

116TH CONGRESS
1ST SESSION

S. _____

To streamline siting processes for small cell deployment.

IN THE SENATE OF THE UNITED STATES

Mr. THUNE (for himself and Mr. SCHLITZ) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To streamline siting processes for small cell deployment.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Streamlining The
5 Rapid Evolution And Modernization of Leading-edge In-
6 frastructure Necessary to Enhance Small Cell Deployment
7 Act” or the “STREAMLINE Small Cell Deployment
8 Act”.

9 **SEC. 2. PRESERVATION OF LOCAL ZONING AUTHORITY.**

10 Section 332(c) of the Communications Act of 1934
11 (47 U.S.C. 332(c)) is amended by striking paragraph (7)
12 and inserting the following:

1 “(7) PRESERVATION OF LOCAL ZONING AU-
2 THORITY.—

3 “(A) GENERAL AUTHORITY.—Except as
4 provided in this paragraph, nothing in this Act
5 shall limit or affect the authority of a State or
6 local government or instrumentality thereof over
7 decisions regarding the placement, construction,
8 and modification of personal wireless service fa-
9 cilities.

10 “(B) LIMITATIONS.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in subparagraph (C), the regulation
13 of the placement, construction, or modi-
14 fication of a personal wireless service facil-
15 ity by any State or local government or in-
16 strumentality thereof—

17 “(I) shall not unreasonably dis-
18 criminate among providers of func-
19 tionally equivalent services; and

20 “(II) shall not prohibit or have
21 the effect of prohibiting the provision
22 of personal wireless service.

23 “(ii) TIMEFRAME.—A State or local
24 government or instrumentality thereof
25 shall act on any request for authorization

1 to place, construct, or modify a personal
2 wireless service facility within a reasonable
3 period of time after the request is duly
4 filed with the government or instrumen-
5 tality, taking into account the nature and
6 scope of the request.

7 “(iii) WRITTEN DECISION AND
8 RECORD.—Any decision by a State or local
9 government or instrumentality thereof to
10 deny a request to place, construct, or mod-
11 ify a personal wireless service facility shall
12 be—

13 “(I) in writing; and

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

17 “(iv) ENVIRONMENTAL EFFECTS OF
18 RADIO FREQUENCY EMISSIONS.—No State
19 or local government or instrumentality
20 thereof may regulate the placement, con-
21 struction, or modification of personal wire-
22 less service facilities on the basis of the en-
23 vironmental effects of radio frequency
24 emissions to the extent that the facilities

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1 comply with the Commission's regulations
2 concerning such emissions.

3 “(v) JUDICIAL AND ADMINISTRATIVE
4 REVIEW.—

5 “(I) JUDICIAL REVIEW.—Any
6 person adversely affected by any final
7 action or failure to act by a State or
8 local government or any instrumen-
9 tality thereof that is inconsistent with
10 this subparagraph may, within 30
11 days after the action or failure to act,
12 commence an action in any court of
13 competent jurisdiction, which shall
14 hear and decide the action on an ex-
15 pedited basis.

16 “(II) ADMINISTRATIVE RE-
17 VIEW.—Any person adversely affected
18 by an act or failure to act by a State
19 or local government or any instrumen-
20 tality thereof that is inconsistent with
21 clause (iv) may petition the Commis-
22 sion for relief.

23 “(C) PLACEMENT, CONSTRUCTION, AND
24 MODIFICATION OF SMALL PERSONAL WIRELESS
25 SERVICE FACILITIES.—

1 “(i) IN GENERAL.—In addition to,
2 and not in derogation of any of, the limita-
3 tions under subparagraph (B), the regula-
4 tion of the placement, construction, or
5 modification of small personal wireless
6 service facilities by any State or local gov-
7 ernment or instrumentality thereof—

8 “(I) shall not unreasonably dis-
9 criminate among providers of the
10 same service using comparable equip-
11 ment, including by providing exclusive
12 or preferential use of facilities to a
13 particular provider or class of pro-
14 viders of personal wireless service; and

