

118TH CONGRESS  
1ST SESSION

# H. R. 3557

To streamline Federal, State, and local permitting and regulatory reviews to expedite the deployment of communications facilities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2023

Mr. CARTER of Georgia (for himself, Mr. MORAN, and Mr. DUNN of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Natural Resources, and Transportation and Infrastructure, 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

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## A BILL

To streamline Federal, State, and local permitting and regulatory reviews to expedite the deployment of communications facilities, 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 “American Broadband Deployment Act of 2023”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 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 telecommunications 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

1 decisions regarding the placement, construction,  
2 or modification of personal wireless service fa-  
3 cilities.

4 “(B) LIMITATIONS.—

5 “(i) IN GENERAL.—The regulation of  
6 the placement, construction, or modifica-  
7 tion of a personal wireless service facility  
8 by any State or local government or instru-  
9 mentality thereof—

10 “(I) shall not discriminate among  
11 personal wireless service facilities or  
12 providers of communications service,  
13 including by providing exclusive or  
14 preferential use of facilities to a par-  
15 ticular provider or class of providers  
16 of personal wireless service; and

17 “(II) shall not prohibit or have  
18 the effect of prohibiting the provision,  
19 improvement, or enhancement of per-  
20 sonal wireless service.

21 “(ii) ENGINEERING STANDARDS; AES-  
22 THETIC REQUIREMENTS.—It is not a viola-  
23 tion of clause (i) for a State or local gov-  
24 ernment or instrumentality thereof to es-  
25 tablish for personal wireless service facili-

1 ties, or structures that support such facili-  
2 ties, objective, reasonable, and nondiscrim-  
3 inatory—

4 “(I) structural engineering stand-  
5 ards based on generally applicable  
6 codes;

7 “(II) safety requirements (sub-  
8 ject to clause (vi)); or

9 “(III) aesthetic or concealment  
10 requirements (unless such require-  
11 ments prohibit or have the effect of  
12 prohibiting the installation or modi-  
13 fication of such facilities or struc-  
14 tures).

15 “(iii) TIMEFRAMES.—

16 “(I) IN GENERAL.—A State or  
17 local government or instrumentality  
18 thereof shall grant or deny a request  
19 for authorization to place, construct,  
20 or modify a personal wireless service  
21 facility not later than—

22 “(aa) in the case of a re-  
23 quest for authorization to place,  
24 construct, or modify a personal  
25 wireless service facility that is

1 not a small personal wireless  
2 service facility—

3 “(AA) if the request is  
4 for authorization to place,  
5 construct, or modify such fa-  
6 cility using an existing  
7 structure, including with re-  
8 spect to an area that has  
9 not previously been zoned  
10 for personal wireless service  
11 facilities (other than small  
12 personal wireless service fa-  
13 cilities), 90 days after the  
14 date on which the request is  
15 submitted by the requesting  
16 party to the government or  
17 instrumentality; or

18 “(BB) if the request is  
19 for any other action relating  
20 to such facility, 150 days  
21 after the date on which the  
22 request is submitted by the  
23 requesting party to the gov-  
24 ernment or instrumentality;  
25 and

1           “(bb) in the case of a re-  
2           quest for authorization to place,  
3           construct, or modify a small per-  
4           sonal wireless service facility—

5                   “(AA) if the request is  
6                   for authorization to place,  
7                   construct, or modify such fa-  
8                   cility using an existing  
9                   structure, including with re-  
10                  spect to an area that has  
11                  not previously been zoned  
12                  for personal wireless service  
13                  facilities, 60 days after the  
14                  date on which the request is  
15                  submitted by the requesting  
16                  party to the government or  
17                  instrumentality; or

18                  “(BB) if the request is  
19                  for any other action relating  
20                  to such facility, 90 days  
21                  after the date on which the  
22                  request is submitted by the  
23                  requesting party to the gov-  
24                  ernment or instrumentality.

1                   “(II) TREATMENT OF BATCHED  
2                   REQUESTS.—In the case of requests  
3                   described in subclause (I) that are  
4                   submitted as part of a single batch by  
5                   the requesting party to the govern-  
6                   ment or instrumentality on the same  
7                   day, the applicable timeframe under  
8                   such subclause for each request in the  
9                   batch shall be the longest timeframe  
10                  under such subclause that would be  
11                  applicable to any request in the batch  
12                  if such requests were submitted sepa-  
13                  rately.

14                  “(III) APPLICABILITY.—The ap-  
15                  plicable timeframe under subclause (I)  
16                  shall apply collectively to all pro-  
17                  ceedings required by a State or local  
18                  government or instrumentality thereof  
19                  for the approval of the request.

20                  “(IV) NO MORATORIA.—A time-  
21                  frame under subclause (I) may not be  
22                  tolled by any moratorium, whether ex-  
23                  press or de facto, imposed by a State  
24                  or local government or instrumentality  
25                  thereof on the submission, acceptance,

1 or consideration of any request for au-  
2 thorization to place, construct, or  
3 modify a personal wireless service fa-  
4 cility.

5 “(V) TOLLING DUE TO INCOM-  
6 PLETENESS.—

7 “(aa) INITIAL REQUEST IN-  
8 COMPLETE.—

9 “(AA) SMALL PER-  
10 SONAL WIRELESS SERVICE  
11 FACILITIES.—If, not later  
12 than 10 days after the date  
13 on which a requesting party  
14 submits to a State or local  
15 government or instrumen-  
16 tality thereof a request for  
17 authorization to place, con-  
18 struct, or modify a small  
19 personal wireless service fa-  
20 cility, the government or in-  
21 strumentality provides to the  
22 requesting party a written  
23 notice described in item (cc)  
24 with respect to the request,  
25 the timeframe described in



1 subclause (I) is tolled with  
2 respect to the request and  
3 shall restart at zero on the  
4 date on which the requesting  
5 party submits to the govern-  
6 ment or instrumentality a  
7 supplemental submission in  
8 response to the notice.

