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 HOUSE OF REPRESENTATIVES
JULY 24, 2020

Ms. HAALAND introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Deploying the Internet by Guaranteeing Indian Tribes Autonomy over Licensing on Reservations Act” or the “DIGITAL Reservations Act”.

SEC. 2. TABLE OF CONTENTS.

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.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

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

(2) This longstanding precedent established territorial sovereignty through distinct and separate jurisdictions in which Indian Tribes retain their sovereign power to control their internal relations and protect Tribal self-governance within designated Tribal lands or reservations.

(3) Tribal lands were established during the “Allotment” or “Reservation” era of Federal Indian law and policy (1871–1928) when the Federal Government significantly narrowed the control and rights of Indian Tribes through the unilateral acquisition of Tribal lands and resources, then subsequently gave the rights to this property to non-Indian settlers.

(4) Under the General Allotment Act of 1887, Tribal members were forced to surrender their previously undivided interest in Tribally owned trust estate for individually assigned land interests creating permanently divided land allotments on Tribal lands, and further coercing Native Americans into assimilation and dependency on the Federal Government, thus depriving them of their traditional economies.
(5) Congress has acknowledged that this Reservation Era policy is widely known as failed Federal policy that established individual non-Indian land holdings on reservations resulting in checkerboarded Tribal lands that cause complex jurisdictional and legal complications today.

(6) In response to these failed, paternalistic Federal assimilation policies, forced acquisition of indigenous lands, and genocide of Native Americans, the United States has recognized the unique legal relationship and trust responsibility it has with American Indians, Alaska Natives, and Native Hawaiians to promote their self-determination and sovereignty in furtherance of its treaty obligations and longstanding government-to-government relationship.

(7) Congressional authority to manage this unique government-to-government relationship with Native nations and Indian affairs generally is recognized as plenary; constitutionally vested congressional authority to regulate commerce and govern activities with Indian Tribes, which is distinct and separate from executive and judicial branch powers.

(8) The Federal Government’s trust responsibility with Indian Tribes extends to all governmental branches requiring the United States to uphold its
fiduciary duties of care and loyalty, to make trust
property income productive, to enforce reasonable
claims on behalf of Native Americans, and to take
affirmative action to preserve trust property, for the
benefit of American Indians and Alaska Natives,
and Native Hawaiians as part of this Federal-Tribal
relationship and Tribal self-governance.

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

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

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

(12) Further, a 2020 GAO report repeatedly
stated that “spectrum is a finite natural resource
used to provide a variety of communication services”
to governmental entities.

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

(14) To date, the Commission has failed to im-
plement nationwide spectrum opportunities or uni-
form licensing for Indian Tribes and Native Hawai-
ian organizations to make spectrum available over
their Tribal lands or account for the unmet needs of
native Nations in compliance with the Federal trust
responsibility.
(15) To the contrary, the FCC has used its general authority to regulate for-profit commercial use of spectrum over Tribal lands to assign Indian Tribes’ spectrum licenses to non-Indian companies through privatized auctions, by promulgating regulations for licensed and unlicensed spectrum over Tribal lands, and by conducting oversight over secondary market transactions, including leasing spectrum licenses over Tribal lands and Hawaiian Home Lands to private companies without Tribal consultation or consent.

(16) The Commission’s actions parallel failed Federal Reservation Era policy that divided Indian land holdings and created systemic barriers to Indian Tribes’ economic development and legal jurisdictional complications on Tribal lands that continue to disadvantage Tribal communities today.

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

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

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

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

(21) In 2018, the Government Accountability Office (GAO) and the Federal Communications Commission (FCC) reported that over 92 percent of people living outside of Tribal lands and Hawaiian Home Lands have access to fixed broadband services, and 98 percent of American households have telephone services. However, only 65 percent of American Indians, Alaska Natives, and Native Hawaiians living on Tribal lands and Hawaiian Home Lands have access to fixed broadband services, and only 69 percent of households on Tribal lands have telephone services.

(22) Lack of Indian Tribes’ access to spectrum over their Tribal lands during the COVID–19 pandemic also highlighted Indian Country’s expanding digital divide, as supported by the GAO’s finding that health information technology systems at the Indian Health Service (IHS) rank as the Federal Government’s third-highest need for agency system modernization since 50 percent of IHS facilities depend on outdated circuit connections based on one or two T1 circuit lines (3 Mbps), creating slower re-
response times than any other health facility system in the country.

(23) A 2018 National Congress of American Indians and National Indian Health Board health reform comment filed with the Federal Communications Commission has further stated that 75 percent of rural Indian Health Service (IHS) facilities do not have reliable broadband networks for American Indians and Alaska Natives to access telehealth-based services, which is a critical need in the most geographically isolated areas of the United States with some of the highest poverty rates, and lack of access to reliable transportation.

(24) Additionally, IHS officials reported during the COVID–19 pandemic that deficiencies within their health IT system inhibited the agency’s ability to adequately conduct coronavirus disease surveillance and record accurate data contributing to the disproportional rates of coronavirus transmissions on reservations.

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

(26) As an additional barrier, no dedicated Federal funding streams exist for Indian Tribes or Native Hawaiian organizations to deploy telecommunications or broadband services, both wireline and wireless, on Tribal lands and Hawaiian Home Lands. In 2018, the GAO found that the FCC and Department of Agriculture’s combined total of $34,600,000,000 was available for broadband services and infrastructure; however, from 2010 to 2017, only 0.7 percent was allocated to Tribal telecommunications deployment.

(27) It is estimated that only 0.3 percent of the 13,000 radio facilities in the country belong to federally recognized Indian Tribes, indicating a severe lack of Tribal ownership of telecommunications services generally.

(28) Indian Tribes’ and Native Hawaiian organizations’ longstanding funding and administrative barriers to access spectrum over Tribal lands and Hawaiian Home Lands prohibits their self-governance and further exacerbate rates of unemployment, systemic poverty, health disparities, connection to the global market, educational and economic oppor-
tunities, unnecessary loss of lives, and unknown future disparities resulting from the absence of indigenous representation in the modernization of the digital sector, coding, general advancement of technological services and platforms, and Native ownership in the telecommunications industry.