15 “(II) shall only permit a State or
16 local government to approve or deny a
17 permit or other permission to deploy a
18 small personal wireless service facility,
19 including access to a right-of-way or a
20 facility in a right-of-way owned or
21 managed by the State or local govern-
22 ment, based on publicly available cri-
23 teria that are—

24 “(aa) reasonable;

25 “(bb) objective; and

1 which the complete request is
2 filed, except as provided in item
3 (bb); or

4 “(BB) for any other action
5 relating to a small personal wire-
6 less service facility, 90 days after
7 the date on which the complete
8 request is filed, except as pro-
9 vided in item (cc);

10 “(bb) for collocation of a
11 small personal wireless service fa-
12 cility, if the State or the area
13 under the jurisdiction of the local
14 government has a population of
15 fewer than 50,000 people—

16 “(AA) 90 days after the
17 date on which the complete
18 request is filed, if during the
19 30-day period ending on
20 that date of filing, the appli-
21 cable wireless service pro-
22 vider filed fewer than 50 re-
23 quests for collocation of a
24 small personal wireless serv-
25 ice facility with the State or

1 local government or instru-
2 mentality thereof; or

3 “(BB) 120 days after
4 the date on which the com-
5 plete request is filed, if dur-
6 ing the 30-day period ending
7 on that date of filing, the
8 applicable wireless service
9 provider filed not fewer than
10 50 requests for collocation of
11 a small personal wireless
12 service facility with the
13 State or local government or
14 instrumentality thereof; or

15 “(cc) for any other action
16 relating to a small personal wire-
17 less service facility, if the State
18 or the area under the jurisdiction
19 of the local government has a
20 population of fewer than 50,000
21 people—

22 “(AA) 120 days after
23 the date on which the com-
24 plete request is filed, if dur-
25 ing the 30-day period ending

1 on that date of filing, the
2 applicable wireless service
3 provider filed fewer than 50
4 requests for any other action
5 relating to a small personal
6 wireless service facility with
7 the State or local govern-
8 ment or instrumentality
9 thereof; or

10 “(BB) 150 days after
11 the date on which the com-
12 plete request is filed, if dur-
13 ing the 30-day period ending
14 on that date of filing, the
15 applicable wireless service
16 provider filed not fewer than
17 50 requests for any other
18 action relating to a small
19 personal wireless service fa-
20 cility with the State or local
21 government or instrumen-
22 tality thereof.

23 “(II) APPLICABILITY.—The ap-
24 plicable timeframe under subclause (I)
25 shall apply collectively to all pro-

1 proceedings required by a State or local
2 government or instrumentality thereof
3 for the approval of the request.

4 “(III) NO TOLLING.—A time-
5 frame under subclause (I) may not be
6 tolled by any moratorium, whether ex-
7 press or de facto, imposed by a State
8 or local government on the consider-
9 ation of any request for authorization
10 to place, construct, or modify a small
11 personal wireless service facility.

12 “(IV) TEMPORARY WAIVER.—
13 The Commission may temporarily
14 waive the applicability of subclause (I)
15 for not longer than a single 30-day
16 period for any complete request upon
17 a demonstration by a State or local
18 government that the waiver would be
19 consistent with the public interest,
20 convenience, and necessity.

21 “(iv) DEEMED GRANTED.—If a State
22 or local government or instrumentality
23 thereof has neither granted nor denied a
24 request within the applicable timeframe
25 under subclause (I) of clause (iii), includ-

1 ing any temporary waiver granted under
2 subclause (IV) of that clause, the request
3 shall be deemed granted on the date that
4 is 31 days after the date on which the gov-
5 ernment instrumentality receives a written
6 notice of the failure from the applicant.