9 “(BB) OTHER PER-  
10 SONAL WIRELESS SERVICE  
11 FACILITIES.—If, not later  
12 than 30 days after the date  
13 on which a requesting party  
14 submits to a State or local  
15 government or instrumen-  
16 tality thereof a request for  
17 authorization to place, con-  
18 struct, or modify a personal  
19 wireless service facility that  
20 is not a small personal wire-  
21 less service facility, the gov-  
22 ernment or instrumentality  
23 provides to the requesting  
24 party a written notice de-  
25 scribed in item (cc) with re-

1           spect to the request, the  
2           timeframe described in sub-  
3           clause (I) is tolled with re-  
4           spect to the request until the  
5           date on which the requesting  
6           party submits to the govern-  
7           ment or instrumentality a  
8           supplemental submission in  
9           response to the notice.

10           “(bb) SUPPLEMENTAL SUB-  
11           MISSION INCOMPLETE.—If, not  
12           later than 10 days after the date  
13           on which a requesting party sub-  
14           mits to a State or local govern-  
15           ment or instrumentality thereof a  
16           supplemental submission in re-  
17           sponse to a written notice de-  
18           scribed in item (cc), the govern-  
19           ment or instrumentality provides  
20           to the requesting party a written  
21           notice described in item (cc) with  
22           respect to the supplemental sub-  
23           mission, the timeframe under  
24           subclause (I) is further tolled  
25           until the date on which the re-

1           requesting party submits to the  
2           government or instrumentality a  
3           subsequent supplemental submis-  
4           sion in response to the notice.

5           “(cc) WRITTEN NOTICE DE-  
6           SCRIBED.—The written notice de-  
7           scribed in this item is, with re-  
8           spect to a request described in  
9           subclause (I) or a supplemental  
10          submission described in item (aa)  
11          or (bb) submitted to a State or  
12          local government or instrumen-  
13          tality thereof by a requesting  
14          party, a written notice from the  
15          government or instrumentality to  
16          the requesting party—

17                  “(AA) stating that all  
18                  of the information (including  
19                  any form or other docu-  
20                  ment) required by the gov-  
21                  ernment or instrumentality  
22                  to be submitted for the re-  
23                  quest to be considered com-  
24                  plete has not been sub-  
25                  mitted;

1                   “(BB) identifying the  
2                   information described in  
3                   subitem (AA) that was not  
4                   submitted; and

5                   “(CC) including a cita-  
6                   tion to a specific provision of  
7                   a publicly available rule, reg-  
8                   ulation, or standard issued  
9                   by the government or instru-  
10                  mentality requiring that  
11                  such information be sub-  
12                  mitted with such a request.

13                  “(dd) LIMITATION ON SUB-  
14                  SEQUENT WRITTEN NOTICE.—If  
15                  a written notice provided by a  
16                  State or local government or in-  
17                  strumentality thereof to a re-  
18                  questing party under item (bb)  
19                  with respect to a supplemental  
20                  submission identifies as not hav-  
21                  ing been submitted any informa-  
22                  tion that was not identified as  
23                  not having been submitted in the  
24                  prior written notice under this  
25                  subclause in response to which

1 the supplemental submission was  
2 submitted, the subsequent writ-  
3 ten notice shall be treated as not  
4 having been provided to the re-  
5 questing party.

6 “(VI) TOLLING BY MUTUAL  
7 AGREEMENT.—The timeframe under  
8 subclause (I) may be tolled by mutual  
9 agreement between the State or local  
10 government or instrumentality thereof  
11 and the requesting party.

12 “(iv) DEEMED GRANTED.—

13 “(I) IN GENERAL.—If a State or  
14 local government or instrumentality  
15 thereof fails to take final action to  
16 grant or deny a request within the ap-  
17 plicable timeframe under subclause (I)  
18 of clause (iii), the request shall be  
19 deemed granted on the date on which  
20 the government or instrumentality re-  
21 ceives a written notice of the failure  
22 from the requesting party.

23 “(II) RULE OF CONSTRUC-  
24 TION.—In the case of a request that  
25 is deemed granted under subclause

1 (I), the placement, construction, or  
2 modification requested in the request  
3 shall be considered to be authorized,  
4 without any further action by the gov-  
5 ernment or instrumentality, beginning  
6 on the date on which the request is  
7 deemed granted under such subclause.

8 “(v) WRITTEN DECISION AND  
9 RECORD.—Any decision by a State or local  
10 government or instrumentality thereof to  
11 deny a request for authorization to place,  
12 construct, or modify a personal wireless  
13 service facility shall be—

14 “(I) in writing;

15 “(II) supported by substantial  
16 evidence contained in a written  
17 record; and

18 “(III) publicly released, and pro-  
19 vided to the requesting party, on the  
20 same day such decision is made.

21 “(vi) ENVIRONMENTAL EFFECTS OF  
22 RADIO FREQUENCY EMISSIONS.—No State  
23 or local government or instrumentality  
24 thereof may regulate the operation, place-  
25 ment, construction, or modification of per-

1           sonal wireless service facilities on the basis  
2           of the environmental effects of radio fre-  
3           quency emissions to the extent that such  
4           facilities or structures comply with the  
5           Commission’s regulations concerning such  
6           emissions.

7           “(vii) FEES.—To the extent permitted  
8           by law, a State or local government or in-  
9           strumentality thereof may charge a fee to  
10          consider a request for authorization to  
11          place, construct, or modify a personal wire-  
12          less service facility or a fee for use of a  
13          right-of-way or a facility in a right-of-way  
14          owned or managed by the government or  
15          instrumentality for the placement, con-  
16          struction, or modification of a personal  
17          wireless service facility, if the fee is—

18                   “(I) competitively neutral, tech-  
19                   nology neutral, and nondiscrim-  
20                   inatory;

21                   “(II) established in advance and  
22                   publicly disclosed;

23                   “(III) calculated—

24                           “(aa) based on actual and  
25                           direct costs for—

1 “(AA) review and proc-  
2 essing of requests; and

3 “(BB) repairs and re-  
4 placement of components  
5 and materials directly result-  
6 ing from and affected by the  
7 placement, construction, or  
8 modification (including the  
9 installation or improvement)  
10 of personal wireless service  
11 facilities or repairs and re-  
12 placement of equipment that  
13 facilitates the placement,  
14 construction, or modification  
15 (including the installation or  
16 improvement) of such facili-  
17 ties; and

18 “(bb) using, for purposes of  
19 item (aa), only costs that are ob-  
20 jectively reasonable; and

21 “(IV) described to a requesting  
22 party in a manner that distinguishes  
23 between—

24 “(aa) nonrecurring fees and  
25 recurring fees; and



1                   “(bb) the use of facilities on  
2                   which personal wireless service  
3                   facilities are already located and  
4                   facilities on which there are no  
5                   personal wireless service facilities  
6                   as of the date on which the re-  
7                   quest is submitted by the re-  
8                   questing party to the government  
9                   or instrumentality.

