

118TH CONGRESS
1ST SESSION

H. R. 3307

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

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2023

Mr. CURTIS introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

16 (b) ASSUMPTION OF RESPONSIBILITIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (g) TERMINATION.—

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

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

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

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

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

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

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

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

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

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

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

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

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

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

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

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

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

7 (A) by an Indian Tribe;

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

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

13 (D) by a dependent Indian community.

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

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

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

25 (A) means—

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

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

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

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

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

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

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

○