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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2020

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

A BILL

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Bridging the Tribal Digital Divide Act of 2020”.

(b) Table of Contents.—The table of contents for 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.

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.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Rural Utilities Service.

(2) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary of Commerce for Communications and Information.

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

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

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

(A) speed that is not slower than the speed required for the service to qualify as an advanced telecommunications capability, as that term is defined in section 706(d) of the Telecommunications Act of 1996 (47 U.S.C. 1302(d)), as of the date on which that speed is measured; and

(B) network round trip latency that is at or below 100 milliseconds for not less than 95 percent of all peak period measurements of network round trip latency.

(7) TRIBAL ENTITY.—The term “Tribal entity” has the meaning given the term in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by section 301 of this Act.
(8) **Tribal Government.**—The term “Tribal government” means the governing body of a Tribal entity.

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

(10) **Underserved Tribal Entity.**—

(A) **In General.**—The term “underserved Tribal entity” means a Tribal entity, the Tribal land of which—

(i) lacks affordable broadband service; or

(ii) has subscription rates for broadband service that are below 80 percent, as determined by the Commission.

(B) **Associated Definition.**—In this paragraph, the term “affordable broadband service” means broadband service on Tribal land, the rates for which are not more than the average rates charged for broadband service in the 5 nearest municipalities to that Tribal land that have a population of more than 10,000 individuals, as determined by the Commission.
(11) WORKING GROUP.—The term “Working Group” means the Tribal Broadband Interagency Working Group established under section 102.

TITLE I—INTERAGENCY COORDINATION PROGRAM

SEC. 101. PURPOSE.

The purpose of this title is to—

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

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

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

SEC. 102. INTERAGENCY WORKING GROUP.

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

(1) Chairs.—The Assistant Secretary and the Administrator shall serve as co-chairs of the Working Group.

(2) Membership; Staffing.—The Assistant Secretary and the Administrator, in consultation with the Tribal Broadband Deployment Advisory Committee established under section 105, shall determine the membership and staffing of the Working Group.

(c) Duties.—The Working Group shall—

(1)(A) serve as a forum for improving coordination across Federal broadband programs that are available to Tribal entities;

(B) reduce regulatory barriers to broadband deployment on Tribal land;

(C) promote awareness of the value and availability of Federal support for broadband deployment on Tribal land; and

(D) develop common Federal goals, performance measures, and plans to deploy affordable broadband to Tribal land;

(2) not later than 1 year after the date of enactment of this Act, and biennially thereafter, issue
a strategic plan regarding Tribal broadband deployment activities, priorities, and objectives;

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

(A) the Department of Agriculture;
(B) the Department of Commerce;
(C) the Department of Education;
(D) the Department of Health and Human Services;
(E) the Department of Housing and Urban Development;
(F) the Department of the Interior;
(G) the Department of Labor;
(H) the Commission;
(I) the Institute of Museum and Library Services; and
(J) any other Federal agency that the Working Group considers appropriate;

(4) provide technical assistance for the development of Tribal broadband deployment plans to meet the Tribal broadband benchmark;

(5) under section 104, develop a streamlined and standardized application process for grants and
other financial assistance to advance the deployment
of broadband on Tribal land;

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

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

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

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

SEC. 103. TRIBAL BROADBAND DEPLOYMENT PLAN.

(a) IDENTIFICATION OF UNDERSERVED TRIBAL EN-
TITIES.—Not later than 180 days after the date of enact-
ment of this Act, the Chairman of the Commission, in co-
ordination with the Secretary of the Interior, shall identify
each underserved Tribal entity and publish a list of such
entities in the Federal Register.
(b) NOTICE TO UNDERSERVED TRIBAL ENTITIES.—
Not later than 30 days after the date on which the list
is published in the Federal Register under subsection (a),
the Working Group shall send notice to each underserved
Tribal entity on the list inviting the entity to request tech-
nical assistance for the development of a Tribal broadband
deployment plan under this section.

