

## Calendar No. 446

114TH CONGRESS  
2D SESSION**S. 2555**

To provide opportunities for broadband investment, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2016

Mr. THUNE (for himself and Mr. NELSON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

APRIL 28, 2016

Reported by Mr. THUNE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]**A BILL**

To provide opportunities for broadband investment, 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; TABLE OF CONTENTS.**

4 (a) ~~SHORT TITLE.~~—This Act may be cited as the  
5 ~~“Making Opportunities for Broadband Investment and~~  
6 ~~Limiting Excessive and Needless Obstacles to Wireless~~  
7 ~~Act” or the “MOBILE NOW Act”.~~

1           (b) **TABLE OF CONTENTS.**—The table of contents of  
2 this Act is as follows:

- See. 1. Short title; table of contents.
- See. 2. Definitions.
- See. 3. Making 500 megahertz available.
- See. 4. Millimeter wave evaluation.
- See. 5. Reports on 3 gigahertz bands.
- See. 6. Distributed antenna systems and small cell infrastructure.
- See. 7. Communications facilities deployment on Federal property.
- See. 8. Dig once.
- See. 9. National broadband facilities asset database.
- See. 10. Reallocation incentives.
- See. 11. Bidirectional sharing study.
- See. 12. Unlicensed services in guard bands.
- See. 13. Pre-auction funding.
- See. 14. Immediate transfer of funds.
- See. 15. Amendments to the Spectrum Pipeline Act of 2015.
- See. 16. Rules of construction.
- See. 17. Relationship to Middle Class Tax Relief and Job Creation Act of 2012.

3 **SEC. 2. DEFINITIONS.**

4           In this Act:

5           (1) **APPROPRIATE COMMITTEES OF CON-**  
6 **GRESS.**—The term “appropriate committees of Con-  
7 **gress”** means—

8                   (A) the Committee on Commerce, Science,  
9                   and Transportation of the Senate;

10                   (B) the Committee on Energy and Com-  
11                   merce of the House of Representatives; and

12                   (C) each committee of the Senate or of the  
13                   House of Representatives with jurisdiction over  
14                   a Federal entity affected by the applicable sec-  
15                   tion in which the term appears.

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

1           (3) FEDERAL ENTITY.—The term “Federal en-  
 2           tity” has the meaning given the term in section  
 3           113(1) of the National Telecommunications and In-  
 4           formation Administration Organization Act (47  
 5           U.S.C. 923(1)).

6           (4) NTIA.—The term “NTIA” means the Na-  
 7           tional Telecommunications and Information Admin-  
 8           istration of the Department of Commerce.

9           (5) OMB.—The term “OMB” means the Office  
 10          of Management and Budget.

11          (6) SECRETARY.—The term “Secretary” means  
 12          the Secretary of Commerce.

13 **SEC. 3. MAKING 500 MEGAHERTZ AVAILABLE.**

14          (a) REQUIREMENTS.—

15           (1) IN GENERAL.—Consistent with the Presi-  
 16          dential Memorandum of June 28, 2010, entitled  
 17          “Unleashing the Wireless Broadband Revolution”  
 18          and establishing a goal of making a total of 500  
 19          megahertz of Federal and non-Federal spectrum  
 20          available for wireless broadband use by 2020, not  
 21          later than December 31, 2020, the Secretary, work-  
 22          ing through the NTIA, and the Commission shall  
 23          make available a total of at least 255 megahertz of  
 24          Federal and non-Federal spectrum below the fre-

1 frequency of 6000 megahertz for mobile and fixed wire-  
2 less broadband use.

3 ~~(2) AVAILABILITY.~~—The spectrum made avail-  
4 able under paragraph (1) shall be made available to  
5 be licensed by the Commission for exclusive use, or  
6 made available on a licensed or unlicensed basis for  
7 shared use by non-Federal and Federal users, to en-  
8 able the deployment of wireless broadband services.

