

118TH CONGRESS
1ST SESSION

S. 2663

To amend the Rural Electrification Act of 1936 to reform broadband permitting, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Mr. BENNET (for himself and Mr. BUDD) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Rural Electrification Act of 1936 to reform broadband permitting, 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 “Connecting Our Neigh-
5 bors to Networks and Ensuring Competitive Tele-
6 communications Act of 2023” or the “CONNECT Act of
7 2023”.

1 **SEC. 2. RECONNECT PROGRAM.**

2 Title VI of the Rural Electrification Act of 1936 (7
3 U.S.C. 950bb et seq.) is amended by adding at the end
4 the following:

5 **“SEC. 607. RECONNECT PROGRAM.**

6 “(a) DEFINITION OF RECONNECT PROGRAM.—In
7 this section, the term ‘ReConnect Program’ means the
8 broadband loan and grant pilot program authorized under
9 section 779 of division A of the Consolidated Appropria-
10 tions Act, 2018 (Public Law 115–141; 132 Stat. 399) (or
11 a successor provision of law that authorizes that program).

12 “(b) TECHNICAL ASSISTANCE AND APPLICATIONS
13 SUPPORT.—

14 “(1) OFFICE OF TECHNICAL ASSISTANCE.—

15 “(A) IN GENERAL.—The Secretary shall
16 establish under the ReConnect Program an Of-
17 fice of Technical Assistance (referred to in this
18 paragraph as the ‘Office’).

19 “(B) STAFF.—The Office shall employ an
20 appropriate number of staff dedicated to pro-
21 viding technical assistance with respect to Re-
22 Connect Program applications.

23 “(C) DUTIES.—The Office shall assist ap-
24 plicants for the ReConnect Program that serve
25 not more than 20,000 subscribers with—

1 “(i) completing paperwork to be sub-
2 mitted to the Department of Agriculture;

3 “(ii) identifying Federal, State, or
4 local agencies that will need to grant a per-
5 mit or right-of-way with respect to a pro-
6 posed project; and

7 “(iii) such other matters as the Sec-
8 retary determines to be appropriate.

9 “(D) EVALUATION CRITERIA POINTS.—In
10 providing evaluation criteria points to applica-
11 tions for the ReConnect Program, the Secretary
12 shall provide an additional 5 points to an appli-
13 cation if the applicant has consulted with the
14 Office.

15 “(E) FUNDING.—Of the amounts appro-
16 priated to the Secretary to carry out the Re-
17 Connect Program for each fiscal year, the Sec-
18 retary shall make available to the Office to
19 carry out this paragraph \$10,000,000.

20 “(2) MINI-GRANT PROGRAM.—

21 “(A) IN GENERAL.—The Secretary shall
22 establish under the ReConnect Program a pro-
23 gram to provide grants to providers that serve
24 fewer than 20,000 individuals to obtain assist-
25 ance in—

1 “(i) preparing an application for the
2 ReConnect Program; and

3 “(ii) developing an initial plan for a
4 project carried out under the ReConnect
5 Program.

6 “(B) LIMITATION.—The amount of a
7 grant under subparagraph (A) shall be not
8 more than \$20,000.

9 “(C) RECOUPMENT.—If a provider that re-
10 ceives a grant under subparagraph (A) subse-
11 quently applies for and receives funding under
12 the ReConnect Program, the provider shall
13 repay to the Secretary the amount of the grant
14 received under subparagraph (A).

15 “(D) FUNDING.—Of the amounts appro-
16 priated to the Secretary to carry out the Re-
17 Connect Program for each fiscal year, the Sec-
18 retary shall make available to carry out this
19 paragraph \$10,000,000.

20 “(c) APPLICATION REVIEW AND UPDATE.—

21 “(1) IN GENERAL.—The Secretary shall—

22 “(A) review the application requirements
23 for the ReConnect Program in effect on the
24 date of enactment of this section; and

1 “(B) not later than 2 years after that date
2 of enactment, issue regulations to revise the ap-
3 plication requirements for the ReConnect Pro-
4 gram to reduce the time and expense required
5 to complete an application.