10                   “(C) JUDICIAL OR ADMINISTRATIVE RE-  
11                   VIEW.—

12                   “(i) JUDICIAL REVIEW.—Any person  
13                   adversely affected by any final action or  
14                   failure to act by a State or local govern-  
15                   ment or any instrumentality thereof that is  
16                   inconsistent with this paragraph may,  
17                   within 30 days after the action or failure  
18                   to act, commence an action in any court of  
19                   competent jurisdiction, which shall hear  
20                   and decide the action on an expedited  
21                   basis.

22                   “(ii) ADMINISTRATIVE REVIEW.—

23                   “(I) IN GENERAL.—Any person  
24                   adversely affected by any final action  
25                   or failure to act by a State or local

1 government or any instrumentality  
2 thereof that is inconsistent with this  
3 paragraph may petition the Commis-  
4 sion to review such action or failure to  
5 act.

6 “(II) TIMING.—Not later than  
7 120 days after receiving a petition  
8 under subclause (I), the Commission  
9 shall grant or deny such petition.

10 “(D) WHEN REQUEST CONSIDERED SUB-  
11 MITTED.—For the purposes of this paragraph,  
12 a request to a State or local government or in-  
13 strumentality thereof shall be considered sub-  
14 mitted on the date on which the requesting  
15 party takes the first procedural step within the  
16 control of 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 “(E) RULE OF CONSTRUCTION.—Nothing  
5 in this paragraph may be construed to affect  
6 section 6409(a) of the Middle Class Tax Relief  
7 and Job Creation Act of 2012 (47 U.S.C.  
8 1455(a)).

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

10 “(i) ANTENNA.—The term ‘antenna’  
11 means an apparatus designed for the pur-  
12 pose of emitting radiofrequency radiation,  
13 to be operated or operating from a fixed  
14 location for the transmission of writing,  
15 signs, signals, data, images, pictures, and  
16 sounds of all kinds.

17 “(ii) COMMUNICATIONS NETWORK.—  
18 The term ‘communications network’ means  
19 a network used to provide a communica-  
20 tions service.

21 “(iii) COMMUNICATIONS SERVICE.—  
22 The term ‘communications service’ means  
23 each of—

24 “(I) cable service, as defined in  
25 section 602;

1 “(II) information service;

2 “(III) telecommunications serv-  
3 ice; and

4 “(IV) personal wireless service.

5 “(iv) GENERALLY APPLICABLE  
6 CODE.—The term ‘generally applicable  
7 code’ means a uniform building, fire, elec-  
8 trical, plumbing, or mechanical code adopt-  
9 ed by a national code organization, or a  
10 local amendment to such a code, to the ex-  
11 tent not inconsistent with this Act.

12 “(v) NETWORK INTERFACE DEVICE.—  
13 The term ‘network interface device’ means  
14 a telecommunications demarcation device  
15 and cross-connect point that—

16 “(I) is adjacent or proximate  
17 to—

18 “(aa) a small personal wire-  
19 less service facility; or

20 “(bb) a structure supporting  
21 a small personal wireless service  
22 facility; and

23 “(II) demarcates the boundary  
24 with any wireline backhaul facility.

1           “(vi) PERSONAL WIRELESS SERV-  
2           ICE.—The term ‘personal wireless service’  
3           means any fixed or mobile service (other  
4           than a broadcasting service) provided via  
5           licensed or unlicensed frequencies, includ-  
6           ing—

7                       “(I) commercial mobile service;

8                       “(II) commercial mobile data  
9                       service (as defined in section 6001 of  
10                      the Middle Class Tax Relief and Job  
11                      Creation Act of 2012 (47 U.S.C.  
12                      1401));

13                     “(III) unlicensed wireless service;

14                     and

15                     “(IV) common carrier wireless  
16                     exchange access service.

17           “(vii) PERSONAL WIRELESS SERVICE  
18           FACILITY.—The term ‘personal wireless  
19           service facility’ means a facility used to  
20           provide or support the provision of per-  
21           sonal wireless service.

22           “(viii) SMALL PERSONAL WIRELESS  
23           SERVICE FACILITY.—The term ‘small per-  
24           sonal wireless service facility’ means a per-  
25           sonal wireless service facility in which each

1 antenna is not more than 3 cubic feet in  
2 volume (excluding a wireline backhaul fa-  
3 cility connected to such personal wireless  
4 service facility).

5 “(ix) UNLICENSED WIRELESS SERV-  
6 ICE.—The term ‘unlicensed wireless serv-  
7 ice’—

8 “(I) means the offering of tele-  
9 communications service using a duly  
10 authorized device that does not re-  
11 quire an individual license; and

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

15 “(x) WIRELINE BACKHAUL FACIL-  
16 ITY.—The term ‘wireline backhaul facility’  
17 means an above-ground or underground  
18 wireline facility used to transport commu-  
19 nications service or other electronic com-  
20 munications from a small personal wireless  
21 service facility or the adjacent network  
22 interface device of such facility to a com-  
23 munications network.”.

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

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

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

5 “(a) **IN GENERAL.**—No State or local statute or reg-  
6 ulation, or other State or local legal requirement, may pro-  
7 hibit or have the effect of prohibiting the ability of any  
8 entity to provide or enhance the provision of any interstate  
9 or intrastate telecommunications service.

10 “(b) **PLACEMENT, CONSTRUCTION, OR MODIFICA-**  
11 **TION OF TELECOMMUNICATIONS SERVICE FACILITIES.**—

12 “(1) **PROHIBITION ON DISCRIMINATION.**—The  
13 regulation of the placement, construction, or modi-  
14 fication of a telecommunications service facility by a  
15 State or local government or instrumentality thereof  
16 may not discriminate—

17 “(A) among telecommunications service fa-  
18 cilities—

19 “(i) based on the technology used to  
20 provide services; or

21 “(ii) based on the services provided;  
22 or

23 “(B) against telecommunications service  
24 facilities, as compared to the regulation of the  
25 placement, construction, or modification of  
26 other facilities.