9 ~~(3) NON-ELIGIBLE BANDS.~~—For purposes of  
10 satisfying the requirement under paragraph (1), the  
11 following spectrum bands shall not be counted:

12 (A) The band between 1695 and 1710  
13 megahertz.

14 (B) The band between 1755 and 1780  
15 megahertz.

16 (C) The band between 2155 and 2180  
17 megahertz.

18 (D) The band between 3550 and 3700  
19 megahertz.

20 ~~(4) RELOCATION PRIORITIZED OVER SHAR-~~  
21 ~~ING.~~—This section shall be carried out in accordance  
22 with section 113(j) of the National Telecommuni-  
23 cations and Information Administration Organiza-  
24 tion Act (47 U.S.C. 923(j)).

1           (5) CONSIDERATIONS.—In making spectrum  
2 available under this section, the Secretary and Com-  
3 mission shall consider—

4           (A) the need to preserve critical existing  
5 and planned Federal Government capabilities;

6           (B) the impact on existing State, local, and  
7 tribal government capabilities;

8           (C) the international implications; and

9           (D) the need for appropriate enforcement  
10 mechanisms and authorities.

11       (b) RULES OF CONSTRUCTION.—Nothing in this sec-  
12 tion shall be construed—

13           (1) to impair or otherwise affect the functions  
14 of the Director of OMB relating to budgetary, ad-  
15 ministrative, or legislative proposals;

16           (2) to require the disclosure of classified infor-  
17 mation, law enforcement sensitive information, or  
18 other information that must be protected in the in-  
19 terest of national security; or

20           (3) to affect any requirement under section 156  
21 of the National Telecommunications and Informa-  
22 tion Administration Organization Act (47 U.S.C.  
23 921 note), as added by section 1062(a) of the Na-  
24 tional Defense Authorization Act for Fiscal Year

1       2000, or any other relevant statutory requirement  
2       applicable to the reallocation of Federal spectrum.

3       **SEC. 4. MILLIMETER WAVE EVALUATION.**

4       (a) **FEASIBILITY ASSESSMENT.**—Not later than 18  
5       months after the date of enactment of this Act or Decem-  
6       ber 31, 2017, whichever comes earlier, the NTLA, in con-  
7       sultation with the Commission, shall conduct a feasibility  
8       assessment regarding the impact of authorizing mobile or  
9       fixed terrestrial wireless operations, including for ad-  
10      vanced mobile service operations, on Federal entities and  
11      operations in any of the following frequencies with Federal  
12      allocations:

13               (1) The band between 24250 and 24450 mega-  
14      hertz.

15               (2) The band between 25050 and 25250 mega-  
16      hertz.

17               (3) The band between 31800 and 33400 mega-  
18      hertz.

19               (4) The band between 42000 and 42500 mega-  
20      hertz.

21               (5) The band between 71000 and 76000 mega-  
22      hertz.

23               (6) The band between 81000 and 86000 mega-  
24      hertz.

1       (b) REQUIREMENTS.—In conducting the feasibility  
2 assessment under subsection (a), the NTIA shall—

3           (1) consult directly with Federal entities with  
4 respect to frequencies with Federal allocations iden-  
5 tified in that subsection;

6           (2) consider what, if any, impact authorizing  
7 mobile or fixed terrestrial wireless operations, in-  
8 cluding advanced mobile services operations, in any  
9 of the bands described in that subsection would have  
10 on an affected Federal entity;

11           (3) consider how the bands described in that  
12 subsection may be used to provide commercial wire-  
13 less broadband service, including whether—

14                   (A) such spectrum may be best used for li-  
15 censed or unlicensed services, or some combina-  
16 tion thereof; and

17                   (B) to permit additional licensed oper-  
18 ations in such bands on a shared basis; and

19           (4) identify any bands, or a portion thereof, de-  
20 scribed in that subsection that the NTIA assessment  
21 determines are feasible for authorizing for mobile or  
22 fixed terrestrial wireless operations, including any  
23 advanced mobile service operations.

