

## PUBLIC LANDS TELECOMMUNICATIONS ACT

DECEMBER 20, 2018.—Ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,  
submitted the following

### R E P O R T

[To accompany H.R. 2425]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2425) to support the establishment and improvement of communications sites on or adjacent to Federal lands under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture through the retention and use of rental fees associated with such sites, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Public Lands Telecommunications Act”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) COMMUNICATIONS SITE.—The term “communications site” means an area of Federal lands available for communications use.

(2) COMMUNICATIONS USE.—The term “communications use” means the placement or operation of infrastructure for wireline or wireless telecommunications, including cable television, television, and radio communications, regardless of whether such placement or operation is pursuant to a license issued by the Federal Communications Commission or on an unlicensed basis in accordance with the regulations of the Commission. The term includes any ancillary activities, uses, or facilities directly related to such placement or operation.

(3) COMMUNICATIONS USE AUTHORIZATION.—The term “communications use authorization” means a right-of-way, permit, or lease granted, issued, or executed by a Federal land management agency for the primary purpose of authorizing the occupancy and use of Federal lands for communications use.

(4) FEDERAL LAND MANAGEMENT AGENCY.—The term “Federal land management agency” means the National Park Service, the United States Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service.

(5) **FEDERAL LANDS.**—The term “Federal lands” means lands under the jurisdiction and management of a Federal land management agency.

(6) **RENTAL FEE.**—The term “rental fee” means any fee collected by a Federal land management agency related to the occupancy and use authorized by a communications use authorization pursuant to and consistent with authorizing law.

**SEC. 3. COLLECTION AND RETENTION OF RENTAL FEES ASSOCIATED WITH COMMUNICATIONS USE AUTHORIZATIONS ON FEDERAL LANDS AND FEDERAL LAND MANAGEMENT AGENCY SUPPORT FOR COMMUNICATION SITE PROGRAMS.**

(a) **SPECIAL ACCOUNT REQUIRED.**—The Secretary of the Treasury shall establish a special account in the Treasury for each Federal land management agency for the deposit of rental fees received by a Federal land management agency for communications use authorizations on Federal lands granted, issued, or executed by the Federal land management agency.

(b) **COMPETITIVELY NEUTRAL.**—Notwithstanding any other provision of law, any rental fees collected pursuant to this Act shall be imposed on a competitively neutral, technology-neutral, and nondiscriminatory basis with respect to other uses of the communication site.

(c) **DEPOSIT AND RETENTION OF RENTAL FEES.**—Rental fees received by a Federal land management agency shall—

(1) be deposited in the special account established for that Federal land management agency; and

(2) remain available for expenditure under subsection (d), to the extent and in such amounts as are provided in advance in appropriation Acts.

(d) **EXPENDITURE OF RETAINED FEES.**—Amounts deposited in the special account for a Federal land management agency shall be used for Federal land management agency activities related to communications sites, including the following:

(1) Administering communications use authorizations, including cooperative agreements under section 4.

(2) Preparing needs assessments or other programmatic analyses necessary to establish communications sites and authorize communications uses on or adjacent to Federal lands.

(3) Developing management plans for communications sites on or adjacent to Federal lands on a competitively neutral, technology-neutral, nondiscriminatory basis.

(4) Training for management of communications sites on or adjacent to Federal lands.

(5) Obtaining, improving access to, or establishing communications sites on or adjacent to Federal lands.

(e) **NO EFFECT ON OTHER FEE RETENTION AUTHORITIES.**—This Act shall not limit or otherwise affect fee retention by a Federal land management agency under any other authority.

**SEC. 4. COOPERATIVE AGREEMENT AUTHORITY.**

(a) **DEPARTMENT OF THE INTERIOR.**—The Secretary of the Interior may enter into cooperative agreements to carry out the activities described in section 3(d).

(b) **FOREST SERVICE.**—The Secretary of Agriculture, acting through the Chief of the Forest Service, may enter into cooperative agreements to carry out the activities described in section 3(d).

**PURPOSE OF THE BILL**

The purpose of H.R. 2425 is to support the establishment and improvement of communications sites on or adjacent to federal lands under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture through the retention and use of rental fees associated with such sites.

**BACKGROUND AND NEED FOR LEGISLATION**

H.R. 2425, the Public Lands Telecommunications Act, seeks to expand the development of telecommunications infrastructure on and near federal lands, with the underlying goal of expanding the availability of broadband connectivity to rural areas. The bill is modelled after a successful law providing fee retention authority to federal land managers, with the idea being that rental fees col-

lected from service providers and retained by the agency are reinvested to expand broadband and telecommunications deployment.

High speed broadband in the United States is crucial for economic development, public safety and quality of life. Federal programs have been established to incentivize and subsidize broadband infrastructure investment in unserved and underserved rural areas. The Connect America Fund at the Federal Communications Commission (FCC) subsidizes the operation of both fixed and mobile broadband networks in rural areas. In addition, Rural Utilities Service programs at the Department of Agriculture provide loans and grants to private and public entities seeking to deploy broadband networks in rural areas.

According to the FCC's 2016 Broadband Progress Report, both rural and tribal communities lag significantly behind urban areas in terms of access to fixed, advanced broadband networks. The report notes that more than 39 percent of Americans living in rural areas lack access to fixed broadband, as compared to just 4 percent of those living in urban areas. Similarly, 41 percent of Americans living on tribal lands lack access to advanced broadband.<sup>1</sup> Of the approximately 34 million Americans who lack access to advanced broadband, nearly 25 million live in rural areas or on tribal lands. Additionally, of those Americans living in rural areas who do have access to advanced telecommunications, only 13 percent have access to more than one provider.<sup>2</sup>

When advanced broadband access is compared to demographics, the portion of the population without access, on average, is highest in counties with the lowest median household income, the lowest population density, the highest rural population rate and the highest poverty rate.<sup>3</sup>

In addition to the connectivity needs of rural and tribal areas, federal land management agencies increasingly recognize that improving communications infrastructure on public lands is essential to their mission in the 21st century. Connectivity can improve visitor access, experience, and safety, as well as aid in efficient land management.