6 “(2) CONSULTATION.—In carrying out para-
7 graph (1), the Secretary shall consult with—

8 “(A) providers serving not more than
9 20,000 subscribers;

10 “(B) industry groups, including nonprofit
11 organizations, local governments, and coopera-
12 tives;

13 “(C) civil society members; and

14 “(D) technical experts.

15 “(d) SUPPORT FOR COOPERATIVES AND NONPROFIT
16 ORGANIZATIONS.—

17 “(1) PRIORITY.—In reviewing applications for
18 the ReConnect Program, the Secretary shall give
19 priority to an application submitted by a local gov-
20 ernment, a nonprofit organization, or a cooperative
21 (including for a project involving a public-private
22 partnership where the local government, nonprofit
23 organization, or cooperative is the applicant).

24 “(2) EVALUATION CRITERIA POINTS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), in providing evaluation criteria
3 points to applications for the ReConnect Pro-
4 gram, the Secretary shall provide 20 points to
5 an application submitted by a local government,
6 a nonprofit organization, or a cooperative.

7 “(B) REQUIREMENT.—Before providing 20
8 points to an application under subparagraph
9 (A), the Secretary shall consider the degree to
10 which the applicant can reasonably be expected
11 to meet construction and deployment obliga-
12 tions, including project timelines, building and
13 construction material needs, and labor needs
14 necessary for the completion of the project.

15 “(C) REPORTING.—The Secretary shall
16 take appropriate steps to ensure that the ad-
17 ministration of the requirement under subpara-
18 graph (B) does not increase the reporting bur-
19 den of an applicant.

20 “(e) ELIGIBILITY.—A rural area shall be eligible for
21 funding under the ReConnect Program if the area—

22 “(1) has no fixed wireline service provider with-
23 in the area covered by an application for a grant
24 under that Program; or

1 “(2) has been designated as served due to a
 2 pending broadband development project, if, 3 years
 3 after the date on which the project becomes a pend-
 4 ing broadband development project, the project has
 5 yet to begin significant construction or meet major
 6 deployment obligations for the project.”.

7 **SEC. 3. USDA PERMITTING REFORM.**

8 (a) IN GENERAL.—Notwithstanding paragraph
 9 (3)(A) of section 6409(b) of the Middle Class Tax Relief
 10 and Job Creation Act of 2012 (47 U.S.C. 1455(b)), not
 11 later than 180 days after the date on which the Secretary
 12 of Agriculture receives a duly filed application under that
 13 section for an easement, right-of-way, or lease to install,
 14 construct, modify, or maintain a communications facility
 15 installation for the provision of broadband internet access
 16 service (as defined in section 8.1(b) of title 47, Code of
 17 Federal Regulations (or any successor regulation)) using
 18 funding provided under a program of the Department of
 19 Agriculture, the Secretary of Agriculture shall—

20 (1) conduct any environmental or other reviews
 21 necessary to determine whether to grant or deny the
 22 application, including under section 306108 of title
 23 54, United States Code;

24 (2) grant or deny, on behalf of the Federal
 25 Government, the application; and

1 (3) notify the applicant of the grant or denial.

2 (b) APPLICABILITY OF LAWS.—Section 6409(b) of
 3 the Middle Class Tax Relief and Job Creation Act of 2012
 4 (47 U.S.C. 1455(b)) (other than paragraph (3)(A) of that
 5 section) shall apply to the requirements under subsection
 6 (a).

7 **SEC. 4. BROADBAND REQUIREMENTS COUNCIL.**

8 (a) DEFINITIONS.—In this section:

9 (1) APPROPRIATE CONGRESSIONAL COMMIT-
 10 TEES.—The term “appropriate congressional com-
 11 mittees” means—

12 (A) the Committee on Commerce, Science,
 13 and Transportation of the Senate;

14 (B) the Committee on Agriculture, Nutri-
 15 tion, and Forestry of the Senate;

16 (C) the Committee on Energy and Com-
 17 merce of the House of Representatives; and

18 (D) the Committee on Agriculture of the
 19 House of Representatives.

20 (2) BROADBAND INTERNET ACCESS SERVICE.—
 21 The term “broadband internet access service” has
 22 the meaning given the term in section 8.1(b) of title
 23 47, Code of Federal Regulations, or any successor
 24 regulation.