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

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

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

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

(3) describe the way in which Federal program
activities and funds shall be integrated, consolidated,
and delivered to the applicable underserved Tribal entity to meet the Tribal broadband benchmark;

(4) describe the results expected from implementing the plan, including the expected number of additional households or participants that would be served due to the implementation of the plan;

(5) identify the projected non-Federal expenditures under the plan;

(6) identify any agency of the applicable underserved Tribal entity that will be involved in the delivery of the services integrated under the plan;

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

(8) identify opportunities for the applicable underserved Tribal entity to purchase spectrum; and

(9) identify—

(A) deployment obstacles; and

(B) activities that are necessary to ensure access to affordable broadband, including digital literacy training, technical support, privacy and cybersecurity expertise, or other end-user technology needs.
(e) **Promoting Broadband Availability.**—The Working Group shall work in partnership with State, local, and Tribal governments, and consumer and industry groups, to promote broadband availability to each underserved Tribal entity, including consumers in rural and high-cost areas that are adjacent to Tribal land.

(f) **Authorization of Appropriations.**—There is authorized to be appropriated to the Working Group to carry out section 102 and this section $5,000,000 for each of fiscal years 2020 through 2025, to remain available until expended.

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

(a) **Agency Consultation.**—The Assistant Secretary shall consult with each Federal agency that offers a Federal broadband support program to Tribal entities to streamline and standardize the application process for grants or other financial assistance under the program.

(b) **Agency Streamlining.**—A Federal agency that offers a Federal broadband support program to Tribal entities shall amend the application for broadband support from the program, to the extent practicable and as necessary, in order to streamline and standardize applications for Federal broadband support programs across the Federal Government.
(c) SINGLE APPLICATION.—To the greatest extent practicable, the Assistant Secretary shall seek to create 1 application that may be submitted to apply for support from all Federal broadband support programs.

(d) CENTRAL WEBSITE.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall create a central website through which a potential applicant can learn about and apply for support from any Federal broadband support program.

SEC. 105. TRIBAL BROADBAND DEPLOYMENT ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the Tribal Broadband Deployment Advisory Committee (referred to in this section as the “Committee”).

(b) PURPOSES; SCOPE OF ACTIVITIES.—

(1) PURPOSES.—The purposes of the Committee are—

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

(i) reducing or removing statutory and regulatory barriers to investment in broadband infrastructure; and

(ii) strengthening existing broadband networks on Tribal land; and
(B) to provide an effective means for Tribal entities to engage with governmental entities and professionals with expertise and backgrounds in broadband, telecommunications, information technology, and infrastructure deployment and adoption in the areas covered by the Committee to exchange ideas and develop recommendations to Congress regarding the deployment of broadband on Tribal land.

(2) CONSIDERATION OF ISSUES.—The Committee may consider issues that include—

(A) measures to prepare for, respond to, and recover from disasters that impact broadband networks;

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

(C) other ways to accelerate the deployment of broadband infrastructure to Tribal land.

(c) DUTIES.—The Committee shall provide recommendations to Congress on issues relating to the deployment of broadband on Tribal land.

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

(A) Twelve authorized representatives of Tribal governments, each of whom shall represent a different Bureau of Indian Affairs region.

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

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

(A) be an elected Tribal official or authorized representative of an elected Tribal official;

(B) act in the official capacity of the member as an elected official of the entity;

(C) have the authority to participate on behalf of the Tribe; and

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

(3) CHAIR.—The Assistant Secretary shall appoint a Chair of the Committee, who shall—
(A) approve or call all of the meetings of
the Committee and subcommittees of the Com-
mittee;

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

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

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

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

(e) MEETINGS.—

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

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

(A) in the Federal Register; and

(B) through other appropriate methods.

(f) SUPPORT.—

(1) FACILITIES AND STAFF.—The Assistant
Secretary shall provide the facilities and support
staff necessary to conduct meetings of the Com-
mittee.
(2) COMPENSATION.—A member of the Committee shall serve without any compensation from the Federal Government.

(3) TRAVEL EXPENSES.—A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Committee.

TITLE II—TRIBAL SET-ASIDE

SEC. 201. RURAL UTILITIES SERVICE.

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

(1) The Telecommunications Infrastructure Loan and Loan Guarantee Program established under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).
(2) The initiative under section 306F of that Act (7 U.S.C. 936f).