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

3           “(A) IN GENERAL.—A State or local gov-  
4           ernment or instrumentality thereof shall grant  
5           or deny a request for authorization to place,  
6           construct, or modify a telecommunications serv-  
7           ice facility not later than—

8           “(i) if the request is for authorization  
9           to place, construct, or modify such facility  
10          in or on eligible support infrastructure, 90  
11          days after the date on which the request is  
12          submitted by the requesting party to the  
13          government or instrumentality; or

14          “(ii) for any other action relating to  
15          such facility, 150 days after the date on  
16          which the request is submitted by the re-  
17          questing party to the government or in-  
18          strumentality.

19          “(B) APPLICABILITY.—The applicable  
20          timeframe under subparagraph (A) shall apply  
21          collectively to all proceedings, including permits  
22          and authorizations, required by a State or local  
23          government or instrumentality thereof for the  
24          approval of the request.



1           “(C) NO MORITORIA.—A timeframe under  
2           subparagraph (A) may not be tolled by any  
3           moratorium, whether express or de facto, im-  
4           posed by a State or local government or instru-  
5           mentality thereof on the submission, accept-  
6           ance, or consideration of requests for authoriza-  
7           tion to place, construct, or modify a tele-  
8           communications service facility.

9           “(D) TOLLING DUE TO INCOMPLETE-  
10          NESS.—

11           “(i) INITIAL REQUEST INCOM-  
12          plete.—If, not later than 30 days after  
13          the date on which a requesting party sub-  
14          mits to a State or local government or in-  
15          strumentality thereof a request for author-  
16          ization to place, construct, or modify a  
17          telecommunications service facility, the  
18          government or instrumentality provides to  
19          the requesting party a written notice de-  
20          scribed in clause (iii) with respect to the  
21          request, the timeframe described in sub-  
22          paragraph (A) is tolled with respect to the  
23          request until the date on which the re-  
24          questing party submits to the government

1 or instrumentality a supplemental submis-  
2 sion in response to the notice.

3 “(ii) SUPPLEMENTAL SUBMISSION IN-  
4 COMPLETE.—If, not later than 10 days  
5 after the date on which a requesting party  
6 submits to a State or local government or  
7 instrumentality thereof a supplemental  
8 submission in response to a written notice  
9 described in clause (iii), the government or  
10 instrumentality provides to the requesting  
11 party a written notice described in clause  
12 (iii) with respect to the supplemental sub-  
13 mission, the timeframe under subpara-  
14 graph (A) is further tolled until the date  
15 on which the requesting party submits to  
16 the government or instrumentality a subse-  
17 quent supplemental submission in response  
18 to the notice.

19 “(iii) WRITTEN NOTICE DE-  
20 SCRIBED.—The written notice described in  
21 this clause is, with respect to a request de-  
22 scribed in subparagraph (A) or a supple-  
23 mental submission described in clause (i)  
24 or (ii) submitted to a State or local govern-  
25 ment or instrumentality thereof by a re-

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

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

10                   “(II) identifying the information  
11                   described in subclause (I) that was  
12                   not submitted; and

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

19                   “(iv) LIMITATION ON SUBSEQUENT  
20                   WRITTEN NOTICE.—If a written notice pro-  
21                   vided by a State or local government or in-  
22                   strumentality thereof to a requesting party  
23                   under clause (ii) with respect to a supple-  
24                   mental submission identifies as not having  
25                   been submitted any information that was

1 not identified as not having been submitted  
2 in the prior written notice under this sub-  
3 paragraph in response to which the supple-  
4 mental submission was submitted, the sub-  
5 sequent written notice shall be treated as  
6 not having been provided to the requesting  
7 party.

8 “(E) TOLLING BY MUTUAL AGREEMENT.—

9 The timeframe under subparagraph (A) may be  
10 tolled by mutual agreement between the State  
11 or local government or instrumentality thereof  
12 and the requesting party.

13 “(3) DEEMED GRANTED.—

14 “(A) IN GENERAL.—If a State or local  
15 government or instrumentality thereof has nei-  
16 ther granted nor denied a request within the  
17 applicable timeframe under paragraph (2), the  
18 request shall be deemed granted on the date on  
19 which the government or instrumentality re-  
20 ceives a written notice of the failure to grant or  
21 deny from the requesting party.

22 “(B) RULE OF CONSTRUCTION.—In the  
23 case of a request that is deemed granted under  
24 subparagraph (A), the placement, construction,  
25 or modification requested in such request shall

1 be considered to be authorized, without any fur-  
2 ther action by the government or instrumen-  
3 tality, beginning on the date on which such re-  
4 quest is deemed granted under such subpara-  
5 graph.

6 “(4) WRITTEN DECISION AND RECORD.—A de-  
7 cision by a State or local government or instrumen-  
8 tality thereof to deny a request to place, construct,  
9 or modify a telecommunications service facility shall  
10 be—

11 “(A) in writing;

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

14 “(C) publicly released, and provided to the  
15 requesting party, on the same day such decision  
16 is made.

17 “(5) FEES.—

18 “(A) IN GENERAL.—To the extent per-  
19 mitted by law, a State or local government or  
20 instrumentality thereof may charge a fee that  
21 meets the requirements under subparagraph  
22 (B)—

23 “(i) to consider a request for author-  
24 ization to place, construct, or modify a  
25 telecommunications service facility; or

1           “(ii) for use of a right-of-way or a fa-  
2           cility in a right-of-way owned or managed  
3           by the government or instrumentality for  
4           the placement, construction, or modifica-  
5           tion of a telecommunications service facil-  
6           ity.

7           “(B) REQUIREMENTS.—A fee charged  
8           under subparagraph (A) shall be—

9           “(i) competitively neutral, technology  
10          neutral, and nondiscriminatory;

11          “(ii) established in advance and pub-  
12          licly disclosed;

13          “(iii) calculated—

14                 “(I) based on actual and direct  
15                 costs for—

16                         “(aa) review and processing  
17                         of requests; and

18                         “(bb) repairs and replace-  
19                         ment of—

20                                 “(AA) components and  
21                                 materials directly resulting  
22                                 from and affected by the  
23                                 placement, construction, or  
24                                 modification (including the  
25                                 installation or improvement)

1 of telecommunications serv-  
2 ice facilities; or

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

9 “(II) using, for purposes of sub-  
10 clause (I), only costs that are objec-  
11 tively reasonable; and

12 “(iv) described to a requesting party  
13 in a manner that distinguishes between—

14 “(I) nonrecurring fees and recur-  
15 ring fees; and

16 “(II) the use of facilities on  
17 which telecommunications service fa-  
18 cilities or infrastructure for compat-  
19 ible uses are already located and fa-  
20 cilities on which there are no tele-  
21 communications service facilities or  
22 infrastructure for compatible uses as  
23 of the date on which the request is  
24 submitted by the requesting party to  
25 the government or instrumentality.

