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2D SESSION

S. 4331

To preserve Indian Tribes' and Native Hawaiian organizations' autonomy of access to spectrum over Tribal lands and expedite immediate deployment of telecommunications services for critical government services, including national emergencies, natural disasters, public health and biohazard threats, safety, education, opportunity to participate in the broadband economy, self-governance, access to Federal, State, and Tribal voting and elections, and the Federal census count, for the protection of life and property in furtherance of the Federal trust responsibility, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2020

Ms. WARREN (for herself and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To preserve Indian Tribes' and Native Hawaiian organizations' autonomy of access to spectrum over Tribal lands and expedite immediate deployment of telecommunications services for critical government services, including national emergencies, natural disasters, public health and biohazard threats, safety, education, opportunity to participate in the broadband economy, self-governance, access to Federal, State, and Tribal voting and elections, and the Federal census count, for the protection of life and property in furtherance of the Federal trust responsibility, 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 “Deploying the Internet
 5 by Guaranteeing Indian Tribes Autonomy over Licensing
 6 on Reservations Act” or the “DIGITAL Reservations
 7 Act”.

8 **SEC. 2. TABLE OF CONTENTS.**

9 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Findings and purposes.

Sec. 4. Indian Tribes’ and Native Hawaiian organizations’ exclusive right to all
 available or unlicensed electromagnetic spectrum over Tribal
 lands.

Sec. 5. Access to spectrum over Tribal lands.

Sec. 6. Existing spectrum licenses and spectrum over Tribal lands.

Sec. 7. Tribal Broadband Fund.

Sec. 8. Directing the Commission to engage in rulemaking proceedings for
 broadband development on Tribal lands.

Sec. 9. Technical assistance for spectrum management, contractual agreements,
 and procedural requirements.

Sec. 10. Annual reporting requirements.

Sec. 11. Definitions.

10 **SEC. 3. FINDINGS AND PURPOSES.**

11 (a) FINDINGS.—Congress finds the following:

12 (1) Indian Tribes are sovereign nations that are
 13 independent and legally distinct political bodies that
 14 exercise self-governance with the inherent power to
 15 control their internal relations including natural re-
 16 source development and management of assets, in-
 17 cluding spectrum over Tribal lands.

1 (2) This longstanding precedent established ter-
2 ritorial sovereignty through distinct and separate ju-
3 risdictions in which Indian Tribes retain their sov-
4 ereign power to control their internal relations and
5 protect Tribal self-governance within designated
6 Tribal lands or reservations.

7 (3) Tribal lands were established during the
8 “Allotment” or “Reservation” era of Federal Indian
9 law and policy (1871–1928) when the Federal Gov-
10 ernment significantly narrowed the control and
11 rights of Indian Tribes through the unilateral acqui-
12 sition of Tribal lands and resources, then subse-
13 quently gave the rights to this property to non-In-
14 dian settlers.

15 (4) Under the General Allotment Act of 1887,
16 Tribal members were forced to surrender their pre-
17 viously undivided interest in Tribally owned trust es-
18 tate for individually assigned land interests creating
19 permanently divided land allotments on Tribal lands,
20 and further coercing Native Americans into assimila-
21 tion and dependency on the Federal Government,
22 thus depriving them of their traditional economies.

23 (5) Congress has acknowledged that this Res-
24 ervation Era policy is widely known as failed Federal
25 policy that established individual non-Indian land

1 holdings on reservations resulting in checkerboarded
2 Tribal lands that cause complex jurisdictional and
3 legal complications today.

4 (6) In response to these failed, paternalistic
5 Federal assimilation policies, forced acquisition of
6 indigenous lands, and genocide of Native Americans,
7 the United States has recognized the unique legal
8 relationship and trust responsibility it has with
9 American Indians, Alaska Natives, and Native Ha-
10 waiians to promote their self-determination and sov-
11 ereignty in furtherance of its treaty obligations and
12 longstanding government-to-government relationship.

13 (7) Congressional authority to manage this
14 unique government-to-government relationship with
15 Native nations and Indian affairs generally is recog-
16 nized as plenary; constitutionally vested congres-
17 sional authority to regulate commerce and govern
18 activities with Indian Tribes, which is distinct and
19 separate from executive and judicial branch powers.

20 (8) The Federal Government's trust responsi-
21 bility with Indian Tribes extends to all governmental
22 branches requiring the United States to uphold its
23 fiduciary duties of care and loyalty, to make trust
24 property income productive, to enforce reasonable
25 claims on behalf of Native Americans, and to take

1 affirmative action to preserve trust property, for the
2 benefit of American Indians and Alaska Natives,
3 and Native Hawaiians as part of this Federal-Tribal
4 relationship and Tribal self-governance.

5 (9) The Federal Communications Commission
6 (FCC) has acknowledged this fiduciary responsibility
7 to Native nations and has further recognized the
8 Commission’s own responsibility to promote their
9 self-sufficiency and economic development on Tribal
10 lands.

11 (10) In 2018, a Government Accountability Of-
12 fice (GAO) report noted that numerous Tribal enti-
13 ties, associations, and academic groups consider
14 spectrum as a natural resource that should be man-
15 aged by Tribes. FCC officials responded that, “spec-
16 trum is not considered a reserved right under trea-
17 ties with Indian tribes, as it is not explicitly stated”.

18 (11) The first United States treaty with an
19 American Indian Tribe was ratified in 1778, over
20 240 years ago, and Indian treaty-making ended in
21 1871, prior to the development of spectrum, and
22 adoption of the existing regime for licensing and reg-
23 ulating spectrum access.

24 (12) Further, a 2020 GAO report repeatedly
25 stated that “spectrum is a finite natural resource

1 used to provide a variety of communication services”
2 to governmental entities.

3 (13) However, with the exception of the FCC’s
4 efforts to allocate a severely limited bandwidth of
5 temporary spectrum authority to select Tribal appli-
6 cants during the COVID–19 crisis, it failed to grant
7 numerous emergency requests from Congress, Indian
8 Tribes, and Native Hawaiian organizations to extend
9 the 2.5 GHz Rural Tribal Priority Window timeline
10 by 180 days to give Native nations a fair oppor-
11 tunity to secure spectrum over their Tribal lands be-
12 fore the August 3, 2020, expiration date amidst the
13 pandemic.

14 (14) To date, the Commission has failed to im-
15 plement nationwide spectrum opportunities or uni-
16 form licensing for Indian Tribes and Native Hawai-
17 ian organizations to make spectrum available over
18 their Tribal lands or account for the unmet needs of
19 native Nations in compliance with the Federal trust
20 responsibility.

21 (15) To the contrary, the FCC has used its
22 general authority to regulate for-profit commercial
23 use of spectrum over Tribal lands to assign Indian
24 Tribes’ spectrum licenses to non-Indian companies
25 through privatized auctions, by promulgating regula-

1 tions for licensed and unlicensed spectrum over Trib-
2 al lands, and by conducting oversight over secondary
3 market transactions, including leasing spectrum li-
4 censes over Tribal lands and Hawaiian Home Lands
5 to private companies without Tribal consultation or
6 consent.

7 (16) The Commission’s actions parallel failed
8 Federal Reservation Era policy that divided Indian
9 land holdings and created systemic barriers to In-
10 dian Tribes’ economic development and legal juris-
11 dictional complications on Tribal lands that continue
12 to disadvantage Tribal communities today.

13 (17) Indian Tribes and Native Hawaiian orga-
14 nizations continue to encounter substantial barriers
15 to accessing spectrum on Tribal lands and Hawaiian
16 Home Lands to deploy telecommunications services
17 for the safety and well-being of their members to de-
18 crease the alarming rates of violent crimes, suicides,
19 and additional unnecessary loss of lives that Native
20 Americans disproportionately experience, especially
21 through the lack of access to telehealth services and
22 digital emergency resources as demonstrated during
23 the COVID–19 pandemic that disproportionately im-
24 pacted Indian Country.

1 (18) Further, the 2018 Broken Promises Re-
2 report published by the United States Commission on
3 Civil Rights found Native Americans rank near the
4 bottom of all Americans in terms of health, edu-
5 cation, and employment due to the unique challenges
6 and harsh living conditions as a result of the Res-
7 ervation Era when the Federal Government relo-
8 cated Indian Tribes to geographically isolated res-
9 ervations where “persistent discrimination has ren-
10 dered their reality often invisible to other Ameri-
11 cans”.

12 (19) Today, Tribal lands are some of the most
13 digitally disconnected areas in the United States,
14 where 1.5 million people lack basic broadband and
15 wireless services at rates comparable to, and in some
16 cases lower than, developing countries, leaving Trib-
17 al lands further behind in the digital divide by global
18 benchmarks.

19 (20) In 2018, the Broadband Commission for
20 Sustainable Development reported that wireless net-
21 work coverage in Sub-Saharan Africa increased to
22 70 percent, surpassing the network coverage rates
23 on Tribal lands and Hawaiian Home Lands in the
24 United States.

1 (21) In 2018, the Government Accountability
2 Office (GAO) and the Federal Communications
3 Commission (FCC) reported that over 92 percent of
4 people living outside of Tribal lands and Hawaiian
5 Home Lands have access to fixed broadband serv-
6 ices, and 98 percent of American households have
7 telephone services. However, only 65 percent of
8 American Indians, Alaska Natives, and Native Ha-
9 waiians living on Tribal lands and Hawaiian Home
10 Lands have access to fixed broadband services, and
11 only 69 percent of households on Tribal lands have
12 telephone services.

13 (22) Lack of Indian Tribes' access to spectrum
14 over their Tribal lands during the COVID-19 pan-
15 demic also highlighted Indian Country's expanding
16 digital divide, as supported by the GAO's finding
17 that health information technology systems at the
18 Indian Health Service (IHS) rank as the Federal
19 Government's third-highest need for agency system
20 modernization since 50 percent of IHS facilities de-
21 pend on outdated circuit connections based on one
22 or two T1 circuit lines (3 Mbps), creating slower re-
23 sponse times than any other health facility system in
24 the country.