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

(1) to clarify Indian Tribes’ and Native Hawaiian organizations’ inherent ownership of, and preserve, Indian Tribes’ spectrum licenses and spectrum over Tribal lands and Hawaiian Home Lands in furtherance of the trust responsibility and acknowledgment of sovereign status in the United States;

(2) to diminish the effect of the Commission’s Tribal priority filing windows, auctions for spectrum licenses over Tribal lands, and assignment and leasing of spectrum over Tribal lands; ensure the Commission’s competitive bidding authority does not apply to licenses or construction permits issued by the Commission over Tribal lands and Hawaiian Home Lands; and permanently eliminate the public availability of spectrum over Tribal lands and Hawaiian Home Lands;

(3) to ensure the Commission requires all unused and unassigned spectrum licenses over Tribal
lands and Hawaiian Home Lands to revert to the
ownership of the Indian Tribe and Native Hawaiian
organization where they are geographically located in
furtherance of prioritizing their ownership of spec-
trum over Tribal lands and Hawaiian Home Lands
as part of their inherent self-governance, and expe-
dite the immediate deployment of wireless services
for critical government services, including national
emergencies, natural disasters, and biohazard
threats, access to health, public safety services, edu-
cational opportunities, ability to participate in the
broadband economy, access to Federal, State, and
Tribal voting and elections, and the Federal census
count;

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

(5) to ensure Indian Tribes and Native Hawai-
ian organizations have resources available for the
full retention and immediate deployment of their
spectrum over Tribal lands and Hawaiian Home
Lands for wireless broadband service and tele-
communications services, including all commercial, noncommercial, mobile, radio, television, broadcast, “middle mile” and long haul fiber, and future spectrum licenses, infrastructure, and interconnectivity services that are within the jurisdiction of their respective Tribal lands and Hawaiian Home Lands;

(6) to encourage Indian Tribes and Native Hawaiian organizations to immediately develop and deploy spectrum services over their lands, especially broadband and wireless services, to bridge the increasing digital divide over Tribal lands for the realization of full self-governance and autonomy through access to critical government services, resources for national emergencies, economic development, and management of resources;

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

(8) to require the Commission to initiate and complete the rulemaking process with robust, interactive, pre-decisional, informative, and transparent consultation with Indian Tribes and Native Hawaiian organizations in order for them to obtain free,
prior, and informed consent before the approval and
adoption of administrative measures or agency ac-
tion that affects Tribal lands, or other associated
Tribal resources, especially where telecommuni-
cations processes and associated information are un-
clear, unreported, or inadequate to meet the needs
of Indian Tribes and Native Hawaiian organizations
to preserve spectrum rights over Tribal lands and
Hawaiian Home Lands, establish the Tribal
Broadband Fund, and build out robust digital net-
works on Tribal lands so their members can access
digital services at rates proportional to non-Indians
living off Tribal lands; and

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

SEC. 4. INDIAN TRIBES’ AND NATIVE HAWAIIAN ORGANIZA-
TIONS’ EXCLUSIVE RIGHT TO ALL AVAILABLE
OR UNLICENSED ELECTROMAGNETIC SPEC-
TRUM OVER TRIBAL LANDS.

Indian Tribes and Native Hawaiian organizations
hold rights into perpetuity to use and manage all available
or unlicensed electromagnetic spectrum over Tribal lands.
SEC. 5. ACCESS TO SPECTRUM OVER TRIBAL LANDS.

(a) Elimination of All Auctions, Tribal Priority Filing Windows, Secondary Market Opportunities, and Competitive Bidding for Spectrum Over Tribal Lands.—

(1) Auctions of Indian tribes' spectrum licenses and spectrum over Tribal lands.—Any spectrum licenses over Tribal lands for any purpose shall not be subject to any Tribal auctions executed by the Commission.

(2) Tribal priority filing windows.—No licenses over any Tribal lands for the use of spectrum over Tribal lands shall be subject to any Tribal priority filing windows or auctions executed by the Commission.

(3) Secondary market opportunities.—No spectrum licenses over Tribal lands shall be subject to any secondary market opportunities or post-market opportunities, including license partitioning, spectrum leasing, or assignment to any third party or other entity.

(4) Competitive bidding.—Spectrum licenses over Tribal lands shall not be subject to competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) from the date of the enactment of this Act.
(b) Establishment of New Contractual Agreements for Tribal Spectrum.—

(1) In general.—At the discretion of an Indian Tribe or Native Hawaiian organization, after the date of the enactment of this Act, new contracts may be established with third-party licensees, qualifying Tribal entities, or other Indian Tribes or Native Hawaiian organizations to assign or lease spectrum over the Indian Tribe’s or Native Hawaiian organization’s respective Tribal lands.

(2) Terms and conditions.—At the request of an Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity, the Commission shall ensure that any new contracts entered into from the date of the enactment of this Act must ensure that the Indian Tribe or Native Hawaiian organization retains permanent spectrum rights over the Tribal lands where the spectrum is located. The associated terms and duration of any contract to assign or lease an Indian Tribe’s or Native Hawaiian organization’s spectrum to a qualifying Tribal entity, third-party licensee, or other Indian Tribe or Native Hawaiian organization must meet the following minimum requirements and conditions to implement a valid contract for spectrum use over Tribal lands:
(A) If an agreement is reached, all parties involved must execute a written agreement that sets forth the terms and conditions of the agreement.

(B) Fair market value of the spectrum license or deployment of telecommunications or wireless services must be negotiated in good faith.

(C) Rates must be calculated subject to inflation costs for the time duration specified under the agreement.

(D) Negotiations must be entered into and conducted in good faith, requiring that an Indian Tribe, Native Hawaiian organization, qualifying Tribal entity, or third-party licensee responding to an offer proposed by the requesting party must provide reasons for each rejection of a negotiated offer in writing.

(E) The party entering into contract negotiations with the Indian Tribe or Native Hawaiian organization must have the financial capacity to fulfill its requirement to deploy transactional services on the Tribal lands where the spectrum licenses are located and the ability to meet its construction requirements.
(3) LIMITATIONS.—

(A) SUBLEASING.—Any qualifying Tribal entity, Native Hawaiian organization, other Indian Tribe, or third-party licensee who does not receive the written consent from the Indian Tribe or Native Hawaiian organization where the spectrum is geographically located is barred from subleasing, assigning, or subcontracting the spectrum licenses over Tribal lands. If this is breached, such spectrum licenses shall automatically revert to the Indian Tribe or Native Hawaiian organization for new negotiations and the existing contract shall be deemed terminated.