1 “(c) JUDICIAL REVIEW.—

2 “(1) IN GENERAL.—A person adversely affected  
3 by a State or local statute, regulation, or other legal  
4 requirement, or by a final action or failure to act by  
5 a State or local government or instrumentality there-  
6 of, that is inconsistent with this section may com-  
7 mence an action in any court of competent jurisdic-  
8 tion.

9 “(2) TIMING.—

10 “(A) EXPEDITED BASIS.—A court shall  
11 hear and decide an action commenced under  
12 paragraph (1) on an expedited basis.

13 “(B) FINAL ACTION OR FAILURE TO  
14 ACT.—An action may only be commenced under  
15 paragraph (1) on the basis of a final action or  
16 failure to act by a State or local government or  
17 instrumentality thereof, if commenced not later  
18 than 30 days after such action or failure to act.

19 “(d) PRESERVATION OF STATE REGULATORY AU-  
20 THORITY.—Nothing in this section shall affect the ability  
21 of a State to impose, on a competitively neutral and non-  
22 discriminatory basis and consistent with section 254, re-  
23 quirements necessary to preserve and advance universal  
24 service, protect the public safety and welfare, ensure the



1 continued quality of telecommunications services, and  
2 safeguard the rights of consumers.

3       “(e) PRESERVATION OF STATE AND LOCAL GOVERN-  
4 MENT AUTHORITY.—Nothing in this section affects the  
5 authority of a State or local government or instrumen-  
6 tality thereof to manage, on a competitively neutral and  
7 nondiscriminatory basis, the public rights-of-way or to re-  
8 quire, on a competitively neutral and nondiscriminatory  
9 basis, fair and reasonable compensation from tele-  
10 communications providers for use of public rights-of-way,  
11 if the compensation required meets the requirements of  
12 subsection (b)(5).

13       “(f) PREEMPTION.—

14               “(1) IN GENERAL.—If, after notice and an op-  
15 portunity for public comment, the Commission deter-  
16 mines that a State or local government or instru-  
17 mentality thereof has permitted or imposed a stat-  
18 ute, regulation, or legal requirement that violates or  
19 is inconsistent with this section, the Commission  
20 shall preempt the enforcement of such statute, regu-  
21 lation, or legal requirement to the extent necessary  
22 to correct such violation or inconsistency.

23               “(2) TIMING.—Not later than 120 days after  
24 receiving a petition for preemption of the enforce-  
25 ment of a statute, regulation, or legal requirement

1 as described in paragraph (1), the Commission shall  
2 grant or deny the petition.

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

7 “(h) RURAL MARKETS.—It shall not be a violation  
8 of this section for a State to require a telecommunications  
9 carrier that seeks to provide telephone exchange service  
10 or exchange access in a service area served by a rural tele-  
11 phone company to meet the requirements in section  
12 214(e)(1) for designation as an eligible telecommuni-  
13 cations carrier for that area before being permitted to pro-  
14 vide such service. This subsection shall not apply—

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

20 “(2) to a provider of commercial mobile serv-  
21 ices.

22 “(i) WHEN REQUEST CONSIDERED SUBMITTED.—  
23 For the purposes of this section, a request to a State or  
24 local government or instrumentality thereof shall be con-  
25 sidered submitted on the date on which the requesting

1 party takes the first procedural step within the control of  
2 the requesting party—

3 “(1) to submit such request in accordance with  
4 the procedures established by the government or in-  
5 strumentality for the review and approval of such a  
6 request; or

7 “(2) in the case of a government or instrumen-  
8 tality that has not established specific procedures for  
9 the review and approval of such a request, to submit  
10 to the government or instrumentality the type of fil-  
11 ing that is typically required to initiate a standard  
12 review for a similar facility or structure.

13 “(j) DEFINITIONS.—In this section:

14 “(1) ELIGIBLE SUPPORT INFRASTRUCTURE.—  
15 The term ‘eligible support infrastructure’ means in-  
16 frastructure that supports or houses a telecommuni-  
17 cations service facility (or that is designed for or ca-  
18 pable of supporting or housing such a facility) at the  
19 time when a request to a State or local government  
20 or instrumentality thereof for authorization to place,  
21 construct, or modify a telecommunications service  
22 facility in or on the infrastructure is submitted by  
23 the requesting party to the government or instru-  
24 mentality.

1           “(2) TELECOMMUNICATIONS SERVICE FACIL-  
2           ITY.—The term ‘telecommunications service facil-  
3           ity’—

4                   “(A) means a facility that is designed or  
5                   used to provide or facilitate the provision of any  
6                   interstate or intrastate telecommunications  
7                   service; and

8                   “(B) includes a facility described in sub-  
9                   paragraph (A) that is used to provide other  
10                  services.”.

11 **SEC. 103. REQUESTS FOR MODIFICATION OF CERTAIN EX-**  
12                   **ISTING WIRELESS AND TELECOMMUNI-**  
13                   **CATIONS SERVICE FACILITIES.**

14           (a) IN GENERAL.—Section 6409 of the Middle Class  
15 Tax Relief and Job Creation Act of 2012 (47 U.S.C.  
16 1455) is amended—

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

19                   (2) in subsection (a)—

20                           (A) in paragraph (1), by striking “a State  
21                           or local government” and all that follows and  
22                           inserting the following: “a State or local gov-  
23                           ernment or instrumentality thereof may not  
24                           deny, and shall approve—

1           “(A) any eligible facilities request for a  
2           modification of an existing wireless tower, base  
3           station, or eligible support structure that does  
4           not substantially change the physical dimen-  
5           sions of such wireless tower, base station, or eli-  
6           gible support structure; and

7           “(B) any eligible telecommunications facili-  
8           ties request for a modification of an existing  
9           telecommunications service facility in or on eli-  
10          gible support infrastructure that does not sub-  
11          stantially change the physical dimensions of  
12          such facility.”;

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

15          “(2) TIMEFRAME.—

16           “(A) DEEMED APPROVAL.—If a State or  
17          local government or instrumentality thereof  
18          does not, before or on the date that is 60 days  
19          after the date on which a requesting party sub-  
20          mits to the government or instrumentality a re-  
21          quest as an eligible facilities request or an eligi-  
22          ble telecommunications facilities request (as the  
23          case may be), approve the request or make the  
24          determination and provide the written notice  
25          described in subparagraph (B) with respect to

1 the request, the request is deemed approved on  
2 the day after the date that is 60 days after the  
3 date on which the requesting party submits the  
4 request.

