AVAILABILITY.—The
2 Working Group shall work in partnership with State, local,
3 and Tribal governments, and consumer and industry
4 groups, to promote broadband availability to each under-
5 served Tribal entity, including consumers in rural and
6 high-cost areas that are adjacent to Tribal land.

7 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to the Working Group to
9 carry out section 102 and this section \$5,000,000 for each
10 of fiscal years 2020 through 2025, to remain available
11 until expended.

12 **SEC. 104. STREAMLINED APPLICATIONS FOR SUPPORT.**

13 (a) AGENCY CONSULTATION.—The Assistant Sec-
14 retary shall consult with each Federal agency that offers
15 a Federal broadband support program to Tribal entities
16 to streamline and standardize the application process for
17 grants or other financial assistance under the program.

18 (b) AGENCY STREAMLINING.—A Federal agency that
19 offers a Federal broadband support program to Tribal en-
20 tities shall amend the application for broadband support
21 from the program, to the extent practicable and as nec-
22 essary, in order to streamline and standardize applications
23 for Federal broadband support programs across the Fed-
24 eral Government.

1 (c) SINGLE APPLICATION.—To the greatest extent
2 practicable, the Assistant Secretary shall seek to create
3 1 application that may be submitted to apply for support
4 from all Federal broadband support programs.

5 (d) CENTRAL WEBSITE.—Not later than 180 days
6 after the date of enactment of this Act, the Assistant Sec-
7 retary shall create a central website through which a po-
8 tential applicant can learn about and apply for support
9 from any Federal broadband support program.

10 **SEC. 105. TRIBAL BROADBAND DEPLOYMENT ADVISORY**
11 **COMMITTEE.**

12 (a) ESTABLISHMENT.—There is established the Trib-
13 al Broadband Deployment Advisory Committee (referred
14 to in this section as the “Committee”).

15 (b) PURPOSES; SCOPE OF ACTIVITIES.—

16 (1) PURPOSES.—The purposes of the Com-
17 mittee are—

18 (A) to make recommendations to Congress
19 regarding how to accelerate the deployment of
20 broadband service on Tribal land by—

21 (i) reducing or removing statutory and
22 regulatory barriers to investment in broad-
23 band infrastructure; and

24 (ii) strengthening existing broadband
25 networks on Tribal land; and

1 (B) to provide an effective means for Trib-
2 al entities to engage with governmental entities
3 and professionals with expertise and back-
4 grounds in broadband, telecommunications, in-
5 formation technology, and infrastructure de-
6 ployment and adoption in the areas covered by
7 the Committee to exchange ideas and develop
8 recommendations to Congress regarding the de-
9 ployment of broadband on Tribal land.

10 (2) CONSIDERATION OF ISSUES.—The Com-
11 mittee may consider issues that include—

12 (A) measures to prepare for, respond to,
13 and recover from disasters that impact broad-
14 band networks;

15 (B) new ways of encouraging deployment
16 of broadband infrastructure and services on
17 Tribal land; and

18 (C) other ways to accelerate the deploy-
19 ment of broadband infrastructure to Tribal
20 land.

21 (c) DUTIES.—The Committee shall provide rec-
22 ommendations to Congress on issues relating to the de-
23 ployment of broadband on Tribal land.

24 (d) MEMBERSHIP.—

1 (1) IN GENERAL.—The Committee shall consist
2 of 16 voluntary representatives as follows:

3 (A) Twelve authorized representatives of
4 Tribal governments, each of whom shall rep-
5 resent a different Bureau of Indian Affairs re-
6 gion.

7 (B) Four authorized representatives of
8 Tribal governments, each of whom shall serve
9 as an at-large representative.

10 (2) QUALIFICATIONS.—Each member of the
11 Committee described in paragraph (1) shall—

12 (A) be an elected Tribal official or author-
13 ized representative of an elected Tribal official;

14 (B) act in the official capacity of the mem-
15 ber as an elected official of the entity;

16 (C) have the authority to participate on be-
17 half of the Tribe; and

18 (D) be qualified to represent the views of
19 all Tribal entities located in the region of the
20 Bureau of Indian Affairs represented by the
21 member.

22 (3) CHAIR.—The Assistant Secretary shall ap-
23 point a Chair of the Committee, who shall—

1 (A) approve or call all of the meetings of
2 the Committee and subcommittees of the Com-
3 mittee;

4 (B) prepare and approve all meeting agen-
5 das;

6 (C) attend all Committee and sub-
7 committee meetings;

8 (D) adjourn any meeting when the Chair
9 determines that adjournment to be in the public
10 interest; and

11 (E) chair meetings when directed to do so
12 by the Assistant Secretary.