1 (3) COUNCIL.—The term “Council” means the
2 interagency council established under subsection (b).

3 (4) COVERED BROADBAND SERVICE.—The term
4 “covered broadband service” means broadband inter-
5 net access service that is provided using infrastruc-
6 ture built with Federal funds.

7 (b) ESTABLISHMENT OF COUNCIL.—The Federal
8 Communications Commission shall establish an inter-
9 agency council to recommend uniform—

10 (1) speed requirements for covered broadband
11 service; and

12 (2) requirements for applications for Federal
13 broadband funds.

14 (c) MEMBERSHIP.—The Council shall be composed of
15 the following members:

16 (1) A representative of the Federal Communica-
17 tions Commission.

18 (2) A representative of the Department of Com-
19 merce.

20 (3) A representative of the Department of Agri-
21 culture.

22 (4) A representative of the Department of the
23 Interior.

24 (5) A representative of the Department of the
25 Treasury.

1 (6) A representative of the National Science
2 Foundation.

3 (d) DUTIES.—

4 (1) MEETINGS.—Not later than 180 days after
5 the date of enactment of this Act, and not less fre-
6 quently than semiannually thereafter, the Council
7 shall meet to evaluate speed requirements for cov-
8 ered broadband service.

9 (2) REPORTS.—

10 (A) IN GENERAL.—Before each meeting,
11 other than the initial meeting, the Council shall
12 publish and submit to the appropriate congres-
13 sional committees a report that recommends—

14 (i) speed and latency requirements for
15 covered broadband service in both rural
16 and urban areas, taking into account the
17 needs of served, unserved, and underserved
18 communities;

19 (ii) requirements for a standardized
20 application form for Federal broadband
21 funds, including any required documents,
22 financial reports, engineering studies, or
23 other materials; and

24 (iii) opportunities for combining or
25 better streamlining existing Federal

1 broadband programs that have similar or
2 duplicative missions.

3 (B) CATEGORIES.—For purposes of sub-
4 paragraph (A)(i), the Council may establish
5 new categories, such as—

6 (i) rural areas that are unserved or
7 underserved by broadband internet access
8 service; or

9 (ii) urban areas that are unserved or
10 underserved by broadband internet access
11 service.

12 (3) APPEARANCES BEFORE CONGRESS.—Not
13 later than 1 year after the date of enactment of this
14 Act, and not less frequently than annually there-
15 after, 1 or more members of the Council shall ap-
16 pear before each appropriate congressional com-
17 mittee for a hearing on the work of the Council.

18 (4) REQUESTS FOR INFORMATION.—Before the
19 first meeting of each year, the Council shall issue a
20 request for information to collect feedback from
21 stakeholders in the broadband industry and civil so-
22 ciety about—

23 (A) existing broadband technology;

24 (B) recommended speed and latency re-
25 quirements for covered broadband service;

1 (C) recommended requirements for appli-
 2 cations for Federal broadband funds;

3 (D) the needs of broadband consumers;
 4 and

5 (E) the definitions of relevant terms, such
 6 as “served”, “unserved”, “underserved”,
 7 “rural”, and “urban”.

8 **SEC. 5. LEASING REFORM TO ALLOW FOR BROADBAND OR**
 9 **OTHER COMMUNICATIONS SERVICES ON**
 10 **LAND SUBJECT TO CERTAIN FEDERAL EASE-**
 11 **MENTS OR RIGHTS-OF-WAY.**

12 (a) DEFINITIONS.—In this section:

13 (1) CRITICAL DEFENSE FACILITY.—The term
 14 “critical defense facility” means a facility designated
 15 as a critical defense facility by the Secretary of En-
 16 ergy under section 215A(c) of the Federal Power
 17 Act (16 U.S.C. 824o–1(c)).

18 (2) DEFENSE CRITICAL ELECTRIC INFRASTRUC-
 19 TURE.—The term “defense critical electric infra-
 20 structure” has the meaning given the term in section
 21 215A(a) of the Federal Power Act (16 U.S.C. 824o–
 22 1(a)).

23 (3) DEFENSE SITE.—The term “defense site”
 24 has the meaning given the term in section 2710(e)
 25 of title 10, United States Code.