24       (c) REPORT TO CONGRESS.—Not later than 30 days  
25 after the date the feasibility assessment under subsection

1 (a) is complete, the NTLA shall submit to the appropriate  
2 committees of Congress a report on the feasibility assess-  
3 ment.

4 (d) FCC PROCEEDING.—Not later than 2 years after  
5 the date of enactment of this Act, the Commission, in con-  
6 sultation with the NTLA, shall publish a notice of proposed  
7 rulemaking to consider service rules to authorize mobile  
8 or fixed terrestrial wireless operations, including for ad-  
9 vanced mobile service operations, in the following radio  
10 frequency bands:

11 (1) The band between 24250 and 24450 mega-  
12 hertz, except for any frequencies with Federal alloca-  
13 tions.

14 (2) The band between 25050 and 25250 mega-  
15 hertz, except for any frequencies with Federal alloca-  
16 tions.

17 (3) The band between 31800 and 33400 mega-  
18 hertz, except for any frequencies with Federal alloca-  
19 tions.

20 (4) The band between 42000 and 42500 mega-  
21 hertz, except for any frequencies with Federal alloca-  
22 tions.

23 (5) The band between 71000 and 76000 mega-  
24 hertz, except for any frequencies with Federal alloca-  
25 tions.



1           (6) The band between 81000 and 86000 mega-  
2           hertz, except for any frequencies with Federal alloca-  
3           tions.

4           (7) Any bands identified as feasible under sub-  
5           section (b)(4).

6           (c) CONSIDERATIONS.—In conducting the rule-  
7           making under subsection (d), the Commission shall—

8           (1) consult with Federal entities via the NTIA  
9           regarding the bands described in subsection (d)(7);

10          (2) consider how the bands described in sub-  
11          section (d) may be used to provide commercial wire-  
12          less broadband service, including whether—

13                (A) such spectrum may be best used for li-  
14                censed or unlicensed services, or some combina-  
15                tion thereof; and

16                (B) to permit additional licensed oper-  
17                ations in such bands on a shared basis; and

18          (3) include technical characteristics under  
19          which the bands described in subsection (d) may be  
20          employed for mobile or fixed terrestrial wireless op-  
21          erations, including any appropriate coexistence re-  
22          quirements.

23 **SEC. 5. REPORTS ON 3 GIGAHERTZ BANDS.**

24          (a) BETWEEN 3100 MEGAHERTZ AND 3550 MEGA-  
25          HERTZ.—Not later than 3 years after the date of enact-

1 ment of this Act, and in consultation with the Commission  
 2 and the head of each affected Federal agency (or a des-  
 3 ignee thereof), the Secretary shall submit to the President  
 4 and the appropriate committees of Congress a report eval-  
 5 uating the feasibility of allowing commercial wireless serv-  
 6 ices, licensed or unlicensed, to share use of the frequencies  
 7 between 3100 megahertz and 3550 megahertz.

8 (b) BETWEEN 3700 MEGAHERTZ AND 4200 MEGA-  
 9 HERTZ.—Not later than 3 years after the date of enact-  
 10 ment of this Act, and in consultation with the Secretary  
 11 and the head of each affected Federal agency (or a des-  
 12 ignee thereof), the Commission shall submit to the Presi-  
 13 dent and the appropriate committees of Congress a report  
 14 evaluating the feasibility of allowing commercial wireless  
 15 services, licensed or unlicensed, to share use of the fre-  
 16 quencies between 3700 megahertz and 4200 megahertz.

17 (c) REQUIREMENTS.—A report under subsection (a)  
 18 or subsection (b) shall include the following:

19 (1) An assessment of the operations of Federal  
 20 entities that operate Federal Government stations  
 21 authorized to use the frequencies described in that  
 22 subsection.

23 (2) An assessment of the possible impacts of  
 24 such sharing on Federal and non-Federal users at-

1 ready operating on the frequencies described in that  
2 subsection.