(B) DURATION.—A contract to assign or lease spectrum licenses to be operated over Tribal lands between the Indian Tribe, Native Hawaiian organization, qualifying Tribal entity, or third-party licensee may not extend past a 5-year time period, after which the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity may review the negotiated terms with the third-party licensee and choose to either—
(i) terminate the contract or assign-
ment of such spectrum licenses, which
shall automatically revert to the Indian
Tribe where such spectrum licenses are
geographically located;

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

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

(C) TERMINATION.—

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

(ii) PENALTIES.—Penalties for breach
of contractual agreements or premature
termination of a contract shall be enforced
by imposing a fine of 5 percent of the
gross amount incurred, or projected amount to be incurred, from the negotiated rate of the spectrum licenses by the breaching party, to be assessed by the Commission and available as a source of funds for the Tribal Broadband Fund.

(iii) Egregious behavior or lack of good faith.—If the breaching party participates in egregious behavior, or a clear showing is made that a party failed to negotiate contractual terms in good faith, it shall be subject to a 5-year penalty prohibiting the party from participating in any contract for spectrum licenses over Tribal lands, participation in the Tribal Spectrum Market, or additional penalties that the Commission sees fit to protect Indian Tribes’ or Native Hawaiian organizations’ telecommunications resources. In the case of a breaching party that is an Indian Tribe or Native Hawaiian organization, the penalty under this clause shall not apply with respect to spectrum over its Tribal lands of such Indian Tribe or Native Hawaiian community.
(4) ADDITIONAL REQUIREMENTS.—This section is subject to additional requirements or other terms and conditions as the Commission determines necessary to protect the interests of the Indian Tribe and Native Hawaiian community, or as determined necessary through subsequent rulemaking subject to the Tribal consultation requirements under section 8(c).

SEC. 6. EXISTING SPECTRUM LICENSES AND SPECTRUM OVER TRIBAL LANDS.

(a) BUILD OR DIVEST PROCESS FOR EXISTING SPECTRUM LICENSES AND SPECTRUM OVER TRIBAL LANDS.—

(1) INITIATION.—An Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity may initiate the build or divest process for an existing third-party licensee that held spectrum license rights for spectrum over Tribal lands of the Indian Tribe or Native Hawaiian organization as of the date of the enactment of this Act in a geographic area where that existing third-party licensee has satisfied the applicable construction requirements for the spectrum licenses over Tribal lands, yet has not built out to the undeveloped, unserved, or underserved Tribal lands within its license area as of the date of the enactment of this Act.
(2) Process.—The Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity where the spectrum over Tribal lands is located may file a Notice of Intent with the Commission to initiate the build or divest process to expedite reversion of the third-party licensee spectrum license rights over the aforementioned Tribal lands to make available the unused or unneeded license rights to the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity. The Notice of Intent requires the Commission—

(A) to include written notification to the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity of the date on which third-party licensee’s notice of construction permit fulfillment was filed with the Commission demonstrating that the third-party licensee satisfied its final construction requirement for the license where the underserved Tribal lands are located;

(B) if the third-party licensee has met applicable construction requirements but Tribal lands within the spectrum license remain unserved or underdeveloped after the Indian Tribe, Native Hawaiian organization, or quali-
fying Tribal entity files the Notice of Intent, to terminate the third-party licensee’s rights over such Tribal lands after a 1-year time period, with such spectrum licenses reverting back to the Indian Tribe or Native Hawaiian organization in perpetuity where the Tribal lands are located; and

(C) to permit the third-party licensee to opt out of the build or divest process, after the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity has filed the Notice of Intent, by partitioning or relinquishing its spectrum license to the Commission, which shall subsequently relicense the spectrum licenses over the Tribal lands in perpetuity to the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity, pursuant to this Act and the requirements pursuant to the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(3) CONSTRUCTION REQUIREMENT.—If the existing third-party licensee has not satisfied the applicable construction requirements for the spectrum for which it holds licenses over Tribal lands on the date on which the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity files the Notice of
Intent, the spectrum license rights over Tribal lands where the spectrum is located will automatically be made available to the Indian Tribe or Native Hawaiian organization.

(4) Expiration.—The license of any third-party licensee that has failed to extend coverage on the underserved Tribal lands from 1 year from the date that the Commission accepted the third-party licensee’s notice of construction permit fulfillment to the date of the enactment of this Act shall immediately expire, including all rights to the spectrum licenses. The Commission shall then immediately reassign the spectrum licenses for the Tribal lands so that the licenses shall immediately revert to the Indian Tribe or Native Hawaiian organization where the spectrum is geographically located.

(5) Additional construction requirements.—The applicable construction requirements above are subject to any additional construction requirements determined by the Commission applicable to Tribal lands after the date of the enactment of this Act.

(6) Additional considerations.—

(A) Expedited process.—
(i) IN GENERAL.—The Commission may make additional considerations to expedite the build or divest process prior to the 1-year expiration period where the geographic coverage area of the spectrum license on Tribal lands is under duress to deploy broadband or telecommunications services or for the purpose of access to life-saving services, critical government services, national or State emergencies, natural disasters, or in other circumstances where deemed appropriate.

(ii) CRITICAL GOVERNMENT SERVICES, NATIONAL EMERGENCIES, AND NATURAL DISASTERS.—Congress, Secretary of the Interior, or another executive branch office or agency that is delegated authority over Indian affairs or oversees programs impacting Indian Tribes may also request that the Commission make additional considerations to expedite the build or divest process on Tribal lands where the coverage area of the spectrum license is under duress to expedite deployment of services.
(iii) DURESS.—For purposes of this subparagraph, a geographic area on Tribal lands that is considered to be under duress shall include an area on Tribal lands where there has been a substantial loss of or existing threat to human life, the Federal Government or State government has declared an emergency, a natural disaster has occurred or will occur, or there is a need for critical government services.

(B) LONGER TIMELINES.—Other timelines shall be considered to elongate the timeline to the 1-year expiration period with the consent of the Indian Tribe or Native Hawaiian organization where a longer time period is needed for special geographic or population needs. The Commission shall consider additional timelines on an ad hoc basis through consultation with the Indian Tribe or Native Hawaiian organization over the Tribal lands of which the third-party licensee possesses a valid spectrum license. Considerations of any modified timelines must be made with the written consent of the Indian Tribe or Native Hawaiian organization.
(C) Other additional considerations.—Additional considerations may be made by the Commission where existing technical rules are insufficient or circumstances are present to unnecessarily restrict types of services that may be deployed within the Tribal lands with the consent of the Indian Tribe or Native Hawaiian organization.