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


(5) The broadband loan and grant pilot program described in section 779 of division A of the Consolidated Appropriations Act, 2018 (Public Law 115–141).

(b) COMMUNITY CONNECT GRANT PROGRAM.—

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

(A) in subparagraph (A)(i)(II), by striking “or Tribal organization” and inserting “, Tribal organization, or Indian-owned business (as defined in section 3 of the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4302))”; and
(B) in subparagraph (B)(ii), by inserting

“, unless the partnership is an Indian-owned
business (as defined in section 3 of the Native
American Business Development, Trade Pro-
4302))” before the period at the end.

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

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

“(3) EXEMPTIONS FOR TRIBAL ENTITIES.—
Notwithstanding paragraphs (1) and (2), the Sec-
retary shall not require a Tribal entity (as defined
in section 2 of the Bridging the Tribal Digital Di-
vide Act of 2020) to submit a system design de-
scribed in subsection (d) of section 1739.15 of title
7, Code of Federal Regulations (or successor regula-
tions), or financial information described in sub-
section (h)(2) of that section, to be eligible to receive a grant under the Program.”.

(c) Broadband Loan and Grant Pilot Program.—

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

(2) Exemptions.—The Secretary of Agriculture shall exempt underserved Tribal entities from the application requirements under the pilot program described in paragraph (1)—

(A) to submit a network design; and

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


(a) Universal Service Generally.—Not later than 180 days after the date of enactment of this Act, the Commission shall promulgate regulations under which the Commission, on and after the effective date of the regulations, shall—
(1) set aside 5 percent of the amounts allocated for each Federal universal service support program established under section 254 of the Communications Act of 1934 (47 U.S.C. 254), including each program carried out under subparts D through G and J through M of part 54 of title 47, Code of Federal Regulations, or any successor regulations; and

(2) with respect to the amount set aside from each program under paragraph (1), distribute that amount for the purpose of expanding access to broadband service on Tribal land, in accordance with the otherwise applicable requirements of the program.

(b) LIFELINE PROGRAM.—

(1) INITIAL INCREASE IN TRIBAL LAND SUPPORT AMOUNT.—For the first 12-month period beginning 2 years after the date of enactment of this Act, in the case of Tribal land pertaining to a Tribal entity that has not met the Tribal broadband benchmark, the Commission shall increase the monthly cap on additional Federal lifeline support made available to an eligible telecommunications carrier providing Lifeline service to an eligible resident of that Tribal land under section 54.403(a)(3) of title

(2) ANNUAL INCREASE.—For each subsequent 12-month period after the 12-month period described in paragraph (1), in the case of Tribal land pertaining to a Tribal entity that has not met the Tribal broadband benchmark, the Commission shall increase the monthly cap described in that paragraph by an additional $10.

TITLE III—UNIVERSAL SERVICE ON TRIBAL LAND

SEC. 301. UNIVERSAL SERVICE ON TRIBAL LAND.

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

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

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

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

(4) by inserting after paragraph (23) the following:

“(24) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given the term ‘Indian tribe’ in sec-
tion 4 of the Indian Self-Determination and Edu-
cation Assistance Act (25 U.S.C. 5304).”;

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

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

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

“(60) TRIBAL ENTITY.—The term ‘Tribal enti-
ity’—

“(A) means an Indian Tribe; and

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

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

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

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

“(ii) a former reservation within Okla-
homa;
“(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

“(i) in trust by the United States for the benefit of an Indian Tribe or an individual Indian;

“(ii) by an Indian Tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

“(iii) by a dependent Indian community;

“(C) any land located within a region established pursuant to section 7(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(a));

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

“(E) those areas or communities designated by the Assistant Secretary of Indian Affairs of the Department of the Interior that are near, adjacent, or contiguous to reservations where financial assistance and social serv-
ice programs are provided to Indians because of
their status as Indians.”.

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

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

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

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

TITLE IV—TRIBAL BROADBAND FACTOR
SEC. 401. TRIBAL BROADBAND FACTOR.