1 (23) A 2018 National Congress of American In-
2 dians and National Indian Health Board health re-
3 form comment filed with the Federal Communica-
4 tions Commission has further stated that 75 percent
5 of rural Indian Health Service (IHS) facilities do
6 not have reliable broadband networks for American
7 Indians and Alaska Natives to access telehealth-
8 based services, which is a critical need in the most
9 geographically isolated areas of the United States
10 with some of the highest poverty rates, and lack of
11 access to reliable transportation.

12 (24) Additionally, IHS officials reported during
13 the COVID-19 pandemic that deficiencies within
14 their health IT system inhibited the agency's ability
15 to adequately conduct coronavirus disease surveil-
16 lance and record accurate data contributing to the
17 disproportional rates of coronavirus transmissions on
18 reservations.

19 (25) The Bureau of Indian Education (BIE)
20 estimated from a survey of 142 out of 174 schools,
21 that up to 95 percent of their students do not have
22 access to residential internet services depending on
23 Bureau school locations and data cap limitations be-
24 fore and during the pandemic.

1 (26) As an additional barrier, no dedicated
2 Federal funding streams exist for Indian Tribes or
3 Native Hawaiian organizations to deploy tele-
4 communications or broadband services, both wireline
5 and wireless, on Tribal lands and Hawaiian Home
6 Lands. In 2018, the GAO found that the FCC and
7 Department of Agriculture’s combined total of
8 \$34,600,000,000 was available for broadband serv-
9 ices and infrastructure; however, from 2010 to 2017,
10 only 0.7 percent was allocated to Tribal tele-
11 communications deployment.

12 (27) It is estimated that only 0.3 percent of the
13 13,000 radio facilities in the country belong to feder-
14 ally recognized Indian Tribes, indicating a severe
15 lack of Tribal ownership of telecommunications serv-
16 ices generally.

17 (28) Indian Tribes’ and Native Hawaiian orga-
18 nizations’ longstanding funding and administrative
19 barriers to access spectrum over Tribal lands and
20 Hawaiian Home Lands prohibits their self-govern-
21 ance and further exacerbate rates of unemployment,
22 systemic poverty, health disparities, connection to
23 the global market, educational and economic oppor-
24 tunities, unnecessary loss of lives, and unknown fu-
25 ture disparities resulting from the absence of indige-

1 nous representation in the modernization of the dig-
2 ital sector, coding, general advancement of techno-
3 logical services and platforms, and Native ownership
4 in the telecommunications industry.

5 (b) PURPOSES.—The purposes of this Act are—

6 (1) to clarify Indian Tribes’ and Native Hawai-
7 ian organizations’ inherent ownership of, and pre-
8 serve, Indian Tribes’ spectrum licenses and spectrum
9 over Tribal lands and Hawaiian Home Lands in fur-
10 therance of the trust responsibility and acknowledg-
11 ment of sovereign status in the United States;

12 (2) to diminish the effect of the Commission’s
13 Tribal priority filing windows, auctions for spectrum
14 licenses over Tribal lands, and assignment and leas-
15 ing of spectrum over Tribal lands; ensure the Com-
16 mission’s competitive bidding authority does not
17 apply to licenses or construction permits issued by
18 the Commission over Tribal lands and Hawaiian
19 Home Lands; and permanently eliminate the public
20 availability of spectrum over Tribal lands and Ha-
21 waiian Home Lands;

22 (3) to ensure the Commission requires all un-
23 used and unassigned spectrum licenses over Tribal
24 lands and Hawaiian Home Lands to revert to the
25 ownership of the Indian Tribe and Native Hawaiian

1 organization where they are geographically located in
2 furtherance of prioritizing their ownership of spec-
3 trum over Tribal lands and Hawaiian Home Lands
4 as part of their inherent self-governance, and expe-
5 dite the immediate deployment of wireless services
6 for critical government services, including national
7 emergencies, natural disasters, and biohazard
8 threats, access to health, public safety services, edu-
9 cational opportunities, ability to participate in the
10 broadband economy, access to Federal, State, and
11 Tribal voting and elections, and the Federal census
12 count;

13 (4) to promote Indian Tribes' inherent self-gov-
14 ernance and autonomy over their respective Tribal
15 lands by ensuring spectrum over Tribal lands and
16 Hawaiian Home Lands are held by Indian Tribes
17 and Native Hawaiian organizations in perpetuity in
18 compliance with the Federal trust responsibility;

19 (5) to ensure Indian Tribes and Native Hawai-
20 ian organizations have resources available for the
21 full retention and immediate deployment of their
22 spectrum over Tribal lands and Hawaiian Home
23 Lands for wireless broadband service and tele-
24 communications services, including all commercial,
25 noncommercial, mobile, radio, television, broadcast,

1 “middle mile” and long haul fiber, and future spec-
2 trum licenses, infrastructure, and interconnectivity
3 services that are within the jurisdiction of their re-
4 spective Tribal lands and Hawaiian Home Lands;

5 (6) to encourage Indian Tribes and Native Ha-
6 waiian organizations to immediately develop and de-
7 ploy spectrum services over their lands, especially
8 broadband and wireless services, to bridge the in-
9 creasing digital divide over Tribal lands for the real-
10 ization of full self-governance and autonomy through
11 access to critical government services, resources for
12 national emergencies, economic development, and
13 management of resources;

14 (7) to create opportunities for Indian Tribes
15 and Native Hawaiian organizations to develop and
16 build out digital and telecommunications networks
17 and infrastructure on their lands and promote full
18 self-governance and autonomy;

19 (8) to require the Commission to initiate and
20 complete the rulemaking process with robust, inter-
21 active, pre-decisional, informative, and transparent
22 consultation with Indian Tribes and Native Hawai-
23 ian organizations in order for them to obtain free,
24 prior, and informed consent before the approval and
25 adoption of administrative measures or agency ac-

1 tion that affects Tribal lands, or other associated
2 Tribal resources, especially where telecommuni-
3 cations processes and associated information are un-
4 clear, unreported, or inadequate to meet the needs
5 of Indian Tribes and Native Hawaiian organizations
6 to preserve spectrum rights over Tribal lands and
7 Hawaiian Home Lands, establish the Tribal
8 Broadband Fund, and build out robust digital net-
9 works on Tribal lands so their members can access
10 digital services at rates proportional to non-Indians
11 living off Tribal lands; and

12 (9) to ensure the Commission ceases the allot-
13 ment of spectrum rights over Tribal lands and Ha-
14 waiian Home Lands to private telecommunication
15 companies to protect life and property in furtherance
16 of the Federal trust responsibility.

17 **SEC. 4. INDIAN TRIBES' AND NATIVE HAWAIIAN ORGANIZA-**
18 **TIONS' EXCLUSIVE RIGHT TO ALL AVAILABLE**
19 **OR UNLICENSED ELECTROMAGNETIC SPEC-**
20 **TRUM OVER TRIBAL LANDS.**

21 Indian Tribes and Native Hawaiian organizations
22 hold rights into perpetuity to use and manage all available
23 or unlicensed electromagnetic spectrum over Tribal lands.

1 **SEC. 5. ACCESS TO SPECTRUM OVER TRIBAL LANDS.**

2 (a) ELIMINATION OF ALL AUCTIONS, TRIBAL PRI-
3 ORITY FILING WINDOWS, SECONDARY MARKET OPPOR-
4 TUNITIES, AND COMPETITIVE BIDDING FOR SPECTRUM
5 OVER TRIBAL LANDS.—

6 (1) AUCTIONS OF INDIAN TRIBES' SPECTRUM
7 LICENSES AND SPECTRUM OVER TRIBAL LANDS.—
8 Any spectrum licenses over Tribal lands for any pur-
9 pose shall not be subject to any Tribal auctions exe-
10 cuted by the Commission.

11 (2) TRIBAL PRIORITY FILING WINDOWS.—No li-
12 censes over any Tribal lands for the use of spectrum
13 over Tribal lands shall be subject to any Tribal pri-
14 ority filing windows or auctions executed by the
15 Commission.

16 (3) SECONDARY MARKET OPPORTUNITIES.—No
17 spectrum licenses over Tribal lands shall be subject
18 to any secondary market opportunities or post-mar-
19 ket opportunities, including license partitioning,
20 spectrum leasing, or assignment to any third party
21 or other entity.

22 (4) COMPETITIVE BIDDING.—Spectrum licenses
23 over Tribal lands shall not be subject to competitive
24 bidding under section 309(j) of the Communications
25 Act of 1934 (47 U.S.C. 309(j)) from the date of the
26 enactment of this Act.

1 (b) ESTABLISHMENT OF NEW CONTRACTUAL
2 AGREEMENTS FOR TRIBAL SPECTRUM.—

3 (1) IN GENERAL.—At the discretion of an In-
4 dian Tribe or Native Hawaiian organization, after
5 the date of the enactment of this Act, new contracts
6 may be established with third-party licensees, quali-
7 fying Tribal entities, or other Indian Tribes or Na-
8 tive Hawaiian organizations to assign or lease spec-
9 trum over the Indian Tribe’s or Native Hawaiian or-
10 ganization’s respective Tribal lands.

11 (2) TERMS AND CONDITIONS.—At the request
12 of an Indian Tribe, Native Hawaiian organization,
13 or qualifying Tribal entity, the Commission shall en-
14 sure that any new contracts entered into from the
15 date of the enactment of this Act must ensure that
16 the Indian Tribe or Native Hawaiian organization
17 retains permanent spectrum rights over the Tribal
18 lands where the spectrum is located. The associated
19 terms and duration of any contract to assign or
20 lease an Indian Tribe’s or Native Hawaiian organi-
21 zation’s spectrum to a qualifying Tribal entity,
22 third-party licensee, or other Indian Tribe or Native
23 Hawaiian organization must meet the following min-
24 imum requirements and conditions to implement a
25 valid contract for spectrum use over Tribal lands:

1 (A) If an agreement is reached, all parties
2 involved must execute a written agreement that
3 sets forth the terms and conditions of the
4 agreement.