13 (e) MEETINGS.—

14 (1) FREQUENCY.—The Committee shall meet
15 not less frequently than 3 times per year.

16 (2) TRANSPARENCY.—The meetings of the
17 Committee shall be open to the public and timely no-
18 tice of each such meeting shall be published—

19 (A) in the Federal Register; and

20 (B) through other appropriate methods.

21 (f) SUPPORT.—

22 (1) FACILITIES AND STAFF.—The Assistant
23 Secretary shall provide the facilities and support
24 staff necessary to conduct meetings of the Com-
25 mittee.

1 (2) COMPENSATION.—A member of the Com-
 2 mittee shall serve without any compensation from
 3 the Federal Government.

4 (3) TRAVEL EXPENSES.—A member of the
 5 Committee shall be allowed travel expenses, includ-
 6 ing per diem in lieu of subsistence, at rates author-
 7 ized for an employee of an agency under subchapter
 8 I of chapter 57 of title 5, United States Code, while
 9 away from the home or regular place of business of
 10 the member in the performance of the duties of the
 11 Committee.

12 **TITLE II—TRIBAL SET-ASIDE**

13 **SEC. 201. RURAL UTILITIES SERVICE.**

14 (a) TRIBAL SET-ASIDE.—Notwithstanding any other
 15 provision of law, effective beginning in fiscal year 2020
 16 and for each fiscal year thereafter, the Secretary of Agri-
 17 culture (referred to in this section as the “Secretary”)
 18 shall set aside for broadband adoption and deployment on
 19 Tribal land not less than 20 percent of the amounts made
 20 available for that fiscal year for each of the following:

21 (1) The Telecommunications Infrastructure
 22 Loan and Loan Guarantee Program established
 23 under the Rural Electrification Act of 1936 (7
 24 U.S.C. 901 et seq.).

1 (2) The initiative under section 306F of that
2 Act (7 U.S.C. 936f).

3 (3) The Community Connect Grant Program
4 established under section 604 of that Act (7 U.S.C.
5 950bb–3).

6 (4) Financial assistance under chapter 1 of sub-
7 title D of title XXIII of the Food, Agriculture, Con-
8 servation, and Trade Act of 1990 (7 U.S.C. 950aaa
9 et seq.), under section 2335A of that Act (7 U.S.C.
10 950aaa–5).

11 (5) The broadband loan and grant pilot pro-
12 gram described in section 779 of division A of the
13 Consolidated Appropriations Act, 2018 (Public Law
14 115–141).

15 (b) COMMUNITY CONNECT GRANT PROGRAM.—

16 (1) DEFINITION OF ELIGIBLE ENTITY.—Section
17 604(a)(3) of the Rural Electrification Act of 1936
18 (7 U.S.C. 950bb–3(a)(3)) is amended—

19 (A) in subparagraph (A)(i)(II), by striking
20 “or Tribal organization” and inserting “, Tribal
21 organization, or Indian-owned business (as de-
22 fined in section 3 of the Native American Busi-
23 ness Development, Trade Promotion, and Tour-
24 ism Act of 2000 (25 U.S.C. 4302))”; and

1 (B) in subparagraph (B)(ii), by inserting
 2 “, unless the partnership is an Indian-owned
 3 business (as defined in section 3 of the Native
 4 American Business Development, Trade Pro-
 5 motion, and Tourism Act of 2000 (25 U.S.C.
 6 4302))” before the period at the end.

7 (2) EXEMPTION FROM MATCHING FUNDS RE-
 8 QUIREMENT.—Section 604(e)(1) of the Rural Elec-
 9 trification Act of 1936 (7 U.S.C. 950bb–3(e)(1)) is
 10 amended by inserting “(other than an underserved
 11 Tribal entity (as defined in section 2 of the Bridging
 12 the Tribal Digital Divide Act of 2020))” after “eligi-
 13 ble entity”.

14 (3) EXEMPTION FROM APPLICATION REQUIRE-
 15 MENTS.—Section 604(f) of the Rural Electrification
 16 Act of 1936 (7 U.S.C. 950bb–3(f)) is amended by
 17 adding at the end the following:

18 “(3) EXEMPTIONS FOR TRIBAL ENTITIES.—
 19 Notwithstanding paragraphs (1) and (2), the Sec-
 20 retary shall not require a Tribal entity (as defined
 21 in section 2 of the Bridging the Tribal Digital Di-
 22 vide Act of 2020) to submit a system design de-
 23 scribed in subsection (d) of section 1739.15 of title
 24 7, Code of Federal Regulations (or successor regula-
 25 tions), or financial information described in sub-

1 section (h)(2) of that section, to be eligible to receive
 2 a grant under the Program.”.