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

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

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

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

TITLE V—BROADBAND RIGHTS-OF-WAY

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

(a) DEFINITIONS.—In this section:

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

(b) Pilot Program.—

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

(2) Right-of-way described.—A right-of-way referred to in paragraph (1) is a right-of-way for the construction, maintenance, and facilitation of broadband service, which may include—

(A) towers;

(B) cables;

(C) transmission lines; and

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

(3) Participating Indian tribes.—

(A) In general.—Subject to subparagraph (B) and in accordance with subsection
(c), the Secretary shall select not fewer than 10 Indian Tribes to participate in the program.

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

(4) BROADBAND RIGHT-OF-WAY.—

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

(i) the right-of-way is granted in accordance with the regulations of the Indian Tribe approved by the Secretary under subsection (c); and

(ii) the term of the right-of-way does not exceed 25 years, except that a right-of-way may include an option to renew the right-of-way for not more than 2 additional terms, each of which may not exceed 25 years.
(B) ALLOTTED LAND.—An Indian Tribe may not grant a right-of-way under subparagraph (A) over and across an individual Indian allotment under section 4 of the Act of February 8, 1887 (commonly known as the “Indian General Allotment Act”) (24 Stat. 389, chapter 119; 25 U.S.C. 334).

(c) PROPOSED REGULATIONS.—

(1) IN GENERAL.—An Indian Tribe desiring to participate in the program shall submit to the Secretary an application containing the proposed regulations of the Indian Tribe for the granting of rights-of-way described in subsection (b)(2).

(2) SELECTION.—The Secretary may only select for participation in the program Indian Tribes the proposed regulations of which are approved by the Secretary under this subsection.

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

(A) are consistent with any regulations issued by the Secretary under section 6 of the Act of February 5, 1948 (62 Stat. 18, chapter 45; 25 U.S.C. 328); and
(B) provide for an environmental review process that includes—

(i) the identification and evaluation by the Indian Tribe of any significant impacts of the proposed right-of-way on the environment; and

(ii) a process for ensuring that—

(I) the public is informed of, and has a reasonable opportunity to comment on, any impacts identified by the Indian Tribe under clause (i); and

(II) the Indian Tribe provides responses to relevant and substantive public comments received under subclause (I).

(4) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—On request of an Indian Tribe desiring to participate in the program, the Secretary shall provide technical assistance for development of proposed regulations to be submitted in the application of the Indian Tribe under paragraph (1), including technical assistance for development of a regulatory environmental review process that meets the requirements of paragraph (3)(B).
(B) ISDEAA.—

(i) IN GENERAL.—Technical assistance provided by the Secretary under subparagraph (A) may be made available to Indian Tribes described in clause (ii) through contracts, grants, or agreements entered into in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304 et seq.).

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

(5) REVIEW PROCESS.—

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

(B) WRITTEN DOCUMENTATION.—If the Secretary disapproves the regulations under subparagraph (A), the Secretary shall—
(i) notify the Indian Tribe that the regulations have been disapproved; and

(ii) include with the notification written documentation that describes the basis for the disapproval.

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

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

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

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

(2) if the regulations of the Indian Tribe or the right-of-way allows for right-of-way payments to be made directly to the Indian Tribe, documentation of
the right-of-way payments that are sufficient to enable the Secretary to discharge the trust responsibility of the United States under subsection (f)(2).

(f) TRUST RESPONSIBILITY.—

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

(2) AUTHORITY OF SECRETARY.—

(A) IN GENERAL.—Pursuant to the authority of the Secretary to fulfill the trust obligation of the United States to Indian Tribes participating in the program under Federal law (including regulations), the Secretary may, on request by, and after reasonable notice from, an Indian Tribe, enforce the provisions of, or cancel, any right-of-way granted by the Indian Tribe under the program.

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

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

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

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

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

(3) DOCUMENTATION.—If the Secretary deter-
mines that the Indian Tribe violated the regulations
and a remedy is necessary, the Secretary shall—
(A) submit to the Indian Tribe a written notification of the regulations that have been violated; and

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

(i) a hearing that is on the record;

and

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

(h) SUNSET.—The authority of the Secretary to carry this section shall terminate 10 years after the date of enactment of this Act.