(D) Additional rulemaking proceedings.—The Commission shall, at the request of Indian Tribes or Native Hawaiian organizations, conduct specific rulemaking proceedings where service-specific technical issues arise under this subsection.

(b) Failure to negotiate in good faith for existing spectrum licenses and spectrum over Tribal lands.—

(1) Opportunity to secure access.—Where third-party spectrum licenses have been authorized and the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity can show that the third-party licensee entered into negotiations or auctions or secured assignment of an existing spectrum license over Tribal lands in bad faith, the Indian Tribe, Native Hawaiian organization, or qualifying
Tribal entity shall have an opportunity to secure the Indian Tribe’s or Native Hawaiian organization’s access to such spectrum licenses.

(2) Process.—The Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity where the spectrum is located may file a Notice of Intent with the Commission to initiate the failure to negotiate in good faith exemption process under this subsection to expedite reversion of the spectrum license rights over Tribal lands and make available the spectrum license rights to the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity over the Tribal lands or Hawaiian Homelands where it is located such spectrum license rights to such Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity.

(3) Timing.—The Notice of Intent can be filed at any time during the license term, provided that the filing Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity can demonstrate that the third-party licensee failed to negotiate in good faith in previous dealings before the filing of the Notice of Intent.

(4) Standard.—An Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity may
demonstrate the third-party licensee failed to meet the good faith negotiation requirement through the totality of the circumstances standard in presenting the case of the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity to the Commission. In demonstrating that the third-party licensee negotiated in bad faith, the Commission shall evaluate whether the negotiations were made in good faith through the totality of the circumstances standard.

(5) Good Faith Negotiation Requirement

FACTORS.—The relevant factors to determine whether the third-party licensee failed to negotiate in good faith are to include the following objective elements of negotiation standards:

(A) The third-party licensee must have appointed a negotiating representative with authority to bargain on partitioning and spectrum licensing issues.

(B) The third-party licensee must have agreed to meet at reasonable times and locations with adequate notice.

(C) The third-party licensee must not have acted in a manner that would unduly delay the course of negotiations.
(D) The third-party licensee must not have put forth an unreasonable, unilateral proposal or further demonstrated an unwillingness to consider alternative reasonable terms or counterproposals. Bargaining without consideration of reasonable alternatives is inconsistent with an affirmative obligation to negotiate in good faith.

(E) The third-party licensee must have showed good faith in negotiations through implementing or concluding action within a reasonable time period with reasonable notice and forum requests that are standard for negotiating practices. This standard is also applicable to any proposed forum requests by either party. Indian Tribes, Native Hawaiian organizations, and qualifying Tribal entities availing themselves of this process can also make a showing that the third-party licensee had reasonable notice or understanding that the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity did not have the financial means to fulfill the third-party licensee’s expedited timing or change of forum requests or that ex-
tenuating circumstances existed that prohibited reasonable conduct to execute negotiations.

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

(6) ADDITIONAL CONSIDERATIONS.—The Commission may make additional considerations for unreasonable behavior or egregious behavior for the totality of the circumstances standard under this subsection to determine whether a party negotiated in bad faith.

(c) SAFE HARBOR EXEMPTION FOR EXISTING THIRD-PARTY LICENSEES.—Where a third-party licensee that holds a license to use spectrum over Tribal lands and has failed to meet additional construction requirements determined by the Commission under section 6(a)(5), a safe harbor exemption may apply to the third-party licensee, if such licensee has deployed coverage to at least 90 percent of the geographic area over the Tribal lands within its license coverage area.
SEC. 7. TRIBAL BROADBAND FUND.

(a) IN GENERAL.—The Commission shall establish, as an additional universal service support mechanism under section 254 of the Communications Act of 1934 (47 U.S.C. 254), a mechanism to be known as the “Tribal Broadband Fund”. The Tribal Broadband Fund shall provide a source of funds for networks and infrastructure buildout over Tribal lands, including support for infrastructure deployment, “middle mile” and long haul fiber buildout, adoption of digital literacy on Tribal lands, and other related activities to ensure Tribal lands have full access to high-speed wireless broadband services and telecommunications services and other spectrum use.

(b) SOURCES OF FUNDING.—In addition to universal service contributions under section 254(d) of the Communications Act of 1934 (47 U.S.C. 254(d)), the Tribal Broadband Fund shall be funded through proceeds from systems of competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) (notwithstanding paragraph (8) of such section) and any other accounts or reserve funds available to the Commission, in amounts to be determined under subsection (e). Should the Commission find that the Commission cannot robustly fund the Tribal Broadband Fund from these existing sources, the Commission shall undertake a rulemaking proceeding to determine whether the imposition of addi-
tional universal service contributions is necessary to en-
sure a Tribal Broadband Fund commensurate with the
funding need, purposes, and implementation determined
pursuant to subsection (e).

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

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

(e) RULEMAKING PROCEEDING.—

(1) CONSULTATION.—Not later than 60 days
after the date of the enactment of this Act, the
Commission shall initiate and complete the rule-making process with robust, interactive, pre-decisional, informative, and transparent consultation with Indian Tribes, Native Hawaiian organizations, and interested qualifying Tribal entities in order for them to obtain free, prior, and informed consent to determine the appropriate funding for the Tribal Broadband Fund from the sources described in subsection (b) (including annual set-asides from each such source for the Tribal Broadband Fund), uses and administration of the Tribal Broadband Fund, and any other issues related to the establishment and implementation of the Tribal Broadband Fund. This will omit any competitive bidding requirements and any unnecessary barriers or limitations on funding for Indian Tribes, Native Hawaiian organizations, and qualifying Tribal entities to expedite the immediate deployment of current generation or better terrestrial and wireless broadband services, where none are available or need to be updated or built out for the use of critical government services, national emergencies, natural disasters, or life-saving services.

(2) ADVISORY AGENCY MEMORANDUM.—Not later than 6 months after the date of the enactment
of this Act, the Commission shall provide Indian
Tribes, Native Hawaiian organizations, and inter-
ested qualifying Tribal entities with an advisory
agency memorandum on the issues addressed in
paragraph (1). Such memorandum shall clearly out-
line the comment process and timeline for responses.