5 (B) Fair market value of the spectrum li-
6 cense or deployment of telecommunications or
7 wireless services must be negotiated in good
8 faith.

9 (C) Rates must be calculated subject to in-
10 flation costs for the time duration specified
11 under the agreement.

12 (D) Negotiations must be entered into and
13 conducted in good faith, requiring that an In-
14 dian Tribe, Native Hawaiian organization,
15 qualifying Tribal entity, or third-party licensee
16 responding to an offer proposed by the request-
17 ing party must provide reasons for each rejec-
18 tion of a negotiated offer in writing.

19 (E) The party entering into contract nego-
20 tiations with the Indian Tribe or Native Hawai-
21 ian organization must have the financial capac-
22 ity to fulfill its requirement to deploy trans-
23 actional services on the Tribal lands where the
24 spectrum licenses are located and the ability to
25 meet its construction requirements.

1 (3) LIMITATIONS.—

2 (A) SUBLEASING.—Any qualifying Tribal
3 entity, Native Hawaiian organization, other In-
4 dian Tribe, or third-party licensee who does not
5 receive the written consent from the Indian
6 Tribe or Native Hawaiian organization where
7 the spectrum is geographically located is barred
8 from subleasing, assigning, or subcontracting
9 the spectrum licenses over Tribal lands. If this
10 is breached, such spectrum licenses shall auto-
11 matically revert to the Indian Tribe or Native
12 Hawaiian organization for new negotiations and
13 the existing contract shall be deemed termi-
14 nated.

15 (B) DURATION.—A contract to assign or
16 lease spectrum licenses to be operated over
17 Tribal lands between the Indian Tribe, Native
18 Hawaiian organization, qualifying Tribal entity,
19 or third-party licensee may not extend past a 5-
20 year time period, after which the Indian Tribe,
21 Native Hawaiian organization, or qualifying
22 Tribal entity may review the negotiated terms
23 with the third-party licensee and choose to ei-
24 ther—

1 (i) terminate the contract or assign-
2 ment of such spectrum licenses, which
3 shall automatically revert to the Indian
4 Tribe where such spectrum licenses are
5 geographically located;

6 (ii) renegotiate the terms of such con-
7 tract with respect to such spectrum li-
8 censes over Tribal lands; or

9 (iii) extend the existing contractual
10 terms of such spectrum licenses over Trib-
11 al lands for an additional 5 years, or a fair
12 and reasonable amount of time.

13 (C) TERMINATION.—

14 (i) REVERSION.—In the event of pre-
15 mature termination of a contract for as-
16 signment or lease of spectrum over Tribal
17 lands, the spectrum licenses shall auto-
18 matically revert to the Indian Tribe or Na-
19 tive Hawaiian organization for new nego-
20 tiations and the existing contract shall be
21 deemed terminated.

22 (ii) PENALTIES.—Penalties for breach
23 of contractual agreements or premature
24 termination of a contract shall be enforced
25 by imposing a fine of 5 percent of the

1 gross amount incurred, or projected
2 amount to be incurred, from the negotiated
3 rate of the spectrum licenses by the
4 breaching party, to be assessed by the
5 Commission and available as a source of
6 funds for the Tribal Broadband Fund.

7 (iii) EGREGIOUS BEHAVIOR OR LACK
8 OF GOOD FAITH.—If the breaching party
9 participates in egregious behavior, or a
10 clear showing is made that a party failed
11 to negotiate contractual terms in good
12 faith, it shall be subject to a 5-year penalty
13 prohibiting the party from participating in
14 any contract for spectrum licenses over
15 Tribal lands, participation in the Tribal
16 Spectrum Market, or additional penalties
17 that the Commission sees fit to protect In-
18 dian Tribes' or Native Hawaiian organiza-
19 tions' telecommunications resources. In the
20 case of a breaching party that is an Indian
21 Tribe or Native Hawaiian organization, the
22 penalty under this clause shall not apply
23 with respect to spectrum over its Tribal
24 lands of such Indian Tribe or Native Ha-
25 waiian community.

1 (4) ADDITIONAL REQUIREMENTS.—This section
2 is subject to additional requirements or other terms
3 and conditions as the Commission determines nec-
4 essary to protect the interests of the Indian Tribe
5 and Native Hawaiian community, or as determined
6 necessary through subsequent rulemaking subject to
7 the Tribal consultation requirements under section
8 8(c).

9 **SEC. 6. EXISTING SPECTRUM LICENSES AND SPECTRUM**
10 **OVER TRIBAL LANDS.**

11 (a) BUILD OR DIVEST PROCESS FOR EXISTING SPEC-
12 TRUM LICENSES AND SPECTRUM OVER TRIBAL LANDS.—

13 (1) INITIATION.—An Indian Tribe, Native Ha-
14 waiian organization, or qualifying Tribal entity may
15 initiate the build or divest process for an existing
16 third-party licensee that held spectrum license rights
17 for spectrum over Tribal lands of the Indian Tribe
18 or Native Hawaiian organization as of the date of
19 the enactment of this Act in a geographic area
20 where that existing third-party licensee has satisfied
21 the applicable construction requirements for the
22 spectrum licenses over Tribal lands, yet has not built
23 out to the undeveloped, unserved, or underserved
24 Tribal lands within its license area as of the date of
25 the enactment of this Act.

1 (2) PROCESS.—The Indian Tribe, Native Ha-
2 waiian organization, or qualifying Tribal entity
3 where the spectrum over Tribal lands is located may
4 file a Notice of Intent with the Commission to ini-
5 tiate the build or divest process to expedite reversion
6 of the third-party licensee spectrum license rights
7 over the aforementioned Tribal lands to make avail-
8 able the unused or unneeded license rights to the In-
9 dian Tribe, Native Hawaiian organization, or quali-
10 fying Tribal entity. The Notice of Intent requires the
11 Commission—

12 (A) to include written notification to the
13 Indian Tribe, Native Hawaiian organization, or
14 qualifying Tribal entity of the date on which
15 third-party licensee’s notice of construction per-
16 mit fulfillment was filed with the Commission
17 demonstrating that the third-party licensee sat-
18 isfied its final construction requirement for the
19 license where the underserved Tribal lands are
20 located;

21 (B) if the third-party licensee has met ap-
22 plicable construction requirements but Tribal
23 lands within the spectrum license remain
24 unserved or underdeveloped after the Indian
25 Tribe, Native Hawaiian organization, or quali-

1 fying Tribal entity files the Notice of Intent, to
2 terminate the third-party licensee’s rights over
3 such Tribal lands after a 1-year time period,
4 with such spectrum licenses reverting back to
5 the Indian Tribe or Native Hawaiian organiza-
6 tion in perpetuity where the Tribal lands are lo-
7 cated; and

8 (C) to permit the third-party licensee to
9 opt out of the build or divest process, after the
10 Indian Tribe, Native Hawaiian organization, or
11 qualifying Tribal entity has filed the Notice of
12 Intent, by partitioning or relinquishing its spec-
13 trum license to the Commission, which shall
14 subsequently relicense the spectrum licenses
15 over the Tribal lands in perpetuity to the In-
16 dian Tribe, Native Hawaiian organization, or
17 qualifying Tribal entity, pursuant to this Act
18 and the requirements pursuant to the Commu-
19 nications Act of 1934 (47 U.S.C. 151 et seq.).

20 (3) CONSTRUCTION REQUIREMENT.—If the ex-
21 isting third-party licensee has not satisfied the appli-
22 cable construction requirements for the spectrum for
23 which it holds licenses over Tribal lands on the date
24 on which the Indian Tribe, Native Hawaiian organi-
25 zation, or qualifying Tribal entity files the Notice of

1 Intent, the spectrum license rights over Tribal lands
2 where the spectrum is located will automatically be
3 made available to the Indian Tribe or Native Hawai-
4 ian organization.

5 (4) EXPIRATION.—The license of any third-
6 party licensee that has failed to extend coverage on
7 the underserved Tribal lands from 1 year from the
8 date that the Commission accepted the third-party
9 licensee’s notice of construction permit fulfillment to
10 the date of the enactment of this Act shall imme-
11 diately expire, including all rights to the spectrum li-
12 censes. The Commission shall then immediately reas-
13 sign the spectrum licenses for the Tribal lands so
14 that the licenses shall immediately revert to the In-
15 dian Tribe or Native Hawaiian organization where
16 the spectrum is geographically located.

17 (5) ADDITIONAL CONSTRUCTION REQUIRE-
18 MENTS.—The applicable construction requirements
19 above are subject to any additional construction re-
20 quirements determined by the Commission applicable
21 to Tribal lands after the date of the enactment of
22 this Act.

23 (6) ADDITIONAL CONSIDERATIONS.—

24 (A) EXPEDITED PROCESS.—

1 (i) IN GENERAL.—The Commission
2 may make additional considerations to ex-
3 pedite the build or divest process prior to
4 the 1-year expiration period where the geo-
5 graphic coverage area of the spectrum li-
6 cense on Tribal lands is under duress to
7 deploy broadband or telecommunications
8 services or for the purpose of access to life-
9 saving services, critical government serv-
10 ices, national or State emergencies, natural
11 disasters, or in other circumstances where
12 deemed appropriate.