3 ~~(3) The criteria that may be necessary to en-~~  
4 ~~sure shared licensed or unlicensed services would not~~  
5 ~~cause harmful interference to Federal or non-Fed-~~  
6 ~~eral users already operating in the frequencies de-~~  
7 ~~scribed in that subsection.~~

8 ~~(4) If such sharing is feasible, an identification~~  
9 ~~of which of the frequencies described in that sub-~~  
10 ~~section are most suitable for sharing with commer-~~  
11 ~~cial wireless services.~~

12 ~~(d) PLANS FOR AUCTION OF CERTAIN SPECTRUM.—~~  
13 ~~The Commission shall include any spectrum identified~~  
14 ~~under subsection (c)(4) for assignment of new licenses for~~  
15 ~~non-Federal use in a report under section 1006 of the~~  
16 ~~Spectrum Pipeline Act of 2015 (Public Law 114–74; 129~~  
17 ~~Stat. 621) if—~~

18 ~~(1) that spectrum is suitable for allocation by~~  
19 ~~competitive bidding of new licenses for non-Federal~~  
20 ~~licensed use;~~

21 ~~(2) that spectrum otherwise meets the require-~~  
22 ~~ments of the proposed plan for the assignment of~~  
23 ~~new licenses for non-Federal use of certain spectrum~~  
24 ~~under section 1006 of the Spectrum Pipeline Act of~~  
25 ~~2015 (Public Law 114–74; 129 Stat. 621); and~~

1           (3) the identification of that spectrum under  
 2           subsection (e)(4) occurs after the requirements  
 3           under section 3 have been met.

4   **SEC. 6. DISTRIBUTED ANTENNA SYSTEMS AND SMALL CELL**  
 5                           **INFRASTRUCTURE.**

6           Not later than December 31, 2016, the Commission  
 7           shall take action in its Program Alternatives for Small  
 8           Wireless Communications Facility Deployments pro-  
 9           ceeding (WT Docket 15–180).

10   **SEC. 7. COMMUNICATIONS FACILITIES DEPLOYMENT ON**  
 11                           **FEDERAL PROPERTY.**

12           (a) IN GENERAL.—Section 6409 of the Middle Class  
 13           Tax Relief and Job Creation Act of 2012 (47 U.S.C.  
 14           1455) is amended by striking subsections (b), (c), and (d)  
 15           and inserting the following:

16           “(b) FEDERAL EASEMENTS AND RIGHTS-OF-WAY.—

17                   “(1) GRANT.—If an executive agency, a State,  
 18           a political subdivision or agency of a State, or a per-  
 19           son, firm, or organization applies for the grant of an  
 20           easement or right-of-way to, in, over, or on a build-  
 21           ing or other property owned by the Federal Govern-  
 22           ment for the right to install, construct, modify, or  
 23           maintain a communications facility installation, the  
 24           executive agency having control of the building or  
 25           other property may grant to the applicant, on behalf

1 of the Federal Government, subject to paragraph  
2 (5), an easement or right-of-way to perform such in-  
3 stallation, construction, modification, or mainte-  
4 nance.

5 “(2) APPLICATION.—

6 “(A) IN GENERAL.—The Administrator of  
7 General Services shall develop a common form  
8 for applications for easements and rights-of-way  
9 under paragraph (1) for all executive agencies  
10 that, except as provided in subparagraph (B),  
11 shall be used by all executive agencies and ap-  
12 plicants with respect to the buildings or other  
13 property of each such agency.

14 “(B) EXCEPTION.—The requirement under  
15 subparagraph (A) for an executive agency to  
16 use the common form developed by the Admin-  
17 istrator of General Services shall not apply to  
18 an executive agency if the head of an executive  
19 agency notifies the Administrator that the exec-  
20 utive agency uses a substantially similar appli-  
21 cation.

22 “(3) FEE.—

23 “(A) IN GENERAL.—Notwithstanding any  
24 other provision of law, the Administrator of  
25 General Services shall establish a fee for the

1 grant of an easement or right-of-way pursuant  
2 to paragraph (1) that is based on direct cost re-  
3 covery.