5 “(B) DETERMINATION REQUEST IS NOT  
6 AN ELIGIBLE REQUEST.—

7 “(i) DETERMINATION DESCRIBED.—

8 The determination described in this sub-  
9 paragraph is a determination by a State or  
10 local government or instrumentality thereof  
11 that a request described in subparagraph  
12 (A) is not an eligible facilities request or  
13 an eligible telecommunications facilities re-  
14 quest (as the case may be).

15 “(ii) WRITTEN NOTICE DESCRIBED.—

16 The written notice described in this sub-  
17 paragraph is a written notice of the deter-  
18 mination described in clause (i) provided  
19 by the government or instrumentality to  
20 the requesting party that clearly describes  
21 the reasons why the request is not an eligi-  
22 ble facilities request or an eligible tele-  
23 communications facilities request (as the  
24 case may be) and includes a citation to a  
25 specific provision of this subsection or the

1 regulations promulgated under this sub-  
2 section relied upon for the determination.

3 “(C) TOLLING DUE TO INCOMPLETE-  
4 NESS.—

5 “(i) INITIAL REQUEST INCOM-  
6 PLETE.—If, not later than 30 days after  
7 the date on which a requesting party sub-  
8 mits to a State or local government or in-  
9 strumentality thereof a request described  
10 in subparagraph (A), the government or  
11 instrumentality provides to the requesting  
12 party a written notice described in clause  
13 (iii) with respect to the request, the 60-day  
14 timeframe under subparagraph (A) is  
15 tolled until the date on which the request-  
16 ing party submits to the government or in-  
17 strumentality a supplemental submission in  
18 response to the notice.

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

1 instrumentality provides to the requesting  
2 party a written notice described in clause  
3 (iii) with respect to the supplemental sub-  
4 mission, the 60-day timeframe under sub-  
5 paragraph (A) is further tolled until the  
6 date on which the requesting party submits  
7 to the government or instrumentality a  
8 subsequent supplemental submission in re-  
9 sponse to the notice.

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

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



1 “(II) identifying the information  
2 described in subclause (I) that was  
3 not submitted; and

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

10 “(iv) LIMITATION.—

11 “(I) INITIAL WRITTEN NOTICE.—

12 If a written notice provided by a State  
13 or local government or instrumentality  
14 thereof to a requesting party under  
15 clause (i) with respect to a request de-  
16 scribed in subparagraph (A) identifies  
17 as not having been submitted any in-  
18 formation that the government or in-  
19 strumentality is prohibited by para-  
20 graph (5) from requiring to be sub-  
21 mitted, such notice shall be treated as  
22 not having been provided to the re-  
23 questing party.

24 “(II) SUBSEQUENT WRITTEN NO-  
25 TICE.—If a written notice provided by

1 a State or local government or instru-  
2 mentality thereof to a requesting  
3 party under clause (ii) with respect to  
4 a supplemental submission identifies  
5 as not having been submitted any in-  
6 formation that was not identified as  
7 not having been submitted in the prior  
8 written notice under this subpara-  
9 graph in response to which the sup-  
10 plemental submission was submitted,  
11 the subsequent written notice shall be  
12 treated as not having been provided to  
13 the requesting party.

14 “(D) TOLLING BY MUTUAL AGREEMENT.—  
15 The 60-day timeframe under subparagraph (A)  
16 may be tolled by mutual agreement between the  
17 State or local government or instrumentality  
18 thereof and the requesting party.”; and

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

20 “(4) WHEN REQUEST CONSIDERED SUB-  
21 MITTED.—

22 “(A) IN GENERAL.—For the purposes of  
23 this subsection, a request described in para-  
24 graph (2)(A) shall be considered submitted on  
25 the date on which the requesting party takes

1 the first procedural step within the control of  
2 the requesting party—

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

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

15 “(B) NO PRE-APPLICATION REQUIRE-  
16 MENTS.—A State or local government or instru-  
17 mentality thereof may not require a requesting  
18 party to undertake any process, meeting, or  
19 other step prior to or as a prerequisite to a re-  
20 quest being considered submitted.

21 “(5) LIMITATION ON REQUIRED DOCUMENTA-  
22 TION.—A State or local government or instrumen-  
23 tality thereof may require a requesting party submit-  
24 ting a request as an eligible facilities request or an  
25 eligible telecommunications facilities request to sub-

1 mit information (including a form or other docu-  
2 ment) with such request only to the extent that such  
3 information is reasonably related to determining  
4 whether such request is an eligible facilities request  
5 or an eligible telecommunications facilities request  
6 (as the case may be) and is identified in a publicly  
7 available rule, regulation, or standard issued by the  
8 government or instrumentality requiring that such  
9 information be submitted with such a request. A  
10 State or local government or instrumentality thereof  
11 may not require a requesting party to submit any  
12 other documentation or information with such a re-  
13 quest.

14 “(6) ENFORCEMENT.—

15 “(A) IN GENERAL.—A requesting party  
16 may bring an action in any district court of the  
17 United States to enforce the provisions of this  
18 subsection.

19 “(B) EXPEDITED REVIEW.—A district  
20 court of the United States shall consider an ac-  
21 tion under subparagraph (A) on an expedited  
22 basis.