According to the Bureau of Land Management, "A wide range of communications facilities and related technologies (e.g., radio, television, cellular, microwave, etc.) may be located on public land."<sup>4</sup> Each federal land management agency has a complex set of statutory authorities, regulations, and internal policies that govern the siting and monitoring of telecommunications sites under the agency's jurisdiction. For example, under 54 U.S.C. 100902, the National Park Service (NPS) can issue permits for rights-of-way for telecommunications facilities on NPS lands. NPS' permitting procedures are guided by regulations at 36 C.F.R. Part 14, and policy guidance is found in NPS Management Policies 2006, Section 86.4.3. Additionally, NPS Director's Order #53 and its accompanying Reference Manual #53 give further policy direction on utility rights-of-way.

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<sup>1</sup> Federal Communications Commission, "2016 Broadband Progress Report", page 34. Accessed June 19, 2017 [http://apps.fcc.gov/edocs\\_public/attachmatch/FCC-16-6A1.pdf](http://apps.fcc.gov/edocs_public/attachmatch/FCC-16-6A1.pdf).

<sup>2</sup>Id., page 38.

<sup>3</sup>Id., page 42.

<sup>4</sup>Bureau of Land Management, "Lands and Realty, Communications Sites". Accessed June 19, 2017. <https://www.blm.gov/programs/lands-and-realty/right-of-way/communications-sites>.

The federal land management agencies collect both cost reimbursements and rental fees for telecommunications siting. While the agencies are authorized to retain the cost reimbursements to cover costs of administering the use authorizations, the rental fees themselves go into the general treasury. In some cases, agencies have reported that the lack of rental fee retention authority is a disincentive to collecting the fees.<sup>5</sup>

H.R. 2425 directs the Department of the Treasury to establish special accounts for the NPS, U.S. Fish and Wildlife Service, Bureau of Land Management, Bureau of Reclamation and the U.S. Forest Service for the deposit of rental fees received by the agencies for communications use authorizations on federal lands. These fees are to remain available for expenditure, as provided in advance in appropriations acts, for agency activities related to communications sites. The bill also authorizes the Department of the Interior and the Department of Agriculture to enter into cooperative agreements to carry out activities related to communications sites.

#### COMMITTEE ACTION

H.R. 2425 was introduced on May 16, 2017, by Congressman Jared Huffman (D-CA). The bill was referred to the Committee on Natural Resources, and additionally to the Committee on Agriculture. Within the Natural Resources Committee, the bill was referred to the Subcommittee on Federal Lands. On May 23, 2017, the Subcommittee held a hearing on the bill. On June 27, 2017, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Huffman offered an amendment in the nature of a substitute designated 050. Congressman Rob Bishop (R-UT) offered an amendment designated 017 to the amendment. It was adopted by unanimous consent. No further amendments to the amendment in the nature of a substitute were offered, and the amendment in the nature of a substitute, as amended, was adopted by unanimous consent. The bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

<sup>5</sup>National Park Service, "RM-53 Reference Manual Special Park Uses", page A5-8. Accessed June 19, 2017. <http://www.nps.gov/policy/dorders/rm53.pdf>.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 16, 2017.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2425, the Public Lands Telecommunications Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

*H.R. 2425—Public Lands Telecommunications Act*

Summary: H.R. 2425 would make most fees collected by the federal government from firms with communications equipment on federal lands available to be spent, subject to appropriation, by federal land management agencies (Bureau of Land Management, Forest Service, National Park Service, U.S. Fish and Wildlife Service, and Bureau of Reclamation). Those agencies could use those amounts to carry out certain administrative activities.

Assuming appropriation of the amounts expected to be available under the bill, CBO estimates that implementing H.R. 2425 would cost \$104 million over the 2018–2022 period. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting the bill would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2425 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2425 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—						2017– 2022
	2017	2018	2019	2020	2021	2022	
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level .....	0	21	21	22	22	23	109
Estimated Outlays .....	0	16	21	22	22	23	104

Basis of estimate: For this estimate, CBO assumes that H.R. 2425 will be enacted near the end of fiscal year 2017 and that the amounts estimated to be available under the bill would be appropriated each year. Estimated outlays are based on historical spending patterns for similar activities.

Under H.R. 2425, any amounts collected by the federal government from firms with communication sites located on federal lands, excluding amounts that can be spent under current law, would be

available to cover the costs of planning and managing communications sites. In 2016, the federal land management agencies collected fees totaling \$21 million. Of those amounts, about \$1 million was spent using existing authorities. The remaining \$20 million was deposited in the Treasury. Because CBO expects that similar amounts (adjusted for inflation) would be collected annually over the next five years, CBO estimates that a total of \$109 million would be available to be appropriated under the bill over the 2018–2022 period. Assuming appropriation of those amounts, CBO estimates that implementing H.R. 2425 would cost \$104 million over that period.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 2425 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

Intergovernmental and private-sector impact: H.R. 2425 contains no intergovernmental or private-sector mandates as defined in UMRA and would benefit state, local, and tribal governments by supporting the development of telecommunications infrastructure on or near federal lands. Any costs incurred by public entities under cooperative agreements with federal agencies would result from voluntary commitments.

Estimate prepared by: Federal costs: Jeff LaFave; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to support the establishment and improvement of communications sites on or adjacent to Federal lands under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture through the retention and use of rental fees associated with such sites.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

#### COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pur-

suant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