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

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

(f) RULE OF CONSTRUCTION.—Nothing in this sec-
tion shall be construed to limit Indian Tribes, Native Ha-
waiian organizations, or qualifying Tribal entities from ac-
cessing existing or additional funding through the Com-
mission or any other Federal agency.
SEC. 8. DIRECTING THE COMMISSION TO ENGAGE IN RULE-MAKING PROCEEDINGS FOR BROADBAND DEVELOPMENT ON TRIBAL LANDS.

(a) PURPOSE.—The purpose of this section is to require the Commission to initiate and complete separate rulemaking proceedings under subsections (c), (d), and (e) to provide additional clarification for the deployment and buildout of telecommunications, broadband, and wireless services and other full use of spectrum over Tribal lands and Hawaiian Homelands, including existing reservations, landless Indian Tribes, noncontiguous land holdings, uniquely situated Indian Tribes, and Hawaiian Home Lands.

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

(1) CONSULTATION.—Consultation shall be initiated not later than 6 months after the date of the enactment of this Act.

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

(3) NOTICES OF PROPOSED RULEMAKING.—Notices of Proposed Rulemaking shall be issued not
later than 18 months after the date of the enactment of this Act.

(4) **Final Rules.**—Orders promulgating final rules shall be issued not later than 24 months after the date of the enactment of this Act.

(c) **Tribal Consultation and Engagement.**—

(1) **In General.**—The Commission shall initiate and complete a rulemaking proceeding to best determine how to conduct robust, interactive, pre-decisional, informative, and transparent consultation with Indian Tribes and Native Hawaiian organizations in order to obtain free, prior, and informed consent prior to the approval of, and before adopting administrative measures that affect Tribal lands, or other associated Tribal resources. Prior to initiating such proceeding, the Commission shall also engage with the FCC Native Nations Communications Task Force, qualifying Tribal entities, Native-owned telecommunications providers, and Tribal organizations with telecommunications expertise.

(2) **Primary Goal.**—The primary goal of the rulemaking under paragraph (1) shall be to determine how the Commission can best establish a binding agency policy for Tribal consultation for policy development and agency action to provide proper no-
tice and guidance, introduce mapping tools, provide
robust outreach, and make government-to-government training accessible to Indian Tribes and Native Hawaiian organizations to preserve and develop spectrum rights and spectrum access over Tribal lands, and to expedite the immediate deployment of wireless broadband services, other wireless services, or other full use of spectrum over Tribal lands for critical government services, national emergencies, natural disasters, or life-saving services.

(3) ADDITIONAL CONSULTATION.—In conducting the rulemaking under paragraph (1), the Commission shall engage with Native Hawaiian organizations, and appropriate authorities of the State of Hawaii, to identify and designate potential existing entities within the State government of Hawaii, and the Native Hawaiian organizations or the community, for standing as licensable entities for the purpose of spectrum licensing rights and spectrum over the Hawaiian Home Lands.

(4) NOTICE.—The Commission’s Tribal consultation meetings shall be made open to the public and subject to reasonable and timely notice published in the Federal Register, and through other appropriate public methods, not later than 30 days
prior to the scheduled meeting. The Commission shall make additional considerations for adequate notification to Indian Tribes, Native Hawaiian organizations, and interested qualifying Tribal entities, that lack telecommunications services on Tribal lands.

(5) ADDITIONAL CONSULTATION AND NOTICE.—Open and public Tribal consultation and appropriate notice and outreach to Indian Tribes, Native Hawaiian organizations, and interested qualifying Tribal entities shall be presented during each of the additional rulemakings prescribed in this section. The Commission shall conduct each such additional rulemaking in accordance with the rules for consultation issued by the Commission in the rulemaking under paragraph (1) of this subsection.

(d) TRIBAL ECONOMIC DEVELOPMENT.—

(1) AVAILABLE FUNDING OPPORTUNITIES.—

(A) IN GENERAL.—The Commission shall initiate and complete a rulemaking proceeding to streamline applications to expedite funding (including through the Commission’s funding opportunities and other funding opportunities that may be available through other agencies) on Tribal lands for buildout of telecommuni-
cations, broadband, and wireless services, or other full use of spectrum or infrastructure development over Tribal lands for critical government services and national emergencies.

(B) ONAP FEDERAL FUNDING DIRECTOR.—In the rulemaking under subparagraph (A), the Commission shall establish within the Office of Native Affairs and Policy (ONAP) of the Commission the position of Federal Funding Director. The Director shall have the following duties:

(i) To coordinate with Indian Tribes, Native Hawaiian organizations, and interested qualifying Tribal entities to access the Commission's funding opportunities, or other funding opportunities that may be available through other agencies, and assist with the application processes for the Tribal Broadband Fund and other universal service support mechanisms.

(ii) To coordinate with other Federal agencies that provide telecommunications and infrastructure funding to Indian Tribes, Native Hawaiian organizations, or interested qualifying Tribal entities to as-
sist with expedited wireless broadband
service and other telecommunications de-
ployment over Tribal lands.

(2) NEW TRIBAL SPECTRUM MARKET.—

(A) IN GENERAL.—The Commission shall
initiate and complete a rulemaking proceeding
to establish a new Tribal Spectrum Market.
Such market shall be an optional forum solely
for the participation of Indian Tribes, qual-
ifying Tribal entities, and Native Hawaiian or-
ganizations to engage with other Indian Tribes,
qualifying Tribal entities, and Native Hawaiian
organizations for leasing and assignment oppor-
tunities for the purpose of economic and busi-
ness development on Tribal lands for partici-
pants who choose to participate. Participation
in such market shall not disallow Indian Tribes,
Native Hawaiian organizations, or qualifying
Tribal entities from participating in any other
auction forum, or hinder their participation in
secondary markets.

(B) PURPOSE.—In furtherance of the Fed-
eral trust responsibility, Tribal self-governance,
and to develop robust economic resources on
Tribal lands, the Commission shall make all un-
wanted spectrum over Tribal lands available to
other Indian Tribes, Native Hawaiian organiza-
tions, and qualifying Tribal entities through the
Tribal Spectrum Market and notify other In-
dian Tribes, Native Hawaiian organizations,
and interested qualifying Tribal entities identi-
fied under subsection (e) through adequate no-
tification processes established under this Act.
Participants identified under this subsection
must provide written consent to the Commis-
sion to make their unwanted spectrum over
Tribal lands available to other Indian Tribes,
Native Hawaiian organizations, or qualifying
Tribal entities through the Tribal Spectrum
Market.