3 (c) BROADBAND LOAN AND GRANT PILOT PRO-
 4 GRAM.—

5 (1) IN GENERAL.—Notwithstanding any other
 6 provision of law, a Tribal entity shall be considered
 7 to be eligible for funding under the broadband loan
 8 and grant pilot program described in section 779 of
 9 division A of the Consolidated Appropriations Act,
 10 2018 (Public Law 115–141; 132 Stat. 399).

11 (2) EXEMPTIONS.—The Secretary of Agri-
 12 culture shall exempt underserved Tribal entities
 13 from the application requirements under the pilot
 14 program described in paragraph (1)—

15 (A) to submit a network design; and

16 (B) to provide a matching contribution
 17 equal to 25 percent of the overall cost of the
 18 project.

19 **SEC. 202. UNIVERSAL SERVICE FUND.**

20 (a) UNIVERSAL SERVICE GENERALLY.—Not later
 21 than 180 days after the date of enactment of this Act,
 22 the Commission shall promulgate regulations under which
 23 the Commission, on and after the effective date of the reg-
 24 ulations, shall—

1 (1) set aside 5 percent of the amounts allocated
2 for each Federal universal service support program
3 established under section 254 of the Communica-
4 tions Act of 1934 (47 U.S.C. 254), including each
5 program carried out under subparts D through G
6 and J through M of part 54 of title 47, Code of
7 Federal Regulations, or any successor regulations;
8 and

9 (2) with respect to the amount set aside from
10 each program under paragraph (1), distribute that
11 amount for the purpose of expanding access to
12 broadband service on Tribal land, in accordance with
13 the otherwise applicable requirements of the pro-
14 gram.

15 (b) LIFELINE PROGRAM.—

16 (1) INITIAL INCREASE IN TRIBAL LAND SUP-
17 PORT AMOUNT.—For the first 12-month period be-
18 ginning 2 years after the date of enactment of this
19 Act, in the case of Tribal land pertaining to a Tribal
20 entity that has not met the Tribal broadband bench-
21 mark, the Commission shall increase the monthly
22 cap on additional Federal lifeline support made
23 available to an eligible telecommunications carrier
24 providing Lifeline service to an eligible resident of
25 that Tribal land under section 54.403(a)(3) of title

1 47, Code of Federal Regulations, or any successor
2 regulation, by \$10.

3 (2) ANNUAL INCREASE.—For each subsequent
4 12-month period after the 12-month period de-
5 scribed in paragraph (1), in the case of Tribal land
6 pertaining to a Tribal entity that has not met the
7 Tribal broadband benchmark, the Commission shall
8 increase the monthly cap described in that para-
9 graph by an additional \$10.

10 **TITLE III—UNIVERSAL SERVICE** 11 **ON TRIBAL LAND**

12 **SEC. 301. UNIVERSAL SERVICE ON TRIBAL LAND.**

13 (a) DEFINITIONS.—Section 3 of the Communications
14 Act of 1934 (47 U.S.C. 153) is amended—

15 (1) by redesignating paragraphs (58) and (59)
16 as paragraphs (62) and (63), respectively;

17 (2) by redesignating paragraphs (35) through
18 (57) as paragraphs (37) through (59), respectively;

19 (3) by redesignating paragraphs (24) through
20 (34) as paragraphs (25) through (35), respectively;

21 (4) by inserting after paragraph (23) the fol-
22 lowing:

23 “(24) INDIAN TRIBE.—The term ‘Indian Tribe’
24 has the meaning given the term ‘Indian tribe’ in sec-

1 tion 4 of the Indian Self-Determination and Edu-
 2 cation Assistance Act (25 U.S.C. 5304).”;

3 (5) by inserting after paragraph (35), as so re-
 4 designated, the following:

5 “(36) NATIVE HAWAIIAN.—The term ‘Native
 6 Hawaiian’ has the meaning given the term in section
 7 801 of the Native American Housing Assistance and
 8 Self-Determination Act of 1996 (25 U.S.C. 4221).”;
 9 and

10 (6) by inserting after paragraph (59), as so re-
 11 designated, the following:

12 “(60) TRIBAL ENTITY.—The term ‘Tribal enti-
 13 ty’—

14 “(A) means an Indian Tribe; and

15 “(B) includes a Native Hawaiian commu-
 16 nity.