13 (ii) CRITICAL GOVERNMENT SERV-
14 ICES, NATIONAL EMERGENCIES, AND NAT-
15 URAL DISASTERS.—Congress, Secretary of
16 the Interior, or another executive branch
17 office or agency that is delegated authority
18 over Indian affairs or oversees programs
19 impacting Indian Tribes may also request
20 that the Commission make additional con-
21 siderations to expedite the build or divest
22 process on Tribal lands where the coverage
23 area of the spectrum license is under du-
24 ress to expedite deployment of services.

1 (iii) DURESS.—For purposes of this
2 subparagraph, a geographic area on Tribal
3 lands that is considered to be under duress
4 shall include an area on Tribal lands where
5 there has been a substantial loss of or ex-
6 isting threat to human life, the Federal
7 Government or State government has de-
8 clared an emergency, a natural disaster
9 has occurred or will occur, or there is a
10 need for critical government services.

11 (B) LONGER TIMELINES.—Other timelines
12 shall be considered to elongate the timeline to
13 the 1-year expiration period with the consent of
14 the Indian Tribe or Native Hawaiian organiza-
15 tion where a longer time period is needed for
16 special geographic or population needs. The
17 Commission shall consider additional timelines
18 on an ad hoc basis through consultation with
19 the Indian Tribe or Native Hawaiian organiza-
20 tion over the Tribal lands of which the third-
21 party licensee possesses a valid spectrum li-
22 cense. Considerations of any modified timelines
23 must be made with the written consent of the
24 Indian Tribe or Native Hawaiian organization.

1 (C) OTHER ADDITIONAL CONSIDER-
2 ATIONS.—Additional considerations may be
3 made by the Commission where existing tech-
4 nical rules are insufficient or circumstances are
5 present to unnecessarily restrict types of serv-
6 ices that may be deployed within the Tribal
7 lands with the consent of the Indian Tribe or
8 Native Hawaiian organization.

9 (D) ADDITIONAL RULEMAKING PRO-
10 CEEDINGS.—The Commission shall, at the re-
11 quest of Indian Tribes or Native Hawaiian or-
12 ganizations, conduct specific rulemaking pro-
13 ceedings where service-specific technical issues
14 arise under this subsection.

15 (b) FAILURE TO NEGOTIATE IN GOOD FAITH FOR
16 EXISTING SPECTRUM LICENSES AND SPECTRUM OVER
17 TRIBAL LANDS.—

18 (1) OPPORTUNITY TO SECURE ACCESS.—Where
19 third-party spectrum licenses have been authorized
20 and the Indian Tribe, Native Hawaiian organization,
21 or qualifying Tribal entity can show that the third-
22 party licensee entered into negotiations or auctions
23 or secured assignment of an existing spectrum li-
24 cense over Tribal lands in bad faith, the Indian
25 Tribe, Native Hawaiian organization, or qualifying

1 Tribal entity shall have an opportunity to secure the
2 Indian Tribe's or Native Hawaiian organization's ac-
3 cess to such spectrum licenses.

4 (2) PROCESS.—The Indian Tribe, Native Ha-
5 waiian organization, or qualifying Tribal entity
6 where the spectrum is located may file a Notice of
7 Intent with the Commission to initiate the failure to
8 negotiate in good faith exemption process under this
9 subsection to expedite reversion of the spectrum li-
10 cense rights over Tribal lands and make available
11 the spectrum license rights to the Indian Tribe, Na-
12 tive Hawaiian organization, or qualifying Tribal en-
13 tity over the Tribal lands or Hawaiian Homelands
14 where it is located such spectrum license rights to
15 such Indian Tribe, Native Hawaiian organization, or
16 qualifying Tribal entity.

17 (3) TIMING.—The Notice of Intent can be filed
18 at any time during the license term, provided that
19 the filing Indian Tribe, Native Hawaiian organiza-
20 tion, or qualifying Tribal entity can demonstrate
21 that the third-party licensee failed to negotiate in
22 good faith in previous dealings before the filing of
23 the Notice of Intent.

24 (4) STANDARD.—An Indian Tribe, Native Ha-
25 waiian organization, or qualifying Tribal entity may

1 demonstrate the third-party licensee failed to meet
2 the good faith negotiation requirement through the
3 totality of the circumstances standard in presenting
4 the case of the Indian Tribe, Native Hawaiian orga-
5 nization, or qualifying Tribal entity to the Commis-
6 sion. In demonstrating that the third-party licensee
7 negotiated in bad faith, the Commission shall evalu-
8 ate whether the negotiations were made in good
9 faith through the totality of the circumstances
10 standard.

11 (5) GOOD FAITH NEGOTIATION REQUIREMENT
12 FACTORS.—The relevant factors to determine wheth-
13 er the third-party licensee failed to negotiate in good
14 faith are to include the following objective elements
15 of negotiation standards:

16 (A) The third-party licensee must have ap-
17 pointed a negotiating representative with au-
18 thority to bargain on partitioning and spectrum
19 licensing issues.

20 (B) The third-party licensee must have
21 agreed to meet at reasonable times and loca-
22 tions with adequate notice.

23 (C) The third-party licensee must not have
24 acted in a manner that would unduly delay the
25 course of negotiations.

1 (D) The third-party licensee must not have
2 put forth an unreasonable, unilateral proposal
3 or further demonstrated an unwillingness to
4 consider alternative reasonable terms or coun-
5 terproposals. Bargaining without consideration
6 of reasonable alternatives is inconsistent with
7 an affirmative obligation to negotiate in good
8 faith.

9 (E) The third-party licensee must have
10 showed good faith in negotiations through im-
11 plementing or concluding action within a rea-
12 sonable time period with reasonable notice and
13 forum requests that are standard for negoti-
14 ating practices. This standard is also applicable
15 to any proposed forum requests by either party.
16 Indian Tribes, Native Hawaiian organizations,
17 and qualifying Tribal entities availing them-
18 selves of this process can also make a showing
19 that the third-party licensee had reasonable no-
20 tice or understanding that the Indian Tribe,
21 Native Hawaiian organization, or qualifying
22 Tribal entity did not have the financial means
23 to fulfill the third-party licensee's expedited
24 timing or change of forum requests or that ex-

1 tenuating circumstances existed that prohibited
2 reasonable conduct to execute negotiations.

3 (F) The Indian Tribe, Native Hawaiian or-
4 ganization, or qualifying Tribal entity that is
5 responding to an offer proposed by the third-
6 party licensee must also provide reasons and
7 consideration for rejecting aspects of the third-
8 party licensee's offer in writing.

9 (6) ADDITIONAL CONSIDERATIONS.—The Com-
10 mission may make additional considerations for un-
11 reasonable behavior or egregious behavior for the to-
12 tality of the circumstances standard under this sub-
13 section to determine whether a party negotiated in
14 bad faith.

15 (c) SAFE HARBOR EXEMPTION FOR EXISTING
16 THIRD-PARTY LICENSEES.—Where a third-party licensee
17 that holds a license to use spectrum over Tribal lands and
18 has failed to meet additional construction requirements
19 determined by the Commission under section 6(a)(5), a
20 safe harbor exemption may apply to the third-party li-
21 censee, if such licensee has deployed coverage to at least
22 90 percent of the geographic area over the Tribal lands
23 within its license coverage area.

1 **SEC. 7. TRIBAL BROADBAND FUND.**

2 (a) IN GENERAL.—The Commission shall establish,
3 as an additional universal service support mechanism
4 under section 254 of the Communications Act of 1934 (47
5 U.S.C. 254), a mechanism to be known as the “Tribal
6 Broadband Fund”. The Tribal Broadband Fund shall pro-
7 vide a source of funds for networks and infrastructure
8 buildout over Tribal lands, including support for infra-
9 structure deployment, “middle mile” and long haul fiber
10 buildout, adoption of digital literacy on Tribal lands, and
11 other related activities to ensure Tribal lands have full ac-
12 cess to high-speed wireless broadband services and tele-
13 communications services and other spectrum use.

14 (b) SOURCES OF FUNDING.—In addition to universal
15 service contributions under section 254(d) of the Commu-
16 nications Act of 1934 (47 U.S.C. 254(d)), the Tribal
17 Broadband Fund shall be funded through proceeds from
18 systems of competitive bidding under section 309(j) of the
19 Communications Act of 1934 (47 U.S.C. 309(j)) (notwith-
20 standing paragraph (8) of such section) and any other ac-
21 counts or reserve funds available to the Commission, in
22 amounts to be determined under subsection (e). Should
23 the Commission find that the Commission cannot robustly
24 fund the Tribal Broadband Fund from these existing
25 sources, the Commission shall undertake a rulemaking
26 proceeding to determine whether the imposition of addi-

1 tional universal service contributions is necessary to en-
2 sure a Tribal Broadband Fund commensurate with the
3 funding need, purposes, and implementation determined
4 pursuant to subsection (e).

5 (c) PRIORITIZATION.—Funding allocations shall be
6 prioritized under the Tribal Broadband Fund where tele-
7 communications or wireless broadband services have been
8 either not deployed or inadequately deployed over Tribal
9 lands. This includes “middle mile” fiber, backhaul costs,
10 and repairs to damaged infrastructure, the cost of the re-
11 pairs to which would be less expensive than the cost of
12 new infrastructure.

13 (d) TECHNICAL ASSISTANCE.—The Commission shall
14 provide requested technical assistance, training programs,
15 and grants to assist Indian Tribes, Native Hawaiian orga-
16 nizations, and qualifying Tribal entities, the Director of
17 the Department of Hawaiian Home Lands, inter-Tribal
18 government organizations, and universities and colleges
19 with Tribal serving institutions for the purpose of imme-
20 diate deployment of telecommunications or wireless
21 broadband services or infrastructure development over
22 Tribal lands.

