

116TH CONGRESS  
2D SESSION

# S. 3264

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

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2020

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

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## A BILL

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

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

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

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

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

### TITLE I—INTERAGENCY COORDINATION PROGRAM

Sec. 101. Purpose.

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

TITLE II—TRIBAL SET-ASIDE

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

TITLE III—UNIVERSAL SERVICE ON TRIBAL LAND

- Sec. 301. Universal service on Tribal land.

TITLE IV—TRIBAL BROADBAND FACTOR

- Sec. 401. Tribal broadband factor.

TITLE V—BROADBAND RIGHTS-OF-WAY

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

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-

4 trator” means the Administrator of the Rural Utili-

5 ties Service.

6 (2) ASSISTANT SECRETARY.—The term “Assist-

7 ant Secretary” means the Assistant Secretary of

8 Commerce for Communications and Information.

9 (3) BROADBAND; BROADBAND SERVICE.—The

10 term “broadband” or “broadband service” has the

11 meaning given the term “broadband internet access

12 service” in section 8.1 of title 47, Code of Federal

13 Regulations, or any successor regulation.

14 (4) COMMISSION.—The term “Commission”

15 means the Federal Communications Commission.

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

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

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

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

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

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

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

8           (10) UNDERSERVED TRIBAL ENTITY.—

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

12                   (i) lacks affordable broadband service;

13                   or

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

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

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

4                   **TITLE I—INTERAGENCY**  
5                   **COORDINATION PROGRAM**

6   **SEC. 101. PURPOSE.**

7           The purpose of this title is to—

8                   (1) expedite and streamline the deployment of  
9                   affordable broadband service on Tribal land through  
10                  the coordination of grants or other financial assist-  
11                  ance;

12                  (2) improve the effectiveness of Federal assist-  
13                  ance in meeting the obligation of the Commission to  
14                  ensure universal availability of broadband networks  
15                  to all people of the United States, including individ-  
16                  uals living on Tribal land; and

17                  (3) ensure the preservation and protection of  
18                  self-governance, economic opportunity, health, edu-  
19                  cation, public safety, and welfare of Tribal entities.

20   **SEC. 102. INTERAGENCY WORKING GROUP.**

21           (a) ESTABLISHMENT.—The Assistant Secretary and  
22           the Secretary of Agriculture shall jointly establish a work-  
23           ing group to be known as the “Tribal Broadband Inter-  
24           agency Working Group” to carry out the duties described  
25           in subsection (c).

1 (b) ADMINISTRATION.—

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

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

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

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

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

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

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

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

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

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

6 (A) the Department of Agriculture;

7 (B) the Department of Commerce;

8 (C) the Department of Education;

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

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

13 (F) the Department of the Interior;

14 (G) the Department of Labor;

15 (H) the Commission;

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

19 (9) identify—

20 (A) deployment obstacles; and

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

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

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

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

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

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

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

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

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

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

15 (b) PURPOSES; SCOPE OF ACTIVITIES.—

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

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

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

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

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

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

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

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

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

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

24 (d) MEMBERSHIP.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (e) MEETINGS.—

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

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

19 (A) in the Federal Register; and

20 (B) through other appropriate methods.

21 (f) SUPPORT.—

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

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

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

## 12       **TITLE II—TRIBAL SET-ASIDE**

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

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

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



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

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

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

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

15 (b) COMMUNITY CONNECT GRANT PROGRAM.—

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

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

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

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

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

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

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

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

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

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

15 (A) to submit a network design; and

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

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

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

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

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

15 (b) LIFELINE PROGRAM.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 “(A) means an Indian Tribe; and

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

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

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

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

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

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

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

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

10                   or

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

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

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

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

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

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

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

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

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

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

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

25          The Commission shall conduct a rulemaking to—



1           (1) increase Connect America Fund Broadband  
2 Loop Support under subpart K of part 54 of title  
3 47, Code of Federal Regulations (or any successor  
4 regulation), available to rate-of-return carriers serv-  
5 ing Tribal lands by reducing the funding threshold  
6 of \$42 per month per line by 25 percent; and

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

12                   (A) the eligible costs expense adjustment  
13 under section 54.1310(a)(1) of that title from  
14 65 percent to 81.25 percent; and

15                   (B) the eligible costs expense adjustment  
16 under section 54.1310(a)(2) of that title from  
17 75 percent to 93.75 percent.

## 18   **TITLE V—BROADBAND RIGHTS-** 19                                   **OF-WAY**

### 20   **SEC. 501. PILOT PROGRAM FOR TRIBAL GRANT OF RIGHTS-** 21                                   **OF-WAY FOR BROADBAND FACILITIES.**

22           (a) DEFINITIONS.—In this section:

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

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

3           (b) PILOT PROGRAM.—

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

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

17                   (A) towers;

18                   (B) cables;

19                   (C) transmission lines; and

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

23           (3) PARTICIPATING INDIAN TRIBES.—

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

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

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

8 (4) BROADBAND RIGHT-OF-WAY.—

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

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

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

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

8 (c) PROPOSED REGULATIONS.—

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

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

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

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

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

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

7 (ii) a process for ensuring that—

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

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

16 (4) TECHNICAL ASSISTANCE.—

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

1 (B) ISDEEA.—

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

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

16 (5) REVIEW PROCESS.—

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

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

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

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

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

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

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

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

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

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

4 (f) TRUST RESPONSIBILITY.—

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

9 (2) AUTHORITY OF SECRETARY.—

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

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

25 (g) COMPLIANCE.—



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

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

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

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

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

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

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

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

8                   and

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

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

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