

117TH CONGRESS  
1ST SESSION

# S. 1113

To require Federal agencies to timely respond to right-of-way requests for the build out of broadband service, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 14, 2021

Mr. DAINES (for himself and Mr. KELLY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To require Federal agencies to timely respond to right-of-way requests for the build out of broadband service, 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.**

4 This Act may be cited as the “Accelerating Rural  
5 Broadband Deployment Act”.

6 **SEC. 2. ACCESS TO FEDERAL RIGHTS-OF-WAY FOR BUILD**  
7 **OUT OF BROADBAND SERVICE.**

8 (a) DEFINITIONS.—In this section:

1           (1) BROADBAND SERVICE.—The term “broad-  
2       band service” means—

3           (A) any service that has the capacity to  
4       transmit data to enable users or devices to  
5       originate and receive high-quality voice, data,  
6       graphics, and video;

7           (B) any service by wire or radio that pro-  
8       vides the capability to transmit data to, and re-  
9       ceive data from, all or substantially all internet  
10      endpoints—

11           (i) including any capabilities that are  
12      incidental to, and enable the operation of,  
13      the service; and

14           (ii) excluding dial-up internet access  
15      service; or

16           (C) any service that is the functional  
17      equivalent of a service described in subpara-  
18      graph (A) or (B).

19           (2) EXECUTIVE AGENCY.—The term “Executive  
20      agency”—

21           (A) has the meaning given the term in sec-  
22      tion 105 of title 5, United States Code; and

23           (B) does not include the Department of  
24      Defense, except for the Army Corps of Engi-  
25      neers.

1 (b) ACCESS.—

2 (1) IN GENERAL.—If an Executive agency, a  
3 State, a political subdivision or agency of a State, an  
4 Indian tribal government, or a person, firm, or orga-  
5 nization requests access to a right-of-way owned by  
6 the Federal Government, or an instrumentality  
7 thereof, in order to place, construct, modify, or oper-  
8 ate facilities for the provision of broadband service,  
9 the Executive agency having control of the right-of-  
10 way may grant to the applicant, on behalf of the  
11 Federal Government, a license of occupancy author-  
12 izing the deployment of all equipment required to  
13 deploy broadband service.

14 (2) DURATION.—A license of occupancy issued  
15 under this subsection shall be issued with a duration  
16 of not more than 30 years and may be automatically  
17 renewed for additional periods of like duration.

18 (3) FEE.—

19 (A) IN GENERAL.—Each Executive agency  
20 shall establish an annual license fee for a li-  
21 cense of occupancy issued under this subsection.

22 (B) CONSIDERATIONS.—In establishing a  
23 fee under subparagraph (A), an Executive agen-  
24 cy shall—

1 (i) consider property valuations based  
 2 on the restricted and limited use nature of  
 3 the underlying parcel (adjacent commer-  
 4 cial, private or multiple use properties shall  
 5 not be used for the purpose of determining  
 6 comparable valuations); and

7 (ii) the size of the portion of land re-  
 8 quested to accommodate the equipment of  
 9 the licensee that is required to deploy  
 10 broadband service.

11 (C) ADJUSTMENTS.—An annual license fee  
 12 established under this paragraph may be ad-  
 13 justed, not more frequently than once every 6  
 14 years, to reflect the current valuations upon re-  
 15 newal of such license.

16 (4) RULE OF CONSTRUCTION.—Nothing in this  
 17 subsection shall be construed to exempt an Execu-  
 18 tive agency from the requirements of division A of  
 19 subtitle III of title 54, United States Code, or the  
 20 National Environmental Policy Act of 1969 (42  
 21 U.S.C. 4321 et seq.).

22 (c) TIMELY CONSIDERATION OF APPLICATIONS.—

23 (1) IN GENERAL.—Not later than 60 days after  
 24 the date on which an Executive agency receives a re-

1       quest under subsection (b), the Executive agency  
2       shall—

3               (A) on behalf of the Federal Government,  
4               grant the application, grant the application sub-  
5               ject to conditions, or deny the application; and

6               (B) notify the applicant of the decision of  
7               the Executive agency under subparagraph (A).

8       (2) EXPLANATION OF DENIAL.—If an Executive  
9       agency denies an application under this subsection,  
10       the Executive agency shall notify the applicant in  
11       writing of such denial, which shall—

12              (A) be supported by substantial evidence  
13              contained in a written record; and

14              (B) include a clear statement of the rea-  
15              sons for the denial.

16       (3) PUBLIC RELEASE OF RECORD.—The written  
17       record described in paragraph (2)(A) shall be made  
18       available to the public on the date on which the writ-  
19       ten notification is provided to the applicant under  
20       paragraph (2).

21       (4) AUTOMATIC GRANT OF REQUEST.—If an  
22       Executive agency fails to act on a request received  
23       under subsection (b) by the end of the 60-day period  
24       described in paragraph (1), the application shall be  
25       considered granted.

1       (d) REQUIREMENT.—Any regulation issued by an Ex-  
2       ecutive agency governing management of access to a Fed-  
3       eral right-of-way under this section shall—

4               (1) be competitively and technologically neutral;  
5       and

6               (2) apply to all providers of broadband service  
7       on a competitively neutral and nondiscriminatory  
8       basis.

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