17 “(61) TRIBAL LAND.—The term ‘Tribal land’
 18 means—

19 “(A) any land located within the bound-
 20 aries of—

21 “(i) an Indian reservation, pueblo, or
 22 rancheria; or

23 “(ii) a former reservation within Okla-
 24 homa;

1 “(B) any land not located within the
2 boundaries of an Indian reservation, pueblo, or
3 rancharia, the title to which is held—

4 “(i) in trust by the United States for
5 the benefit of an Indian Tribe or an indi-
6 vidual Indian;

7 “(ii) by an Indian Tribe or an indi-
8 vidual Indian, subject to restriction against
9 alienation under laws of the United States;

10 or

11 “(iii) by a dependent Indian commu-
12 nity;

13 “(C) any land located within a region es-
14 tablished pursuant to section 7(a) of the Alaska
15 Native Claims Settlement Act (43 U.S.C.
16 1606(a));

17 “(D) Hawaiian Home Lands, as defined in
18 section 801 of the Native American Housing
19 Assistance and Self-Determination Act of 1996
20 (25 U.S.C. 4221); or

21 “(E) those areas or communities des-
22 ignated by the Assistant Secretary of Indian
23 Affairs of the Department of the Interior that
24 are near, adjacent, or contiguous to reserva-
25 tions where financial assistance and social serv-

1 ice programs are provided to Indians because of
2 their status as Indians.”.

3 (b) UNIVERSAL SERVICE.—Section 254(b)(3) of the
4 Communications Act of 1934 (47 U.S.C. 254(b)(3)) is
5 amended—

6 (1) by striking “and those” and inserting “,
7 consumers”; and

8 (2) inserting after “high cost areas,” the fol-
9 lowing: “and consumers on Tribal land and in areas
10 with high populations of Indians (as defined in sec-
11 tion 19 of the Act of June 18, 1934 (commonly
12 known as the ‘Indian Reorganization Act’) (25
13 U.S.C. 5129)) or Native Hawaiians (as defined in
14 section 801 of the Native American Housing Assist-
15 ance and Self-Determination Act of 1996 (25 U.S.C.
16 4221)),”.

17 (c) TECHNICAL AND CONFORMING AMENDMENT.—
18 Section 271(c)(1)(A) of the Communications Act of 1934
19 (47 U.S.C. 271(c)(1)(A)) is amended, in the first sen-
20 tence, by striking “section 3(47)(A)” and inserting “sec-
21 tion 3(56)(A)”.

22 **TITLE IV—TRIBAL BROADBAND** 23 **FACTOR**

24 **SEC. 401. TRIBAL BROADBAND FACTOR.**

25 The Commission shall conduct a rulemaking to—

(1) increase Connect America Fund Broadband Loop Support under subpart K of part 54 of title 47, Code of Federal Regulations (or any successor regulation), available to rate-of-return carriers serving Tribal lands by reducing the funding threshold of \$42 per month per line by 25 percent; and

(2) increase High Cost Loop Support under subpart M of part 54 of title 47, Code of Federal Regulations (or any successor regulation), available to rate-of-return carriers serving Tribal lands by increasing—

(A) the eligible costs expense adjustment under section 54.1310(a)(1) of that title from 65 percent to 81.25 percent; and

(B) the eligible costs expense adjustment under section 54.1310(a)(2) of that title from 75 percent to 93.75 percent.

TITLE V—BROADBAND RIGHTS- OF-WAY

SEC. 501. PILOT PROGRAM FOR TRIBAL GRANT OF RIGHTS- OF-WAY FOR BROADBAND FACILITIES.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term “program” means the Tribal Broadband Right-of-Way Pilot Program established under subsection (b)(1).

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 (b) PILOT PROGRAM.—

4 (1) IN GENERAL.—The Secretary shall establish
5 a pilot program, to be known as the “Tribal
6 Broadband Right-of-Way Pilot Program”, under
7 which the Secretary shall delegate to the Indian
8 Tribes selected under paragraph (3) the authority
9 under the first section of the Act of February 5,
10 1948 (62 Stat. 17, chapter 45; 25 U.S.C. 323) to
11 grant rights-of-way described in paragraph (2) over
12 and across Tribal land.