23 (e) RULEMAKING PROCEEDING.—

24 (1) CONSULTATION.—Not later than 60 days
25 after the date of the enactment of this Act, the

1 Commission shall initiate and complete the rule-
2 making process with robust, interactive, pre-
3 decisional, informative, and transparent consultation
4 with Indian Tribes, Native Hawaiian organizations,
5 and interested qualifying Tribal entities in order for
6 them to obtain free, prior, and informed consent to
7 determine the appropriate funding for the Tribal
8 Broadband Fund from the sources described in sub-
9 section (b) (including annual set-asides from each
10 such source for the Tribal Broadband Fund), uses
11 and administration of the Tribal Broadband Fund,
12 and any other issues related to the establishment
13 and implementation of the Tribal Broadband Fund.
14 This will omit any competitive bidding requirements
15 and any unnecessary barriers or limitations on fund-
16 ing for Indian Tribes, Native Hawaiian organiza-
17 tions, and qualifying Tribal entities to expedite the
18 immediate deployment of current generation or bet-
19 ter terrestrial and wireless broadband services,
20 where none are available or need to be updated or
21 built out for the use of critical government services,
22 national emergencies, natural disasters, or life-sav-
23 ing services.

24 (2) ADVISORY AGENCY MEMORANDUM.—Not
25 later than 6 months after the date of the enactment

1 of this Act, the Commission shall provide Indian
2 Tribes, Native Hawaiian organizations, and inter-
3 ested qualifying Tribal entities with an advisory
4 agency memorandum on the issues addressed in
5 paragraph (1). Such memorandum shall clearly out-
6 line the comment process and timeline for responses.

7 (3) NOTICE OF PROPOSED RULEMAKING.—Not
8 later than 12 months after the date of the enact-
9 ment of this Act, the Commission shall release a No-
10 tice of Proposed Rulemaking, as described in para-
11 graph (2).

12 (4) FINAL ORDER.—Not later than 18 months
13 after the date of the enactment of this Act, the
14 Commission shall release a final order, adopting
15 rules and policies associated with the establishment,
16 implementation, and administration of the Commis-
17 sion’s permanent Tribal Broadband Fund.

18 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion shall be construed to limit Indian Tribes, Native Ha-
20 waiian organizations, or qualifying Tribal entities from ac-
21 cessing existing or additional funding through the Com-
22 mission or any other Federal agency.

1 **SEC. 8. DIRECTING THE COMMISSION TO ENGAGE IN RULE-**
2 **MAKING PROCEEDINGS FOR BROADBAND DE-**
3 **VELOPMENT ON TRIBAL LANDS.**

4 (a) **PURPOSE.**—The purpose of this section is to re-
5 quire the Commission to initiate and complete separate
6 rulemaking proceedings under subsections (c), (d), and (e)
7 to provide additional clarification for the deployment and
8 buildout of telecommunications, broadband, and wireless
9 services and other full use of spectrum over Tribal lands
10 and Hawaiian Homelands, including existing reservations,
11 landless Indian Tribes, noncontiguous land holdings,
12 uniquely situated Indian Tribes, and Hawaiian Home
13 Lands.

14 (b) **TIMING.**—For each of the rulemakings listed
15 under subsections (c), (d), and (e), the Commission shall
16 initiate or complete each step according to the following
17 timeline:

18 (1) **CONSULTATION.**—Consultation shall be ini-
19 tiated not later than 6 months after the date of the
20 enactment of this Act.

21 (2) **ADVISORY AGENCY MEMORANDA.**—Advisory
22 agency memoranda shall be issued not later than 12
23 months after the date of the enactment of this Act.

24 (3) **NOTICES OF PROPOSED RULEMAKING.**—No-
25 tices of Proposed Rulemaking shall be issued not

1 later than 18 months after the date of the enact-
2 ment of this Act.

3 (4) FINAL RULES.—Orders promulgating final
4 rules shall be issued not later than 24 months after
5 the date of the enactment of this Act.

6 (c) TRIBAL CONSULTATION AND ENGAGEMENT.—

7 (1) IN GENERAL.—The Commission shall ini-
8 tiate and complete a rulemaking proceeding to best
9 determine how to conduct robust, interactive, pre-
10 decisional, informative, and transparent consultation
11 with Indian Tribes and Native Hawaiian organiza-
12 tions in order to obtain free, prior, and informed
13 consent prior to the approval of, and before adopting
14 administrative measures that affect Tribal lands, or
15 other associated Tribal resources. Prior to initiating
16 such proceeding, the Commission shall also engage
17 with the FCC Native Nations Communications Task
18 Force, qualifying Tribal entities, Native-owned tele-
19 communications providers, and Tribal organizations
20 with telecommunications expertise.

21 (2) PRIMARY GOAL.—The primary goal of the
22 rulemaking under paragraph (1) shall be to deter-
23 mine how the Commission can best establish a bind-
24 ing agency policy for Tribal consultation for policy
25 development and agency action to provide proper no-

1 tice and guidance, introduce mapping tools, provide
2 robust outreach, and make government-to-govern-
3 ment training accessible to Indian Tribes and Native
4 Hawaiian organizations to preserve and develop
5 spectrum rights and spectrum access over Tribal
6 lands, and to expedite the immediate deployment of
7 wireless broadband services, other wireless services,
8 or other full use of spectrum over Tribal lands for
9 critical government services, national emergencies,
10 natural disasters, or life-saving services.

11 (3) ADDITIONAL CONSULTATION.—In con-
12 ducting the rulemaking under paragraph (1), the
13 Commission shall engage with Native Hawaiian or-
14 ganizations, and appropriate authorities of the State
15 of Hawaii, to identify and designate potential exist-
16 ing entities within the State government of Hawaii,
17 and the Native Hawaiian organizations or the com-
18 munity, for standing as licensable entities for the
19 purpose of spectrum licensing rights and spectrum
20 over the Hawaiian Home Lands.

21 (4) NOTICE.—The Commission’s Tribal con-
22 sultation meetings shall be made open to the public
23 and subject to reasonable and timely notice pub-
24 lished in the Federal Register, and through other
25 appropriate public methods, not later than 30 days

1 prior to the scheduled meeting. The Commission
2 shall make additional considerations for adequate
3 notification to Indian Tribes, Native Hawaiian orga-
4 nizations, and interested qualifying Tribal entities,
5 that lack telecommunications services on Tribal
6 lands.

7 (5) ADDITIONAL CONSULTATION AND NO-
8 TICE.—Open and public Tribal consultation and ap-
9 propriate notice and outreach to Indian Tribes, Na-
10 tive Hawaiian organizations, and interested quali-
11 fying Tribal entities shall be presented during each
12 of the additional rulemakings prescribed in this sec-
13 tion. The Commission shall conduct each such addi-
14 tional rulemaking in accordance with the rules for
15 consultation issued by the Commission in the rule-
16 making under paragraph (1) of this subsection.

17 (d) TRIBAL ECONOMIC DEVELOPMENT.—

18 (1) AVAILABLE FUNDING OPPORTUNITIES.—

19 (A) IN GENERAL.—The Commission shall
20 initiate and complete a rulemaking proceeding
21 to streamline applications to expedite funding
22 (including through the Commission’s funding
23 opportunities and other funding opportunities
24 that may be available through other agencies)
25 on Tribal lands for buildout of telecommuni-

1 cations, broadband, and wireless services, or
2 other full use of spectrum or infrastructure de-
3 velopment over Tribal lands for critical govern-
4 ment services and national emergencies.

5 (B) ONAP FEDERAL FUNDING DIREC-
6 TOR.—In the rulemaking under subparagraph
7 (A), the Commission shall establish within the
8 Office of Native Affairs and Policy (ONAP) of
9 the Commission the position of Federal Fund-
10 ing Director. The Director shall have the fol-
11 lowing duties:

12 (i) To coordinate with Indian Tribes,
13 Native Hawaiian organizations, and inter-
14 ested qualifying Tribal entities to access
15 the Commission’s funding opportunities, or
16 other funding opportunities that may be
17 available through other agencies, and as-
18 sist with the application processes for the
19 Tribal Broadband Fund and other uni-
20 versal service support mechanisms.

21 (ii) To coordinate with other Federal
22 agencies that provide telecommunications
23 and infrastructure funding to Indian
24 Tribes, Native Hawaiian organizations, or
25 interested qualifying Tribal entities to as-

1 sist with expedited wireless broadband
2 service and other telecommunications de-
3 ployment over Tribal lands.

4 (2) NEW TRIBAL SPECTRUM MARKET.—

5 (A) IN GENERAL.—The Commission shall
6 initiate and complete a rulemaking proceeding
7 to establish a new Tribal Spectrum Market.
8 Such market shall be an optional forum solely
9 for the participation of Indian Tribes, quali-
10 fying Tribal entities, and Native Hawaiian or-
11 ganizations to engage with other Indian Tribes,
12 qualifying Tribal entities, and Native Hawaiian
13 organizations for leasing and assignment oppor-
14 tunities for the purpose of economic and busi-
15 ness development on Tribal lands for partici-
16 pants who choose to participate. Participation
17 in such market shall not disallow Indian Tribes,
18 Native Hawaiian organizations, or qualifying
19 Tribal entities from participating in any other
20 auction forum, or hinder their participation in
21 secondary markets.

22 (B) PURPOSE.—In furtherance of the Fed-
23 eral trust responsibility, Tribal self-governance,
24 and to develop robust economic resources on
25 Tribal lands, the Commission shall make all un-

1 wanted spectrum over Tribal lands available to
2 other Indian Tribes, Native Hawaiian organiza-
3 tions, and qualifying Tribal entities through the
4 Tribal Spectrum Market and notify other In-
5 dian Tribes, Native Hawaiian organizations,
6 and interested qualifying Tribal entities identi-
7 fied under subsection (c) through adequate no-
8 tification processes established under this Act.
9 Participants identified under this subsection
10 must provide written consent to the Commis-
11 sion to make their unwanted spectrum over
12 Tribal lands available to other Indian Tribes,
13 Native Hawaiian organizations, or qualifying
14 Tribal entities through the Tribal Spectrum
15 Market.