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

24 “(A) ELIGIBLE FACILITIES REQUEST.—

25 The term ‘eligible facilities request’ means any

1 request for a modification of an existing wire-  
2 less tower, base station, or eligible support  
3 structure that does not substantially change the  
4 physical dimensions of such wireless tower, base  
5 station, or eligible support structure and that  
6 involves—

7 “(i) collocation of new transmission  
8 equipment;

9 “(ii) removal of transmission equip-  
10 ment;

11 “(iii) replacement of transmission  
12 equipment; or

13 “(iv) placement, construction, or  
14 modification of equipment that—

15 “(I) improves the resiliency of  
16 the wireless tower, base station, or eli-  
17 gible support structure; and

18 “(II) provides a direct benefit to  
19 public safety, such as—

20 “(aa) providing backup  
21 power for the wireless tower, base  
22 station, or eligible support struc-  
23 ture;

1                   “(bb) hardening the wireless  
2                   tower, base station, or eligible  
3                   support structure; or

4                   “(cc) providing more reliable  
5                   connection capability using the  
6                   wireless tower, base station, or  
7                   eligible support structure.

8                   “(B) ELIGIBLE SUPPORT INFRASTRUC-  
9                   TURE.—The term ‘eligible support infrastruc-  
10                  ture’ means infrastructure that supports or  
11                  houses a telecommunications service facility at  
12                  the time when an eligible telecommunications  
13                  facilities request for a modification of such fa-  
14                  cility is submitted to a State or local govern-  
15                  ment or instrumentality thereof.

16                  “(C) ELIGIBLE SUPPORT STRUCTURE.—  
17                  The term ‘eligible support structure’ means a  
18                  structure that, at the time when an eligible fa-  
19                  cilities request for a modification of such struc-  
20                  ture is submitted to a State or local government  
21                  or instrumentality thereof, supports or could  
22                  support transmission equipment.

23                  “(D) ELIGIBLE TELECOMMUNICATIONS FA-  
24                  CILITIES REQUEST.—The term ‘eligible tele-  
25                  communications facilities request’ means any

1 request for a modification of an existing tele-  
2 communications service facility in or on eligible  
3 support infrastructure that does not substan-  
4 tially change the physical dimensions of such  
5 facility and that involves—

6 “(i) collocation of new telecommuni-  
7 cations service facility equipment;

8 “(ii) removal of telecommunications  
9 service facility equipment; or

10 “(iii) replacement of telecommuni-  
11 cations service facility equipment.

12 “(E) TELECOMMUNICATIONS SERVICE FA-  
13 CILITY.—The term ‘telecommunications service  
14 facility’—

15 “(i) means a facility that is designed  
16 or used to provide or facilitate the provi-  
17 sion of any interstate or intrastate tele-  
18 communications service; and

19 “(ii) includes a facility described in  
20 clause (i) that is used to provide other  
21 services.

22 “(F) TRANSMISSION EQUIPMENT.—The  
23 term ‘transmission equipment’ has the meaning  
24 given such term in section 1.6100(b)(8) of title





1 a franchise (other than a renewal thereof), the fran-  
2 chising authority shall approve or deny such request.

3 “(2) DEEMED GRANT OF NEW FRANCHISE.—If  
4 the franchising authority does not approve or deny  
5 a request under paragraph (1) by the day after the  
6 date on which the time period ends under such para-  
7 graph, such request shall be deemed granted on such  
8 day.

9 “(3) APPLICABILITY.—Notwithstanding any  
10 provision of this title, the timeframe under para-  
11 graph (1) shall apply collectively to all proceedings  
12 required by a franchising authority for the approval  
13 of the request.

14 “(4) NO MORATORIA.—A timeframe under para-  
15 graph (1) may not be tolled by any moratorium,  
16 whether express or de facto, imposed by a fran-  
17 chising authority on the consideration of any request  
18 for a franchise.

19 “(5) TOLLING DUE TO INCOMPLETENESS.—

20 “(A) INITIAL REQUEST INCOMPLETE.—If,  
21 not later than 30 days after the date on which  
22 a requesting party provides to a franchising au-  
23 thority a written notice described in subpara-  
24 graph (C) with respect to the request, the time-  
25 frame described in paragraph (1) is tolled with

1           respect to the request until the date on which  
2           the requesting party submits to the franchising  
3           authority a supplemental submission in re-  
4           sponse to the notice.

5           “(B) SUPPLEMENTAL SUBMISSION INCOM-  
6           PLETE.—If, not later than 10 days after the  
7           date on which a requesting party submits to the  
8           franchising authority a supplemental submis-  
9           sion in response to a written notice described in  
10          subparagraph (A), the franchising authority  
11          provides to the requesting party a written no-  
12          tice described in subparagraph (A) with respect  
13          to the supplemental submission, the timeframe  
14          under paragraph (1) is further tolled until the  
15          date on which the requesting party submits to  
16          the franchising authority a subsequent supple-  
17          mental submission in response to the notice.

18          “(C) WRITTEN NOTICE DESCRIBED.—The  
19          written notice described in this paragraph is,  
20          with respect to a request described in para-  
21          graph (1) or a supplemental submission de-  
22          scribed in subparagraph (A) or (B) submitted  
23          to a franchising authority by a requesting  
24          party, a written notice from the franchising au-  
25          thority to the requesting party—

1           “(i) stating that all of the information  
2           (including any form or other document) re-  
3           quired by the franchising authority to be  
4           submitted for the request to be considered  
5           complete has not been submitted;

6           “(ii) identifying the information de-  
7           scribed in clause (i) that was not sub-  
8           mitted; and

9           “(iii) including a citation to a specific  
10          provision of a publicly available rule, regu-  
11          lation, or standard issued by the fran-  
12          chising authority requiring that such infor-  
13          mation be submitted with such a request.

14          “(D) LIMITATION ON SUBSEQUENT WRIT-  
15          TEN NOTICE.—If a written notice provided by a  
16          franchising authority to a requesting party  
17          under subparagraph (A) with respect to a sup-  
18          plemental submission identifies as not having  
19          been submitted any information that was not  
20          identified as not having been submitted in the  
21          prior written notice under this subparagraph in  
22          response to which the supplemental submission  
23          was submitted, the subsequent written notice  
24          shall be treated as not having been provided to  
25          the requesting party.

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

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

8                   “(A) in writing;

9                   “(B) supported by substantial evidence  
10                  contained in a written record; and

11                  “(C) publicly released, and provided to the  
12                  requesting party, on the same day such decision  
13                  is made.