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

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

(1) AREAS OF TRIBAL INTERESTS AND NON-
GEOGRAPHICALLY DEFINED AREAS.—The Commiss-
sion shall initiate and complete a rulemaking pro-
ceeding to address unique land status on Tribal lands and associated undefined geographic areas of interest, including—

(A) spectrum that is not geographically defined due to spectrum propagation characteristics; and

(B) with respect to the build or divest process under section 6(a), questions over control of meteorological spectrum licenses over Tribal lands.

(2) Primary Tribal Areas of Interest.—

The Commission shall initiate and complete a rule-making proceeding to create licensing areas for Indian Tribes, Native Hawaiian organizations, and qualifying Tribal entities to provide spectrum licenses covering areas that are primary Tribal areas of interest, including noncontiguous land holdings, small or uniquely situated Indian Tribes, and undefined Tribal lands or undefined Hawaiian Home Lands. Such proceeding shall also address deployment of digital services and other full use of spectrum over Tribal lands, including spectrum development, infrastructure, and deployment of wireless broadband service and other wireless services for
landless Indian Tribes or Native Hawaiian communities.

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

(A) Indian Tribes’, Native Hawaiian organizations’, and qualifying Tribal entities’ ability to make wireless services available to Tribal members who reside in areas just outside the boundaries of Tribal lands; and

(B) interference issues with neighboring licenses.

(4) **MILITARY, NATIONAL SECURITY, AND INTERNATIONAL LAWS FOR SPECTRUM MANAGEMENT AND COORDINATION.**—The Commission shall, in consultation with the Secretary of Defense and the Secretary of Commerce, initiate and complete a rulemaking proceeding to develop a nationwide framework for spectrum management and coordination that—

(A) addresses—
(i) the relationship of spectrum over Tribal lands to spectrum used by the Federal Government, including the Department of Defense; and

(ii) the relationship of spectrum over Tribal lands to international laws and negotiations relating to the use of spectrum, including international exclusion zones;

and

(B) provides for the requirements of this Act relating to spectrum over Tribal lands to be administered pursuant to existing policies and procedures for spectrum management and coordination.

(5) NEW BUILDOUT REQUIREMENTS FOR EXISTING LICENSE HOLDERS.—In carrying out section 6(a) (relating to the build or divest process), the Commission shall do the following:

(A) ADDITIONAL CONSTRUCTION REQUIREMENTS FOR LARGE OR REMOTE TRIBAL LANDS.—Where an existing third-party licensee has satisfied the applicable construction requirements for a license over Tribal lands, yet the area that the license covers remains underserved, the Commission shall initiate and com-
plete a rulemaking proceeding to determine an additional construction requirement for the Tribal lands of large, land-based Indian Tribes to expedite service and immediate broadband and telecommunications deployment or other full use of spectrum over Tribal lands.

(B) ADDITIONAL TIMELINE CONSIDERATIONS.—Subject to section 6(a), the Commission shall consider additional timelines on an ad hoc basis through Tribal consultation with the Indian Tribe or Native Hawaiian organization in which the third-party licensee possesses a valid spectrum license over Tribal lands. Considerations of any modified timelines must be made with the adequate consent of the Indian Tribe or Native Hawaiian organization.

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

(A) IN GENERAL.—The Commission shall initiate and complete a rulemaking proceeding to identify the licensed and unlicensed spectrum bands that are available for deployment of services over Tribal lands as defined under this Act, including existing reservations, landless Indian Tribes, noncontiguous land holdings, uniquely
situated Indian Tribes, and the Hawaiian Home Lands.

(B) REQUIREMENTS.—In carrying out subparagraph (A), the Commission shall—

(i) hold field hearings initiated with adequate notice;

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

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

(7) ADDITIONAL REVISION AND BUILDOUT REQUIREMENTS TO EXPEDITE DEPLOYMENT OF WIRELESS SERVICES.—

(A) IN GENERAL.—The Commission shall initiate and complete a rulemaking proceeding to establish expedited buildout requirements for existing third-party licensees that hold a license over Tribal lands. These new buildout requirements shall preempt buildout requirements established before the date of the enactment of this Act.
(B) PURPOSES.—The purpose of the establishment of these new buildout requirements is not intended to revoke spectrum licenses from third-party licensees, but to ensure that development of telecommunications networks or other full use of spectrum over Tribal lands is expedited to deploy critical government services, provide access to life-saving resources, and establish currently nonexistent communication for national emergencies over Tribal lands to match the average coverage rates for fixed broadband services on non-Tribal lands or the nearest metropolitan area.

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

(A) IN GENERAL.—In strict compliance with Tribal consultation and notice procedures established under subsection (c), the Commission shall, in conjunction with the Secretary of the Interior or the heads of other participating Federal agencies, initiate and complete a rule-making proceeding to issue nonbinding, model regulations for grants of rights-of-way over Tribal lands for the potential development of telecommunications infrastructure. If the Com-
mission, the Secretary of the Interior, or the head of another participating Federal agency initiates and completes an aforementioned rule-making proceeding without pre-decisional, informative, and transparent Tribal consultation, as specified under subsection (c), it shall be invalid guidance considered nonbinding precedent on any subsequent decisions.

(B) Issue Areas to be Included.—Any model regulations issued under subparagraph (A) shall include analysis of right-of-way build-out proposals and broadband deployment generally as it relates to Indian Tribes, Native Hawaiian organizations or communities, and Tribal lands, including the following:

(i) Permitting and review process generally, including land use permitting and facilities siting.


(iii) Review processes and guidelines in compliance with division A of subtitle
III of title 54, United States Code (formerly known as the “National Historic Preservation Act” (16 U.S.C. 470 et seq.)), including small-cell infrastructure.

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

(v) Additional considerations and analysis for Indian Tribes, Native Hawaiian organizations, and Tribal lands with respect to the impacts of expedited permitting decisions and buildout requirements for broadband projects or other future development of telecommunications infrastructure or spectrum development over Tribal lands and deployment of new generation networks, with an emphasis on 5G networks generally.

(vi) Procedural proposals on how to best establish robust Tribal consultation between Indian Tribes and Native Hawaiian organizations and the Commission, and other associated Federal agencies, for the development of optional rights-of-way for broadband deployment, spectrum use or
development, or telecommunications infra-
structure.