16 (C) LIMITATIONS.—Participants that are
17 not identified under subsection (d)(2)(B) above
18 shall not be eligible to participate in the Tribal
19 Spectrum Market.

20 (e) UNDEFINED AREAS FOR DEVELOPMENT AND DE-
21 PLOYMENT OF TRIBAL BROADBAND, WIRELESS SERV-
22 ICES, AND SPECTRUM.—

23 (1) AREAS OF TRIBAL INTERESTS AND NON-
24 GEOGRAPHICALLY DEFINED AREAS.—The Commis-
25 sion shall initiate and complete a rulemaking pro-

1 ceeding to address unique land status on Tribal
2 lands and associated undefined geographic areas of
3 interest, including—

4 (A) spectrum that is not geographically de-
5 fined due to spectrum propagation characteris-
6 tics; and

7 (B) with respect to the build or divest
8 process under section 6(a), questions over con-
9 trol of meteorological spectrum licenses over
10 Tribal lands.

11 (2) PRIMARY TRIBAL AREAS OF INTEREST.—

12 The Commission shall initiate and complete a rule-
13 making proceeding to create licensing areas for In-
14 dian Tribes, Native Hawaiian organizations, and
15 qualifying Tribal entities to provide spectrum li-
16 censes covering areas that are primary Tribal areas
17 of interest, including noncontiguous land holdings,
18 small or uniquely situated Indian Tribes, and unde-
19 fined Tribal lands or undefined Hawaiian Home
20 Lands. Such proceeding shall also address deploy-
21 ment of digital services and other full use of spec-
22 trum over Tribal lands, including spectrum develop-
23 ment, infrastructure, and deployment of wireless
24 broadband service and other wireless services for

1 landless Indian Tribes or Native Hawaiian commu-
2 nities.

3 (3) INTERRELATIONSHIP OF SPECTRUM USAGE
4 ON TRIBAL LANDS AND CONTIGUOUS AREAS.—The
5 Commission shall initiate and complete a rulemaking
6 proceeding to review the interrelationship between
7 spectrum usage on Tribal lands and spectrum usage
8 in areas contiguous to Tribal lands, including—

9 (A) Indian Tribes', Native Hawaiian orga-
10 nizations', and qualifying Tribal entities' ability
11 to make wireless services available to Tribal
12 members who reside in areas just outside the
13 boundaries of Tribal lands; and

14 (B) interference issues with neighboring li-
15 censes.

16 (4) MILITARY, NATIONAL SECURITY, AND
17 INTERNATIONAL LAWS FOR SPECTRUM MANAGE-
18 MENT AND COORDINATION.—The Commission shall,
19 in consultation with the Secretary of Defense and
20 the Secretary of Commerce, initiate and complete a
21 rulemaking proceeding to develop a nationwide
22 framework for spectrum management and coordina-
23 tion that—

24 (A) addresses—

1 (i) the relationship of spectrum over
2 Tribal lands to spectrum used by the Fed-
3 eral Government, including the Depart-
4 ment of Defense; and

5 (ii) the relationship of spectrum over
6 Tribal lands to international laws and ne-
7 gotiations relating to the use of spectrum,
8 including international exclusion zones;
9 and

10 (B) provides for the requirements of this
11 Act relating to spectrum over Tribal lands to be
12 administered pursuant to existing policies and
13 procedures for spectrum management and co-
14 ordination.

15 (5) NEW BUILDOUT REQUIREMENTS FOR EX-
16 ISTING LICENSE HOLDERS.—In carrying out section
17 6(a) (relating to the build or divest process), the
18 Commission shall do the following:

19 (A) ADDITIONAL CONSTRUCTION REQUIRE-
20 MENTS FOR LARGE OR REMOTE TRIBAL
21 LANDS.—Where an existing third-party licensee
22 has satisfied the applicable construction re-
23 quirements for a license over Tribal lands, yet
24 the area that the license covers remains under-
25 served, the Commission shall initiate and com-

1 plete a rulemaking proceeding to determine an
2 additional construction requirement for the
3 Tribal lands of large, land-based Indian Tribes
4 to expedite service and immediate broadband
5 and telecommunications deployment or other
6 full use of spectrum over Tribal lands.

7 (B) ADDITIONAL TIMELINE CONSIDER-
8 ATIONS.—Subject to section 6(a), the Commis-
9 sion shall consider additional timelines on an ad
10 hoc basis through Tribal consultation with the
11 Indian Tribe or Native Hawaiian organization
12 in which the third-party licensee possesses a
13 valid spectrum license over Tribal lands. Con-
14 siderations of any modified timelines must be
15 made with the adequate consent of the Indian
16 Tribe or Native Hawaiian organization.

17 (6) SPECIFIC BANDS OF AVAILABLE SPECTRUM
18 OVER TRIBAL LANDS.—

19 (A) IN GENERAL.—The Commission shall
20 initiate and complete a rulemaking proceeding
21 to identify the licensed and unlicensed spectrum
22 bands that are available for deployment of serv-
23 ices over Tribal lands as defined under this Act,
24 including existing reservations, landless Indian
25 Tribes, noncontiguous land holdings, uniquely

1 situated Indian Tribes, and the Hawaiian Home
2 Lands.

3 (B) REQUIREMENTS.—In carrying out sub-
4 paragraph (A), the Commission shall—

5 (i) hold field hearings initiated with
6 adequate notice;

7 (ii) establish and make public specific
8 processes to identify available spectrum
9 bands over Tribal lands; and

10 (iii) submit an analytical report to
11 Congress to be made available to Indian
12 Tribes, Native Hawaiian organizations,
13 and associated Tribal entities identified
14 under subsection (c)(1).

15 (7) ADDITIONAL REVISION AND BUILDOUT RE-
16 QUIREMENTS TO EXPEDITE DEPLOYMENT OF WIRE-
17 LESS SERVICES.—

18 (A) IN GENERAL.—The Commission shall
19 initiate and complete a rulemaking proceeding
20 to establish expedited buildout requirements for
21 existing third-party licensees that hold a license
22 over Tribal lands. These new buildout require-
23 ments shall preempt buildout requirements es-
24 tablished before the date of the enactment of
25 this Act.

1 (B) PURPOSES.—The purpose of the estab-
2 lishment of these new buildout requirements is
3 not intended to revoke spectrum licenses from
4 third-party licensees, but to ensure that devel-
5 opment of telecommunications networks or
6 other full use of spectrum over Tribal lands is
7 expedited to deploy critical government services,
8 provide access to life-saving resources, and es-
9 tablish currently nonexistent communication for
10 national emergencies over Tribal lands to match
11 the average coverage rates for fixed broadband
12 services on non-Tribal lands or the nearest met-
13 ropolitan area.

14 (8) DEVELOPMENT OF RIGHTS-OF-WAY AND
15 BROADBAND DEPLOYMENT.—

16 (A) IN GENERAL.—In strict compliance
17 with Tribal consultation and notice procedures
18 established under subsection (c), the Commis-
19 sion shall, in conjunction with the Secretary of
20 the Interior or the heads of other participating
21 Federal agencies, initiate and complete a rule-
22 making proceeding to issue nonbinding, model
23 regulations for grants of rights-of-way over
24 Tribal lands for the potential development of
25 telecommunications infrastructure. If the Com-

1 mission, the Secretary of the Interior, or the
2 head of another participating Federal agency
3 initiates and completes an aforementioned rule-
4 making proceeding without pre-decisional, in-
5 formative, and transparent Tribal consultation,
6 as specified under subsection (c), it shall be in-
7 valid guidance considered nonbinding precedent
8 on any subsequent decisions.

9 (B) ISSUE AREAS TO BE INCLUDED.—Any
10 model regulations issued under subparagraph
11 (A) shall include analysis of right-of-way build-
12 out proposals and broadband deployment gen-
13 erally as it relates to Indian Tribes, Native Ha-
14 waiian organizations or communities, and Trib-
15 al lands, including the following:

16 (i) Permitting and review process gen-
17 erally, including land use permitting and
18 facilities siting.

19 (ii) Review processes and robust,
20 interactive guidelines in compliance with
21 the National Environmental Policy Act of
22 1969 (42 U.S.C. 4321 et seq.), including
23 small-cell infrastructure.

24 (iii) Review processes and guidelines
25 in compliance with division A of subtitle

1 III of title 54, United States Code (for-
2 merly known as the “National Historic
3 Preservation Act” (16 U.S.C. 470 et
4 seq.)), including small-cell infrastructure.

5 (iv) Potential damage to sacred sites
6 and heritage sites on or near Tribal lands.

7 (v) Additional considerations and
8 analysis for Indian Tribes, Native Hawai-
9 ian organizations, and Tribal lands with
10 respect to the impacts of expedited permit-
11 ting decisions and buildout requirements
12 for broadband projects or other future de-
13 velopment of telecommunications infra-
14 structure or spectrum development over
15 Tribal lands and deployment of new gen-
16 eration networks, with an emphasis on 5G
17 networks generally.

18 (vi) Procedural proposals on how to
19 best establish robust Tribal consultation
20 between Indian Tribes and Native Hawai-
21 ian organizations and the Commission, and
22 other associated Federal agencies, for the
23 development of optional rights-of-way for
24 broadband deployment, spectrum use or

1 development, or telecommunications infra-
2 structure.

3 **SEC. 9. TECHNICAL ASSISTANCE FOR SPECTRUM MANAGE-**
4 **MENT, CONTRACTUAL AGREEMENTS, AND**
5 **PROCEDURAL REQUIREMENTS.**

6 (a) SPECTRUM MANAGEMENT.—At the request of an
7 Indian Tribe, Native Hawaiian organization, or qualifying
8 Tribal entity, the Commission, acting through the Office
9 of Native Affairs and Policy, shall provide technical assist-
10 ance and guidance for the most efficient and effective use
11 of spectrum and spectrum management for the benefit of
12 the Indian Tribe, Native Hawaiian organization, or quali-
13 fying Tribal entity that submitted the request, including
14 deployment of wireless services or other full use of spec-
15 trum over Tribal lands. This technical assistance and
16 guidance shall include the following:

17 (1) Best practices for Indian Tribes, Native
18 Hawaiian organizations, and qualifying Tribal enti-
19 ties to secure access to spectrum and manage spec-
20 trum.

