

116TH CONGRESS  
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 bio-hazard 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.

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## 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

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## 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.

○