13 (2) RIGHT-OF-WAY DESCRIBED.—A right-of-
14 way referred to in paragraph (1) is a right-of-way
15 for the construction, maintenance, and facilitation of
16 broadband service, which may include—

17 (A) towers;

18 (B) cables;

19 (C) transmission lines; and

20 (D) any other equipment necessary for
21 construction, maintenance, and facilitation of
22 broadband service.

23 (3) PARTICIPATING INDIAN TRIBES.—

24 (A) IN GENERAL.—Subject to subpara-
25 graph (B) and in accordance with subsection

1 (c), the Secretary shall select not fewer than 10
 2 Indian Tribes to participate in the program.

3 (B) LOCATION OF INDIAN TRIBES.—Of the
 4 Indian Tribes selected under subparagraph (A),
 5 not fewer than 5 shall be Indian Tribes the
 6 land of which is located within the State of Ari-
 7 zona or the State of New Mexico.

8 (4) BROADBAND RIGHT-OF-WAY.—

9 (A) IN GENERAL.—Except as provided in
 10 subparagraph (B), an Indian Tribe partici-
 11 pating in the program may grant a right-of-way
 12 described in paragraph (2) over and across the
 13 land of the Indian Tribe without the approval
 14 of, or a grant by, the Secretary, if—

15 (i) the right-of-way is granted in ac-
 16 cordance with the regulations of the Indian
 17 Tribe approved by the Secretary under
 18 subsection (c); and

19 (ii) the term of the right-of-way does
 20 not exceed 25 years, except that a right-of-
 21 way may include an option to renew the
 22 right-of-way for not more than 2 additional
 23 terms, each of which may not exceed 25
 24 years.

1 (B) ALLOTTED LAND.—An Indian Tribe
 2 may not grant a right-of-way under subpara-
 3 graph (A) over and across an individual Indian
 4 allotment under section 4 of the Act of Feb-
 5 ruary 8, 1887 (commonly known as the “Indian
 6 General Allotment Act”) (24 Stat. 389, chapter
 7 119; 25 U.S.C. 334).

8 (c) PROPOSED REGULATIONS.—

9 (1) IN GENERAL.—An Indian Tribe desiring to
 10 participate in the program shall submit to the Sec-
 11 retary an application containing the proposed regu-
 12 lations of the Indian Tribe for the granting of
 13 rights-of-way described in subsection (b)(2).

14 (2) SELECTION.—The Secretary may only se-
 15 lect for participation in the program Indian Tribes
 16 the proposed regulations of which are approved by
 17 the Secretary under this subsection.

18 (3) CONSIDERATIONS FOR APPROVAL.—The
 19 Secretary may approve the proposed regulations of
 20 an Indian Tribe if the regulations—

21 (A) are consistent with any regulations
 22 issued by the Secretary under section 6 of the
 23 Act of February 5, 1948 (62 Stat. 18, chapter
 24 45; 25 U.S.C. 328); and

1 (B) provide for an environmental review
2 process that includes—

3 (i) the identification and evaluation by
4 the Indian Tribe of any significant impacts
5 of the proposed right-of-way on the envi-
6 ronment; and

7 (ii) a process for ensuring that—

8 (I) the public is informed of, and
9 has a reasonable opportunity to com-
10 ment on, any impacts identified by the
11 Indian Tribe under clause (i); and

12 (II) the Indian Tribe provides re-
13 sponses to relevant and substantive
14 public comments received under sub-
15 clause (I).

16 (4) TECHNICAL ASSISTANCE.—

17 (A) IN GENERAL.—On request of an In-
18 dian Tribe desiring to participate in the pro-
19 gram, the Secretary shall provide technical as-
20 sistance for development of proposed regula-
21 tions to be submitted in the application of the
22 Indian Tribe under paragraph (1), including
23 technical assistance for development of a regu-
24 latory environmental review process that meets
25 the requirements of paragraph (3)(B).

1 (B) ISDEAA.—

2 (i) IN GENERAL.—Technical assist-
 3 ance provided by the Secretary under sub-
 4 paragraph (A) may be made available to
 5 Indian Tribes described in clause (ii)
 6 through contracts, grants, or agreements
 7 entered into in accordance with the Indian
 8 Self-Determination and Education Assist-
 9 ance Act (25 U.S.C. 5304 et seq.).

10 (ii) INDIAN TRIBE DESCRIBED.—An
 11 Indian Tribe referred to in clause (i) is an
 12 Indian Tribe eligible for contracts, grants,
 13 or agreements under the Indian Self-De-
 14 termination and Education Assistance Act
 15 (25 U.S.C. 5304 et seq.).