1 (4) ELECTRIC UTILITY.—The term “electric
2 utility” has the meaning given the term in section
3 3 of the Federal Power Act (16 U.S.C. 796).

4 (5) LAST MILE WIRING.—The term “last mile
5 wiring” means the distribution facilities that connect
6 to middle-mile infrastructure and serve as the final
7 connection to provide individual consumer
8 connectivity to the network of a service provider.

9 (6) MILITARY INSTALLATION.—The term “mili-
10 tary installation” has the meaning given the term in
11 section 2801(c) of title 10, United States Code.

12 (7) TRANSMITTING UTILITY.—The term “trans-
13 mitting utility” has the meaning given the term in
14 section 3 of the Federal Power Act (16 U.S.C. 796).

15 (b) WAIVER OF FEDERAL PERMITTING REQUIRE-
16 MENTS FOR THE LEASING OF EXCESS FIBER CAPAC-
17 ITY.—

18 (1) IN GENERAL.—Subject to paragraph (2)
19 but notwithstanding any other provision of law, in
20 any case in which an electric utility or transmitting
21 utility seeks to expand, for the purpose of leasing ex-
22 isting excess fiber capacity, the scope of an existing
23 Federal easement or right-of-way held by that elec-
24 tric utility or transmitting utility, all Federal permit-
25 ting requirements relating to that expansion or the

1 leasing of that existing excess capacity shall be
2 waived.

3 (2) NATIONAL SECURITY.—Paragraph (1) does
4 not apply to any Federal permitting requirement
5 that, in the determination of the Federal official re-
6 sponsible for administering the permitting require-
7 ment, directly relates to—

8 (A) the national security of the United
9 States;

10 (B) the security of defense critical electric
11 infrastructure; or

12 (C) the security of a military installation,
13 defense site, or critical defense facility.

14 (c) USE OF EXISTING FIBER INFRASTRUCTURE.—

15 (1) IN GENERAL.—Subject to paragraphs (2)
16 and (3) but notwithstanding any other provision of
17 law, except as otherwise provided expressly in a writ-
18 ten easement, with respect to any fiber infrastruc-
19 ture existing and installed as of the date of enact-
20 ment of this Act (such as fiber infrastructure in-
21 stalled by a grid operator to monitor the operation
22 of the applicable grid or network) on land subject to
23 an easement or right-of-way granted by the Federal
24 Government for the location and use of electric
25 transmission or distribution facilities, the operation,

1 leasing, repairing, and servicing of that fiber infra-
2 structure for broadband or other communications
3 services—

4 (A) shall be deemed to be an allowed use
5 within the scope of the easement or right-of-
6 way;

7 (B) shall not be considered to be a change
8 in the physical use of the easement or right-of-
9 way;

10 (C) shall not be considered to interfere
11 with, impair, or take any vested or other rights
12 of the owner or occupant of the servient estate;

13 (D) shall be considered to impose not more
14 than a de minimis burden on the servient es-
15 tate; and

16 (E) shall be considered to have value to the
17 owner or occupant of the servient estate in an
18 amount that is greater than any de minimis
19 burden imposed.

20 (2) NATIONAL SECURITY.—

21 (A) IN GENERAL.—Paragraph (1) does not
22 apply to an easement or right-of-way that—

23 (i) is located on a military installa-
24 tion, defense site, or critical defense facil-
25 ity; or

1 (ii) in the determination of the Fed-
2 eral official responsible for administering
3 the servient estate, directly relates to a
4 matter described in any of subparagraphs
5 (A) through (C) of subsection (b)(2).

6 (B) AUTHORITY.—Notwithstanding any
7 other provision of law, with respect to an ease-
8 ment or right-of-way described in subparagraph
9 (A), the Federal official responsible for admin-
10 istering the servient estate shall have the au-
11 thority to expand the scope of the easement or
12 right-of-way to include the operation, leasing,
13 repairing, and servicing of broadband or other
14 communications services in a manner consistent
15 with national security, if the official determines
16 such an expansion to be appropriate.

17 (3) LIMITATION.—Paragraph (1) does not
18 apply to any new construction or installation occur-
19 ring after the date of enactment of this Act, includ-
20 ing the laying of cables, the placement of supporting
21 infrastructure, or the completion of last mile wiring
22 to households.

○