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

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

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

(2) How to best expedite the immediate deploy-
ment of broadband and telecommunications services
or other full use of spectrum over Tribal lands, in-
cluding support for—
(A) infrastructure development, fiber build-out, adoption of digital literacy on Tribal lands, and other related activities to ensure Indian Tribes and Native Hawaiian organizations have full access to resources for robust deployment of broadband and telecommunications services or other full use of spectrum over Tribal lands;

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

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

(3) Coordination with other Federal agencies for activities related to Tribal spectrum management, deployment of wireless services, infrastructure development, or other full use of spectrum over Tribal lands, or related activities, including coordinating with all applicable agencies with available Federal funding opportunities for which Indian Tribes, Native Hawaiian organizations, and qualifying Tribal entities are eligible to apply to further support deployment of broadband on Tribal lands.

(b) CONTRACTUAL AGREEMENTS AND NOTICE OF INTENT REQUIREMENTS.—The Commission, acting through the Office of Native Affairs and Policy, shall provide tech-
technical assistance and guidance to the Indian Tribe, Native Hawaiian organization, and qualifying Tribal entity that submitted the request on the activities under this Act, including, but not limited to—

(1) contractual negotiations to assign or lease spectrum to other Indian Tribes, Native Hawaiian organizations, qualifying Tribal entities, or third-party licensees, including general information relating to activities under section 5(b) (including the fair market value of spectrum licenses, deployment of telecommunications services, and penalties under paragraph (3)(C)(ii) of such section) and participation in the Tribal Spectrum Market; and

(2) filing a Notice of Intent and associated procedures and timelines specified under section 6.

(e) WIRELESS BROADBAND DEPLOYMENT AND ADOPTION.—

(1) IN GENERAL.—The Commission shall, acting through the Office of Native Affairs and Policy and at the request of an Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity, provide technical assistance to apply for and participate in the Tribal Broadband Fund, other universal service support mechanisms, and the Tribal Spectrum Market. Requests under this paragraph from Indian
Tribes, Native Hawaiian organizations, and qualifying Tribal entities shall receive priority where telecommunications or wireless broadband services on Tribal lands have either not been deployed or have been inadequately deployed. This includes assistance for associated backhaul, repairs to damaged infrastructure, or new infrastructure to deploy wireless broadband service.

(2) ADDITIONAL TECHNICAL ASSISTANCE.—In addition to the technical assistance provided under paragraph (1), the Commission shall provide further technical assistance that includes training programs and grant assistance to Indian Tribes, Native Hawaiian organizations, qualifying Tribal entities, the Director of the Department of Hawaiian Home Lands, inter-Tribal government organizations, and universities and colleges with Tribal serving institutions for the purpose of immediate deployment of telecommunications or wireless broadband services, infrastructure development over Tribal lands, and related activities identified under this Act.

(d) DEPARTMENT OF THE INTERIOR, DEPARTMENT OF COMMERCE, AND COMMISSION.—The Secretary of the Interior, the Secretary of Commerce, and the Commission shall provide technical assistance to Indian Tribes, Native
Hawaiian organizations, and qualifying Tribal entities (and, if located on Tribal lands, to schools, libraries, health care facilities, public safety entities, Tribal chapter houses, community centers, government buildings of an Indian Tribe, and locations where Tribal, State, and Federal elections and census activities are carried out) to resolve barriers to the deployment and adoption of wireless broadband service and other services provided using spectrum, including—

(1) classes or other education related to computer literacy;

(2) acquisition of computers and related hardware and software;

(3) use of wireless broadband service and computers for public safety and emergency communications services and interoperability;

(4) use of spectrum and wireless broadband service and computers where Tribal, State, and Federal elections and census activities are carried out;

(5) use of spectrum and wireless broadband service and computers to respond to public emergencies, including health and biohazard threats and natural disasters; and

(6) such other areas as the Commission, or relevant Federal agencies that have a role conducting
activities on Tribal lands, determines to be advisable
to increase the deployment and adoption of wireless
broadband service and other services provided using
spectrum on Tribal lands, or where an Indian Tribe,
Native Hawaiian organization, or qualifying Tribal
entity holds a valid and active spectrum license.

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

SEC. 10. ANNUAL REPORTING REQUIREMENTS.

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

(1) The Commission’s work with Indian Tribes,
Native Hawaiian organizations, qualifying Tribal en-
tities, and associated Tribal organizations, including
spectrum-related matters, and efforts to bolster
Tribal outreach through individual consultation,
funding access, expansion of access to broadband or
other full use of spectrum over Tribal lands, activities executed through the Office of Native Affairs and Policy, rulemakings that have been executed related to such matters under this Act, and general updates.

(2) The Commission’s data collection on whether spectrum license and auction applicants and existing spectrum license holders over Tribal lands are either Indian Tribes, Native Hawaiian organizations, qualifying Tribal entities, or third-party licensees. The Commission shall implement a requirement to record the ownership classification of all future spectrum licenses and new agreements established under section 5(b).

(3) A verification that the Commission has provided information about assigned and unassigned licenses and license holders to the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity where the licenses are geographically located, including a detailed description of the licenses, license holders, and the Indian Tribe, Native Hawaiian organization, or qualifying Tribal entity to which the information was provided.

(4) Verification that the Commission has made contact information easily accessible for Indian
Tribes, Native Hawaiian organizations, and qualifying Tribal entities about participation in any opportunities to operate spectrum licenses over Tribal lands, secondary market opportunities, and the respective processes.

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

(6) Recommendations on how the Commission will support Indian Tribes, Native Hawaiian organizations, and qualifying Tribal entities to obtain spectrum licenses and further deploy broadband connectivity and other wireless telecommunications services over Tribal lands where networks have not been developed.

(7) Publication of available Federal funding across all agencies for which Indian Tribes, Native Hawaiian organizations, and qualifying Tribal entities are eligible to apply to further support deployment of broadband and telecommunications services on Tribal lands.

(b) Submission of Recommendations.—Not later than 18 months after the date of the enactment of this Act, the Commission shall make publicly available and
submit all annual reporting and recommendations developed under subsection (a) to—

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

(2) the Department of the Interior;

(3) the Committee on Indian Affairs of the Senate;

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

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

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

(7) the FCC Native Nations Communications Task Force;

(8) Tribal organizations with telecommunications expertise; and

(9) requesting qualifying Tribal entities.

SEC. 11. DEFINITIONS.

In this Act:

(1) ADVISORY AGENCY MEMORANDUM.—The term “advisory agency memorandum” means documentation to be produced by the Commission after each Tribal consultation, prior to the development of Commission policy, or execution of Commission ac-
tion that impacts Tribal interests or Tribal lands.