21 (2) How to best expedite the immediate deploy-
22 ment of broadband and telecommunications services
23 or other full use of spectrum over Tribal lands, in-
24 cluding support for—

1 (A) infrastructure development, fiber build-
2 out, adoption of digital literacy on Tribal lands,
3 and other related activities to ensure Indian
4 Tribes and Native Hawaiian organizations have
5 full access to resources for robust deployment
6 of broadband and telecommunications services
7 or other full use of spectrum over Tribal lands;

8 (B) assistance for procedures enumerated
9 under sections 5, 6, and 7; and

10 (C) participation in the Tribal Spectrum
11 Market and other spectrum programs managed
12 by the Commission.

13 (3) Coordination with other Federal agencies
14 for activities related to Tribal spectrum manage-
15 ment, deployment of wireless services, infrastructure
16 development, or other full use of spectrum over Trib-
17 al lands, or related activities, including coordinating
18 with all applicable agencies with available Federal
19 funding opportunities for which Indian Tribes, Na-
20 tive Hawaiian organizations, and qualifying Tribal
21 entities are eligible to apply to further support de-
22 ployment of broadband on Tribal lands.

23 (b) CONTRACTUAL AGREEMENTS AND NOTICE OF IN-
24 TENT REQUIREMENTS.—The Commission, acting through
25 the Office of Native Affairs and Policy, shall provide tech-

1 nical assistance and guidance to the Indian Tribe, Native
2 Hawaiian organization, and qualifying Tribal entity that
3 submitted the request on the activities under this Act, in-
4 cluding, but not limited to—

5 (1) contractual negotiations to assign or lease
6 spectrum to other Indian Tribes, Native Hawaiian
7 organizations, qualifying Tribal entities, or third-
8 party licensees, including general information relat-
9 ing to activities under section 5(b) (including the
10 fair market value of spectrum licenses, deployment
11 of telecommunications services, and penalties under
12 paragraph (3)(C)(ii) of such section) and participa-
13 tion in the Tribal Spectrum Market; and

14 (2) filing a Notice of Intent and associated pro-
15 cedures and timelines specified under section 6.

16 (c) WIRELESS BROADBAND DEPLOYMENT AND
17 ADOPTION.—

18 (1) IN GENERAL.—The Commission shall, act-
19 ing through the Office of Native Affairs and Policy
20 and at the request of an Indian Tribe, Native Ha-
21 waiian organization, or qualifying Tribal entity, pro-
22 vide technical assistance to apply for and participate
23 in the Tribal Broadband Fund, other universal serv-
24 ice support mechanisms, and the Tribal Spectrum
25 Market. Requests under this paragraph from Indian

1 Tribes, Native Hawaiian organizations, and quali-
2 fying Tribal entities shall receive priority where tele-
3 communications or wireless broadband services on
4 Tribal lands have either not been deployed or have
5 been inadequately deployed. This includes assistance
6 for associated backhaul, repairs to damaged infra-
7 structure, or new infrastructure to deploy wireless
8 broadband service.

9 (2) ADDITIONAL TECHNICAL ASSISTANCE.—In
10 addition to the technical assistance provided under
11 paragraph (1), the Commission shall provide further
12 technical assistance that includes training programs
13 and grant assistance to Indian Tribes, Native Ha-
14 waiian organizations, qualifying Tribal entities, the
15 Director of the Department of Hawaiian Home
16 Lands, inter-Tribal government organizations, and
17 universities and colleges with Tribal serving institu-
18 tions for the purpose of immediate deployment of
19 telecommunications or wireless broadband services,
20 infrastructure development over Tribal lands, and
21 related activities identified under this Act.

22 (d) DEPARTMENT OF THE INTERIOR, DEPARTMENT
23 OF COMMERCE, AND COMMISSION.—The Secretary of the
24 Interior, the Secretary of Commerce, and the Commission
25 shall provide technical assistance to Indian Tribes, Native

1 Hawaiian organizations, and qualifying Tribal entities
2 (and, if located on Tribal lands, to schools, libraries,
3 health care facilities, public safety entities, Tribal chapter
4 houses, community centers, government buildings of an
5 Indian Tribe, and locations where Tribal, State, and Fed-
6 eral elections and census activities are carried out) to re-
7 solve barriers to the deployment and adoption of wireless
8 broadband service and other services provided using spec-
9 trum, including—

10 (1) classes or other education related to com-
11 puter literacy;

12 (2) acquisition of computers and related hard-
13 ware and software;

14 (3) use of wireless broadband service and com-
15 puters for public safety and emergency communica-
16 tions services and interoperability;

17 (4) use of spectrum and wireless broadband
18 service and computers where Tribal, State, and Fed-
19 eral elections and census activities are carried out;

20 (5) use of spectrum and wireless broadband
21 service and computers to respond to public emer-
22 gencies, including health and biohazard threats and
23 natural disasters; and

24 (6) such other areas as the Commission, or rel-
25 evant Federal agencies that have a role conducting

1 activities on Tribal lands, determines to be advisable
2 to increase the deployment and adoption of wireless
3 broadband service and other services provided using
4 spectrum on Tribal lands, or where an Indian Tribe,
5 Native Hawaiian organization, or qualifying Tribal
6 entity holds a valid and active spectrum license.

7 (e) **ADDITIONAL REQUIREMENTS.**—Nothing under
8 this section should limit or supersede the Commission’s,
9 or other Federal agencies’, existing responsibilities or en-
10 gagement with Indian Tribes, Native Hawaiian organiza-
11 tions or communities, and qualifying Tribal entities.

12 **SEC. 10. ANNUAL REPORTING REQUIREMENTS.**

13 (a) **ANNUAL REPORT.**—Not later than 18 months
14 after the date of the enactment of this Act, and annually
15 thereafter, the Commission shall submit to Congress and
16 the Federal agencies specified in subsection (b) both a re-
17 port on the deployment of broadband and a spectrum li-
18 cense inventory over Tribal lands that include the fol-
19 lowing information:

20 (1) The Commission’s work with Indian Tribes,
21 Native Hawaiian organizations, qualifying Tribal en-
22 tities, and associated Tribal organizations, including
23 spectrum-related matters, and efforts to bolster
24 Tribal outreach through individual consultation,
25 funding access, expansion of access to broadband or

1 other full use of spectrum over Tribal lands, activi-
2 ties executed through the Office of Native Affairs
3 and Policy, rulemakings that have been executed re-
4 lated to such matters under this Act, and general
5 updates.

6 (2) The Commission's data collection on wheth-
7 er spectrum license and auction applicants and exist-
8 ing spectrum license holders over Tribal lands are ei-
9 ther Indian Tribes, Native Hawaiian organizations,
10 qualifying Tribal entities, or third-party licensees.
11 The Commission shall implement a requirement to
12 record the ownership classification of all future spec-
13 trum licenses and new agreements established under
14 section 5(b).

15 (3) A verification that the Commission has pro-
16 vided information about assigned and unassigned li-
17 censes and license holders to the Indian Tribe, Na-
18 tive Hawaiian organization, or qualifying Tribal en-
19 tity where the licenses are geographically located, in-
20 cluding a detailed description of the licenses, license
21 holders, and the Indian Tribe, Native Hawaiian or-
22 ganization, or qualifying Tribal entity to which the
23 information was provided.

24 (4) Verification that the Commission has made
25 contact information easily accessible for Indian

1 Tribes, Native Hawaiian organizations, and quali-
2 fying Tribal entities about participation in any op-
3 portunities to operate spectrum licenses over Tribal
4 lands, secondary market opportunities, and the re-
5 spective processes.

6 (5) Geographic locations on Tribal lands where
7 broadband or wireless telecommunications services
8 have not been built out or deployed.

9 (6) Recommendations on how the Commission
10 will support Indian Tribes, Native Hawaiian organi-
11 zations, and qualifying Tribal entities to obtain spec-
12 trum licenses and further deploy broadband
13 connectivity and other wireless telecommunications
14 services over Tribal lands where networks have not
15 been developed.

16 (7) Publication of available Federal funding
17 across all agencies for which Indian Tribes, Native
18 Hawaiian organizations, and qualifying Tribal enti-
19 ties are eligible to apply to further support deploy-
20 ment of broadband and telecommunications services
21 on Tribal lands.

22 (b) SUBMISSION OF RECOMMENDATIONS.—Not later
23 than 18 months after the date of the enactment of this
24 Act, the Commission shall make publicly available and

1 submit all annual reporting and recommendations devel-
2 oped under subsection (a) to—

3 (1) Indian Tribes, Department of Hawaiian
4 Home Lands, and Native Hawaiian organizations;

5 (2) the Department of the Interior;

6 (3) the Committee on Indian Affairs of the Sen-
7 ate;

8 (4) the Committee on Natural Resources of the
9 House of Representatives;

10 (5) the Committee on Commerce, Science, and
11 Transportation of the Senate;

12 (6) the Committee on Energy and Commerce of
13 the House of Representatives;

14 (7) the FCC Native Nations Communications
15 Task Force;

16 (8) Tribal organizations with telecommuni-
17 cations expertise; and

18 (9) requesting qualifying Tribal entities.