7 “(v) FEES.—Notwithstanding any
8 other provision of law, a State or local gov-
9 ernment may charge a fee to consider an
10 application for the placement, construction,
11 or modification of a small personal wireless
12 facility, or to use a right-of-way or a facil-
13 ity in a right-of-way owned or managed by
14 the State or local government for the
15 placement, construction, or modification of
16 a small personal wireless facility, if the fee
17 is—

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

21 “(II) publicly disclosed; and

22 “(III)(aa) except as provided in
23 item (bb), based on actual and direct
24 costs, such as costs for—

1 “(AA) review and processing
2 of applications;

3 “(BB) maintenance;

4 “(CC) emergency responses;

5 “(DD) repairs and replace-
6 ment of components and mate-
7 rials resulting from and affected
8 by the installation of small per-
9 sonal wireless facilities, improve-
10 ments, and equipment that facili-
11 tates the deployment and instal-
12 lation of such facilities; or

13 “(EE) inspections; or

14 “(bb) calculated in accordance
15 with section 224, in the case of a fee
16 charged for the placement, construc-
17 tion, or modification of a small per-
18 sonal wireless facility on a pole, in a
19 right-of-way, or on any other facility
20 that may be established under that
21 section.

22 “(vi) **RULE OF CONSTRUCTION.**—

23 Nothing in this subparagraph shall be con-
24 strued to prevent any State or local gov-
25 ernment from imposing any additional lim-

1 “(iv) the term ‘complete request’
2 means a request for which the applicant
3 has not received written notice from the
4 State or local government within 10 busi-
5 ness days of submission—

6 “(I) stating in writing that the
7 request is incomplete; and

8 “(II) identifying the information
9 causing the request to be incomplete;

10 “(v) the term ‘generally applicable
11 code’ includes a uniform building, fire,
12 electrical, plumbing, or mechanical code
13 adopted by a national code organization, or
14 a local amendment to such a code, to the
15 extent not inconsistent with this Act;

16 “(vi) the term ‘network interface de-
17 vice’ means a telecommunications demarca-
18 tion device and cross-connect point that—

19 “(I) is adjacent or proximate
20 to—

21 “(aa) a small personal wire-
22 less service facility; or

23 “(bb) a structure supporting
24 a small personal wireless service
25 facility; and

1 “(II) demarcates the boundary
2 with any wireline backhaul facility;

3 “(vii) the term ‘personal wireless serv-
4 ice’ means—

5 “(I) commercial mobile service;

6 “(II) commercial mobile data
7 service (as that term is defined in sec-
8 tion 6001 of the Middle Class Tax Re-
9 lief and Job Creation Act of 2012 (47
10 U.S.C. 1401));

11 “(III) unlicensed wireless service;
12 and

13 “(IV) common carrier wireless
14 exchange access service;

15 “(viii) the term ‘personal wireless
16 service facility’ means a facility for the
17 provision of personal wireless service;

18 “(ix) the term ‘small personal wireless
19 service facility’—

20 “(I) means a personal wireless
21 service facility in which each antenna
22 is not more than 3 cubic feet in vol-
23 ume; and

24 “(II) does not include a wireline
25 backhaul facility;

1 “(x) the term ‘unlicensed wireless
2 service’—

3 “(I) means the offering of tele-
4 communications service using a duly
5 authorized device that does not re-
6 quire an individual license; and

7 “(II) does not include the provi-
8 sion of direct-to-home satellite service,
9 as defined in section 303(v); and

10 “(xi) the term ‘wireline backhaul facil-
11 ity’ means an above-ground or under-
12 ground wireline facility used to transport
13 communications service or other electronic
14 communications from a small personal
15 wireless service facility or its adjacent net-
16 work interface device to a communications
17 network.”.

18 **SEC. 3. GAO STUDY OF BROADBAND DEPLOYMENT ON**
19 **TRIBAL LAND AND ON OR NEAR TRUST LAND.**

20 Not later than 1 year after the date of enactment
21 of this Act, the Comptroller General of the United States
22 shall—

23 (1) in consultation with the Secretary of Agri-
24 culture, the Director of the Bureau of Indian Af-
25 fairs, and the Federal Communications Commission,

1 study the process for obtaining a grant of a right-
2 of-way to deploy broadband infrastructure on Tribal
3 land or on or near trust land, as defined in section
4 3765 of title 38, United States Code;

5 (2) in conducting the study under paragraph
6 (1), consider the unique challenges involved in
7 broadband deployment on Tribal land and on or
8 near trust land; and

9 (3) submit to Congress a report on the study
10 conducted under paragraph (1).