16 (5) REVIEW PROCESS.—

17 (A) IN GENERAL.—Not later than 120
 18 days after the date on which an application is
 19 submitted to the Secretary under paragraph
 20 (1), the Secretary shall review and approve or
 21 disapprove the proposed regulations contained
 22 in the application.

23 (B) WRITTEN DOCUMENTATION.—If the
 24 Secretary disapproves the regulations under
 25 subparagraph (A), the Secretary shall—

1 (i) notify the Indian Tribe that the
2 regulations have been disapproved; and

3 (ii) include with the notification writ-
4 ten documentation that describes the basis
5 for the disapproval.

6 (C) EXTENSION.—After consultation with
7 the Indian Tribe, the Secretary may extend the
8 deadline described in subparagraph (A) for an
9 additional 120-day period.

10 (d) FEDERAL ENVIRONMENTAL REVIEW.—If an In-
11 dian Tribe participating in the program proposes to grant
12 a right-of-way for a broadband service project or activity
13 funded by a Federal agency, the Indian Tribe may rely
14 on the environmental review process of the applicable Fed-
15 eral agency rather than the environmental review process
16 approved as part of the regulations of the Indian Tribe
17 under subsection (c)(3)(B).

18 (e) DOCUMENTATION.—If an Indian Tribe partici-
19 pating in the program grants a right-of-way under the
20 program, the Indian Tribe shall submit to the Secretary—

21 (1) a copy of the right-of-way, including any
22 amendments or renewals to the right-of-way; and

23 (2) if the regulations of the Indian Tribe or the
24 right-of-way allows for right-of-way payments to be
25 made directly to the Indian Tribe, documentation of

1 the right-of-way payments that are sufficient to en-
2 able the Secretary to discharge the trust responsi-
3 bility of the United States under subsection (f)(2).

4 (f) TRUST RESPONSIBILITY.—

5 (1) IN GENERAL.—The United States shall not
6 be liable for any losses sustained by a party to a
7 right-of-way granted by an Indian Tribe under the
8 program.

9 (2) AUTHORITY OF SECRETARY.—

10 (A) IN GENERAL.—Pursuant to the au-
11 thority of the Secretary to fulfill the trust obli-
12 gation of the United States to Indian Tribes
13 participating in the program under Federal law
14 (including regulations), the Secretary may, on
15 request by, and after reasonable notice from, an
16 Indian Tribe, enforce the provisions of, or can-
17 cel, any right-of-way granted by the Indian
18 Tribe under the program.

19 (B) PROCEDURES.—The Secretary shall
20 enforce the provisions of, or cancel, any right-
21 of-way under subparagraph (A) in accordance
22 with the regulations issued by the Secretary
23 under section 6 of the Act of February 5, 1948
24 (62 Stat. 18, chapter 45; 25 U.S.C. 328).

25 (g) COMPLIANCE.—

1 (1) IN GENERAL.—A duly enrolled member of
2 an Indian Tribe, after exhausting any applicable
3 Tribal remedies, may submit to the Secretary, at
4 such time and in such form as the Secretary deter-
5 mines to be appropriate, a petition to review the
6 compliance of an Indian Tribe participating in the
7 program with the regulations of the Indian Tribe ap-
8 proved by the Secretary under subsection (c).

9 (2) VIOLATIONS.—If, after carrying out a re-
10 view under paragraph (1), the Secretary determines
11 that the Indian Tribe violated the regulations, the
12 Secretary, subject to paragraph (3)(B), may take
13 any action the Secretary determines to be necessary
14 to remedy the violation, including—

15 (A) rescinding the approval of the regula-
16 tions; and

17 (B) reassuming the authority to grant
18 rights-of-ways described in subsection (b)(2)
19 delegated to the Indian Tribe under the pro-
20 gram.

21 (3) DOCUMENTATION.—If the Secretary deter-
22 mines that the Indian Tribe violated the regulations
23 and a remedy is necessary, the Secretary shall—

1 (A) submit to the Indian Tribe a written
2 notification of the regulations that have been
3 violated; and

4 (B) prior to the exercise of any remedy
5 under paragraph (2), provide the Indian Tribe
6 with—

7 (i) a hearing that is on the record;

8 and

9 (ii) a reasonable opportunity to cure
10 the alleged violation.

11 (h) SUNSET.—The authority of the Secretary to carry
12 this section shall terminate 10 years after the date of en-
13 actment of this Act.

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