19 **SEC. 11. DEFINITIONS.**

20 In this Act:

21 (1) **ADVISORY AGENCY MEMORANDUM.**—The
22 term “advisory agency memorandum” means docu-
23 mentation to be produced by the Commission after
24 each Tribal consultation, prior to the development of
25 Commission policy, or execution of Commission ac-

1 tion that impacts Tribal interests or Tribal lands.
2 The purpose of such documentation is to make avail-
3 able to the public documentation of the proactive
4 measures of the Commission to provide proper notice
5 and guidance, introduce policy proposals, provide ro-
6 bust outreach, and make government-to-government
7 training and communication accessible to Indian
8 Tribes, Department of Hawaiian Home Lands, and
9 interested Native Hawaiian organizations to preserve
10 existing Tribal resources and further develop Tribal
11 interests on Federal lands in furtherance of the
12 trust responsibility. Such documentation shall estab-
13 lish the scope, purpose, timelines, relevant Bureaus
14 and Offices of the Commission, and relevant Com-
15 mission actor for each Tribal consultation. Such doc-
16 umentation shall include the method for dissemi-
17 nating information to the public, and the dates and
18 method of outreach to the relevant Indian Tribes,
19 Native Hawaiian organizations, and interested quali-
20 fying Tribal entities.

21 (2) COMMISSION.—The term “Commission”
22 means the Federal Communications Commission.

23 (3) CRITICAL GOVERNMENT SERVICE.—The
24 term “critical government service” means any serv-
25 ice provided by an Indian Tribe or Native Hawaiian

1 organization, or Department of Hawaiian Home
2 Lands, or through an extension or qualifying Tribal
3 entity of an Indian Tribe, that is used to—

4 (A) preserve or protect Tribal self-govern-
5 ance;

6 (B) control internal relations;

7 (C) create economic development and the
8 opportunity for residents of Tribal lands, In-
9 dian Tribes, Native Hawaiian organizations,
10 and qualifying Tribal entities to engage in the
11 broadband economy, telecommunications mar-
12 kets, and future development of spectrum;

13 (D) regulate Tribal lands and internal do-
14 mestic relations; or

15 (E) manage governmental services, build-
16 ings, or emergency response, including—

17 (i) response to national emergencies
18 or biohazard threats;

19 (ii) public safety;

20 (iii) education;

21 (iv) healthcare services and data;

22 (v) development of natural resources;

23 (vi) postal services;

24 (vii) Tribal buildings (including librar-
25 ies, Tribal chapter houses, long houses,

1 senior centers, community centers, and
2 other similar government buildings of an
3 Indian Tribe or Native Hawaiian organiza-
4 tion with community purpose);

5 (viii) cultural and language preserva-
6 tion;

7 (ix) voting and services relating to
8 voting in Tribal, State, and Federal elec-
9 tions;

10 (x) services relating to the Federal
11 census count, for the general welfare and
12 sustainability of its Tribal lands or mem-
13 bership, and realization of full autonomy of
14 resource management and economic devel-
15 opment, activity, and opportunity; or

16 (xi) additional essential governmental
17 services, including infrastructure and eco-
18 nomic development, that provide support to
19 an Indian Tribe's programs and services.

20 (4) DIGITAL LITERACY.—The term “digital lit-
21 eracy” means information and communications for
22 the purpose of developing support for technological
23 deployment and understanding of issues including
24 infrastructure deployment, fiber buildout, network
25 connectivity, spectrum market opportunities, associ-

1 ated Commission programs and funding opportuni-
2 ties, and other related resources to expedite the im-
3 mediate deployment and full access to telecommuni-
4 cations, broadband, spectrum, and wireless services
5 available for effective and efficient use on Tribal
6 lands.

7 (5) HAWAIIAN HOME LANDS.—The term “Ha-
8 waiian Home Lands” means lands held in trust for
9 Native Hawaiians by Hawaii pursuant to the Hawai-
10 ian Homes Commission Act, 1920.

11 (6) INDIAN TRIBE.—The term “Indian Tribe”
12 means the governing body of any individually identi-
13 fied and federally recognized Indian or Alaska Na-
14 tive Tribe, band, nation, pueblo, village, community,
15 affiliated Tribal group, or component reservation in
16 the list published pursuant to section 104(a) of the
17 Federally Recognized Indian Tribe List Act of 1994
18 (25 U.S.C. 5131(a)).

19 (7) NATIVE HAWAIIAN ORGANIZATION.—The
20 term “Native Hawaiian organization”—

21 (A) means any organization—

22 (i) that serves the best interests of
23 Native Hawaiians;

24 (ii) in which Native Hawaiians serve
25 in substantive and policymaking positions;

1 (iii) that has as a primary and stated
2 purpose the provision of services to Native
3 Hawaiians;

4 (iv) that is recognized for having ex-
5 pertise in Native Hawaiian affairs, includ-
6 ing digital connectivity and broadband ac-
7 cess; and

8 (v) that administers land applicable
9 under paragraph (13); and

10 (B) includes the Department of Hawaiian
11 Home Lands.

12 (8) QUALIFYING TRIBAL ENTITY.—The term
13 “qualifying Tribal entity” means an entity des-
14 ignated by the Indian Tribe with jurisdiction over
15 particular Tribal lands for which the spectrum ac-
16 cess is sought. The following may be designated as
17 a “qualifying Tribal entity”:

18 (A) Indian Tribes.

19 (B) Tribal consortia which consists of two
20 or more Indian Tribes; or an Indian Tribe and
21 an entity that is more than 50 percent owned
22 and controlled by one or more Indian Tribes.

23 (C) Federally chartered Tribal corpora-
24 tions created under section 17 of the Indian Re-
25 organization Act (25 U.S.C. 5124), and created

1 under section 4 of the Oklahoma Indian Wel-
2 fare Act (25 U.S.C. 5204).

3 (D) Entities that are more than 50 percent
4 owned and controlled by an Indian Tribe or In-
5 dian Tribes.

6 (9) ENTITY THAT IS MORE THAN 50 PERCENT
7 OWNED AND CONTROLLED BY ONE OR MORE INDIAN
8 TRIBES.—The term “entity that is more than 50
9 percent owned and controlled by one or more Indian
10 Tribes” means an entity over which one or more In-
11 dian Tribes have both de facto and de jure control
12 of the entity. De jure control of the entity is evi-
13 denced by ownership of greater than 50 percent of
14 the voting stock of a corporation, or in the case of
15 a partnership, general partnership interests. De
16 facto control of an entity is determined on a case-
17 by-case basis. An Indian Tribe or Indian Tribes
18 must demonstrate indicia of control to establish that
19 such Indian Tribe or Indian Tribes retain de facto
20 control of the applicant seeking eligibility as a
21 “qualifying Tribal entity”, including the following:

22 (A) The Indian Tribe or Indian Tribes
23 constitute or appoint more than 50 percent of
24 the board of directors or management com-
25 mittee of the entity.

1 (B) The Indian Tribe or Indian Tribes
2 have authority to appoint, promote, demote,
3 and fire senior executives who control the day-
4 to-day activities of the entity.

5 (C) The Indian Tribe or Indian Tribes
6 play an integral role in the management deci-
7 sions of the entity.

8 (D) The Indian Tribe or Indian Tribes
9 have the authority to make decisions or other-
10 wise engage in practices or activities that deter-
11 mine or significantly influence—

12 (i) the nature or types of services of-
13 ferred by such an entity;

14 (ii) the terms upon which such serv-
15 ices are offered; or

16 (iii) the prices charged for such serv-
17 ices.

18 (10) SPECTRUM OVER TRIBAL LANDS.—The
19 term “spectrum over Tribal lands” means all spec-
20 trum on Tribal lands, including wireless, radio, tele-
21 vision, broadcast, commercial and noncommercial
22 uses, and current generation or better wireless
23 broadband services.

24 (11) THIRD-PARTY LICENSEE.—The term
25 “third-party licensee” means a third party or quali-

1 fying Tribal entity that possesses valid spectrum li-
2 cense rights over Tribal lands, or an eligible third-
3 party licensee that an Indian Tribe or Native Ha-
4 waiian organization chooses to negotiate spectrum li-
5 censes for telecommunications services for the
6 agreed-upon time period of the license contract on
7 the specified geographic area on Tribal lands where
8 it must meet its construction obligation or require-
9 ments.

10 (12) TRIBAL BROADBAND FUND.—The term
11 “Tribal Broadband Fund” means the additional uni-
12 versal service support mechanism established by the
13 Commission under section 7 to provide Federal
14 funding to Indian Tribes, Native Hawaiian organiza-
15 tions, and qualifying Tribal entities from universal
16 service contributions, auctions proceeds, or any other
17 accounts or reserve funds available to the Commis-
18 sion, for the purpose of providing a source of sup-
19 port for infrastructure deployment, “middle mile”
20 and long haul fiber buildout, adoption of digital lit-
21 eracy, and other related resources to expedite the
22 immediate deployment of and full access to tele-
23 communications, broadband, spectrum use and fu-
24 ture development, wireless services (including wire-
25 less broadband service), and other purposes specified

1 under section 7 for effective and efficient use on
2 Tribal lands.

3 (13) TRIBAL LANDS.—The term “Tribal lands”
4 has the meaning given that term in section 73.7000
5 of title 47, Code of Federal Regulations, as of April
6 16, 2020, and includes the definition “Indian Coun-
7 try” as defined in section 1151 of title 18, United
8 States Code, and includes fee simple and restricted
9 fee land held by an Indian Tribe. This term also in-
10 cludes the definition “Hawaiian Home Lands” as
11 defined under paragraph (5).

12 (14) WIRELESS BROADBAND SERVICE.—The
13 term “wireless broadband service” means wireless
14 broadband internet access service that is delivered—

15 (A) with a download speed of not less than
16 25 megabits per second and an upload speed of
17 not less than 3 megabits per second; and

18 (B) through—

19 (i) mobile service;

20 (ii) fixed point-to-point multipoint
21 service;

22 (iii) fixed point-to-point service; or

23 (iv) broadcast service.

○