14           “(8) WHEN REQUEST CONSIDERED SUB-  
15           MITTED.—For the purposes of this subsection, a re-  
16           quest to a franchising authority shall be considered  
17           submitted on the date on which the requesting party  
18           takes the first procedural step within the control of  
19           the requesting party—

20                   “(A) to submit such request in accordance  
21                   with the procedures established by the fran-  
22                   chising authority for the review and approval of  
23                   such a request; or

24                   “(B) in the case of a franchising authority  
25                   that has not established specific procedures for

1 the review and approval of such a request, to  
2 submit to the franchising authority the type of  
3 filing that is typically required to initiate a  
4 standard review for a request related to a fran-  
5 chise.”.

6 **SEC. 202. REQUEST REGARDING PLACEMENT, CONSTRUC-**  
7 **TION, OR MODIFICATION OF CABLE EQUIP-**  
8 **MENT.**

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

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

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

18 “(A) decisions regarding the placement,  
19 construction, or modification of covered equip-  
20 ment within the jurisdiction of such covered en-  
21 tity; or

22 “(B) safety standards for the placement,  
23 construction, or modification of such covered  
24 equipment.

25 “(2) LIMITATIONS.—

1           “(A) ABILITY TO PROVIDE OR ENHANCE  
2 SERVICE.—With respect to the regulation by a  
3 covered entity of the placement, construction, or  
4 modification of covered equipment, the covered  
5 entity shall not prohibit or have the effect of  
6 prohibiting the ability of a cable operator to  
7 provide, improve, or enhance the provision of  
8 service using covered equipment under a fran-  
9 chise granted by such covered entity, or within  
10 the jurisdiction of such covered entity, as so  
11 may be the case.

12           “(B) TIMING OF DECISIONS ON REQUESTS  
13 FOR AUTHORIZATIONS TO PLACE, CONSTRUCT,  
14 OR MODIFY FACILITY.—

15           “(i) TIMEFRAME.—A covered entity  
16 shall approve or deny a request for author-  
17 ization to place, construct, or modify cov-  
18 ered equipment not later than—

19           “(I) if the request is for author-  
20 ization to place, construct, or modify  
21 covered equipment in or on a covered  
22 easement or eligible support infra-  
23 structure, 90 days after the date on  
24 which requesting party submits the  
25 request to the covered entity; or

1                   “(II) if the request is not for au-  
2                   thorization to place, construct, or  
3                   modify covered equipment in or on a  
4                   covered easement or eligible support  
5                   infrastructure, 150 days after the  
6                   date on which the requesting party  
7                   submits the request to the covered en-  
8                   tity.

9                   “(ii) DEEMED GRANTED.—If a cov-  
10                  ered entity fails to grant or deny a request  
11                  by the applicable timeframe under clause  
12                  (i), the request shall be deemed granted  
13                  and authorized on the date on which the  
14                  covered entity receives written notice of the  
15                  failure from the requesting party.

16                  “(iii)        APPLICABILITY.—Notwith-  
17                  standing any provision of this title, the ap-  
18                  plicable timeframe under clause (i) shall  
19                  apply collectively to all proceedings re-  
20                  quired by a covered entity for the approval  
21                  of the request.

22                  “(iv) NO MORITORIA.—A timeframe  
23                  under clause (i) may not be tolled by any  
24                  moratorium, whether express or de facto,  
25                  imposed by a covered entity on the consid-

1           eration of any request for authorization to  
2           place, construct, or modify covered equip-  
3           ment.

4           “(v) TOLLING DUE TO INCOMPLETE-  
5           NESS.—

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

21                   “(II) SUPPLEMENTAL SUBMIS-  
22                   sion incomplete.—If, not later than  
23                   10 days after the date on which a re-  
24                   questing party submits to the covered  
25                   entity a supplemental submission in



1 response to a written notice described  
2 in subclause (III), the covered entity  
3 provides to the requesting party a  
4 written notice described in subclause  
5 (III) with respect to the supplemental  
6 submission, the timeframe under  
7 clause (i) is further tolled until the  
8 date on which the requesting party  
9 submits to the covered entity a subse-  
10 quent supplemental submission in re-  
11 sponse to the notice.

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

22 “(aa) stating that all of the  
23 information (including any form  
24 or other document) required by  
25 the covered entity to be sub-

1           mitted for the request to be con-  
2           sidered complete has not been  
3           submitted;

4           “(bb) identifying the infor-  
5           mation described in item (aa)  
6           that was not submitted; and

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

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

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

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

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

13 “(I) in writing;

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

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

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

1 the first procedural step within the control  
2 of the requesting party—

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

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

19 “(3) FEES.—

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

1                   “(B) REQUIREMENTS.—A fee charged  
2                   under subparagraph (A) shall be—

3                   “(i) competitively neutral, technology  
4                   neutral, and nondiscriminatory;

5                   “(ii) established and publicly disclosed  
6                   in advance;

7                   “(iii) calculated—

8                   “(I) based on actual and direct  
9                   costs for—

10                   “(aa) review and processing  
11                   of requests; and

12                   “(bb) repairs and replace-  
13                   ment of—

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

1 covered equipment, the im-  
2 provement of an eligible sup-  
3 port infrastructure); or

4 “(BB) equipment that  
5 facilitates the repair and re-  
6 placement of such compo-  
7 nents and materials;

8 “(II) using, for purposes of sub-  
9 clause (I), only costs that are objec-  
10 tively reasonable; and

11 “(III) described to a requesting  
12 party in a manner that distinguishes  
13 between nonrecurring fees and recur-  
14 ring fees.

15 “(C) NO RELATION TO FRANCHISE  
16 FEES.—A fee charged under this paragraph to  
17 consider a request for authorization to place,  
18 construct, or modify covered equipment may  
19 not be considered a franchise fee under section  
20 622.

21 “(4) DEFINITIONS.—In this subsection:

22 “(A) COVERED EASEMENT.—The term  
23 ‘covered easement’ means an easement or public  
24 right-of-way that exists at the time when a re-  
25 quest to a covered entity for authorization to

1 place, construct, or modify the covered equip-  
2 ment in or on the easement or public right-of-  
3 way is submitted to the covered entity.

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

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

10 “(i) A State.

11 “(ii) A local government.

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

14 “(iv) A franchising authority.

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

25 (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.”.

○