The purpose of such documentation is to make available to the public documentation of the proactive measures of the Commission to provide proper notice and guidance, introduce policy proposals, provide robust outreach, and make government-to-government training and communication accessible to Indian Tribes, Department of Hawaiian Home Lands, and interested Native Hawaiian organizations to preserve existing Tribal resources and further develop Tribal interests on Federal lands in furtherance of the trust responsibility. Such documentation shall establish the scope, purpose, timelines, relevant Bureaus and Offices of the Commission, and relevant Commission actor for each Tribal consultation. Such documentation shall include the method for disseminating information to the public, and the dates and method of outreach to the relevant Indian Tribes, Native Hawaiian organizations, and interested qualifying Tribal entities.

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

(3) CRITICAL GOVERNMENT SERVICE.—The term “critical government service” means any service provided by an Indian Tribe or Native Hawaiian
organization, or Department of Hawaiian Home Lands, or through an extension or qualifying Tribal entity of an Indian Tribe, that is used to—

(A) preserve or protect Tribal self-governance;

(B) control internal relations;

(C) create economic development and the opportunity for residents of Tribal lands, Indian Tribes, Native Hawaiian organizations, and qualifying Tribal entities to engage in the broadband economy, telecommunications markets, and future development of spectrum;

(D) regulate Tribal lands and internal domestic relations; or

(E) manage governmental services, buildings, or emergency response, including—

(i) response to national emergencies or biohazard threats;

(ii) public safety;

(iii) education;

(iv) healthcare services and data;

(v) development of natural resources;

(vi) postal services;

(vii) Tribal buildings (including libraries, Tribal chapter houses, long houses,
senior centers, community centers, and other similar government buildings of an Indian Tribe or Native Hawaiian organization with community purpose);

(viii) cultural and language preservation;

(ix) voting and services relating to voting in Tribal, State, and Federal elections;

(x) services relating to the Federal census count, for the general welfare and sustainability of its Tribal lands or membership, and realization of full autonomy of resource management and economic development, activity, and opportunity; or

(xi) additional essential governmental services, including infrastructure and economic development, that provide support to an Indian Tribe’s programs and services.

(4) DIGITAL LITERACY.—The term “digital literacy” means information and communications for the purpose of developing support for technological deployment and understanding of issues including infrastructure deployment, fiber buildout, network connectivity, spectrum market opportunities, associ-
ated Commission programs and funding opportuni-
ties, and other related resources to expedite the im-
mediate deployment and full access to telecommuni-
cations, broadband, spectrum, and wireless services
available for effective and efficient use on Tribal
lands.

(5) HAWAIIAN HOME LANDS.—The term “Ha-
waiian Home Lands” means lands held in trust for
Native Hawaiians by Hawaii pursuant to the Hawai-

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

(7) NATIVE HAWAIIAN ORGANIZATION.—The
term “Native Hawaiian organization”—
(A) means any organization—
(i) that serves the best interests of
Native Hawaiians;
(ii) in which Native Hawaiians serve
in substantive and policymaking positions;
(iii) that has as a primary and stated purpose the provision of services to Native Hawaiians;

(iv) that is recognized for having expertise in Native Hawaiian affairs, including digital connectivity and broadband access; and

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

(B) includes the Department of Hawaiian Home Lands.

(8) QUALIFYING TRIBAL ENTITY.—The term “qualifying Tribal entity” means an entity designated by the Indian Tribe with jurisdiction over particular Tribal lands for which the spectrum access is sought. The following may be designated as a “qualifying Tribal entity”:

(A) Indian Tribes.

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

(C) Federally chartered Tribal corporations created under section 17 of the Indian Reorganization Act (25 U.S.C. 5124), and created

(D) Entities that are more than 50 percent owned and controlled by an Indian Tribe or Indian Tribes.

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

(A) The Indian Tribe or Indian Tribes constitute or appoint more than 50 percent of the board of directors or management committee of the entity.
(B) The Indian Tribe or Indian Tribes have authority to appoint, promote, demote, and fire senior executives who control the day-to-day activities of the entity.

(C) The Indian Tribe or Indian Tribes play an integral role in the management decisions of the entity.

(D) The Indian Tribe or Indian Tribes have the authority to make decisions or otherwise engage in practices or activities that determine or significantly influence—

(i) the nature or types of services offered by such an entity;

(ii) the terms upon which such services are offered; or

(iii) the prices charged for such services.

(10) **Spectrum over Tribal lands.**—The term “spectrum over Tribal lands” means all spectrum on Tribal lands, including wireless, radio, television, broadcast, commercial and noncommercial uses, and current generation or better wireless broadband services.

(11) **Third-party licensee.**—The term “third-party licensee” means a third party or quali-
fying Tribal entity that possesses valid spectrum li-

cense rights over Tribal lands, or an eligible third-

party licensee that an Indian Tribe or Native Ha-
waiian organization chooses to negotiate spectrum li-
censes for telecommunications services for the
agreed-upon time period of the license contract on
the specified geographic area on Tribal lands where
it must meet its construction obligation or require-
ments.

(12) TRIBAL BROADBAND FUND.—The term

“Tribal Broadband Fund” means the additional uni-

versal service support mechanism established by the
Commission under section 7 to provide Federal
funding to Indian Tribes, Native Hawaiian organiza-
tions, and qualifying Tribal entities from universal
service contributions, auctions proceeds, or any other
accounts or reserve funds available to the Commiss-
ion, for the purpose of providing a source of sup-
port for infrastructure deployment, “middle mile”
and long haul fiber buildout, adoption of digital lit-
eracy, and other related resources to expedite the
immediate deployment of and full access to tele-
communications, broadband, spectrum use and fu-
ture development, wireless services (including wire-
less broadband service), and other purposes specified
under section 7 for effective and efficient use on Tribal lands.

(13) **Tribal lands.**—The term “Tribal lands” has the meaning given that term in section 73.7000 of title 47, Code of Federal Regulations, as of April 16, 2020, and includes the definition “Indian Country” as defined in section 1151 of title 18, United States Code, and includes fee simple and restricted fee land held by an Indian Tribe. This term also includes the definition “Hawaiian Home Lands” as defined under paragraph (5).

(14) **Wireless broadband service.**—The term “wireless broadband service” means wireless broadband internet access service that is delivered—

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

(B) through—

(i) mobile service;

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

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

(iv) broadcast service.