4 “(B) EXCEPTIONS.—The Administrator of  
5 General Services may establish exceptions to  
6 the fee amount required under subparagraph  
7 (A)—

8 “(i) in consideration of the public ben-  
9 efit provided by a grant of an easement or  
10 right-of-way; and

11 “(ii) in the interest of expanding wire-  
12 less and broadband coverage.

13 “(4) USE OF FEES COLLECTED.—Any fee  
14 amounts collected by an executive agency pursuant  
15 to paragraph (3) may be made available, as provided  
16 in appropriations Acts, to such agency to cover the  
17 costs of granting the easement or right-of-way.

18 “(5) TIMELY CONSIDERATION OF APPLICA-  
19 TIONS.—

20 “(A) IN GENERAL.—Within a reasonable  
21 period of time after the date on which an execu-  
22 tive agency receives a duly filed application for  
23 an easement or right-of-way under this sub-  
24 section, the executive agency shall—

1           “(i) grant or deny, on behalf of the  
2           Federal Government, the application; and

3           “(ii) notify the applicant of the grant  
4           or denial.

5           “(B) EXPLANATION OF DENIAL.—If an ex-  
6           ecutive agency denies an application under sub-  
7           paragraph (A), the executive agency shall notify  
8           the applicant in writing, including a clear state-  
9           ment of the reasons for the denial.

10          “(C) EXPLANATION OF DELAY.—If an ex-  
11          ecutive agency has not granted or denied an ap-  
12          plication under subparagraph (A) before the  
13          date that is 150 days after the date that the ex-  
14          ecutive agency received a duly filed application,  
15          the executive agency shall notify the applicant  
16          in writing, including a clear statement of the  
17          reasons for the delay.

18          “(D) APPLICABILITY OF ENVIRONMENTAL  
19          LAWS.—Nothing in this paragraph shall be con-  
20          strued to relieve an executive agency of the re-  
21          quirements of the National Historic Preserva-  
22          tion Act (16 U.S.C. 470 et seq.) or the Na-  
23          tional Environmental Policy Act of 1969 (42  
24          U.S.C. 4321 et seq.).

1           “(E) POINT OF CONTACT.—Upon receiving  
 2           an application under subparagraph (A), an ex-  
 3           ecutive agency shall designate 1 or more appro-  
 4           priate individuals within the executive agency to  
 5           act as a point of contact with the applicant.

6           “(e) MASTER CONTRACTS FOR COMMUNICATIONS  
 7           FACILITY INSTALLATION SITINGS.—

8           “(1) IN GENERAL.—Notwithstanding section  
 9           704 of the Telecommunications Act of 1996 (Public  
 10          Law 104–104, 110 Stat. 151) or any other provision  
 11          of law, the Administrator of General Services shall—

12           “(A) develop 1 or more master contracts  
 13           that shall govern the placement of communica-  
 14           tions facility installation on buildings and other  
 15           property owned by the Federal Government;  
 16           and

17           “(B) in developing the master contract or  
 18           contracts, standardize the treatment of the  
 19           placement of communications facility installa-  
 20           tion on building rooftops or facades, the place-  
 21           ment of communications facility installation on  
 22           rooftops or inside buildings, the technology used  
 23           in connection with communications facility in-  
 24           stallation placed on Federal buildings and other  
 25           property, and any other key issues the Adminis-



1           trator of General Services considers appro-  
2           priate.

3           “(2) APPLICABILITY.—The master contract or  
4           contracts developed by the Administrator of General  
5           Services under paragraph (1) shall apply to all pub-  
6           licly accessible buildings and other property owned  
7           by the Federal Government, unless the Adminis-  
8           trator of General Services decides that issues with  
9           respect to the siting of a communications facility in-  
10          stallation on a specific building or other property  
11          warrant nonstandard treatment of such building or  
12          other property.

13          “(3) APPLICATION.—

14                 “(A) IN GENERAL.—The Administrator of  
15                 General Services shall develop a common form  
16                 or set of forms for communications facility in-  
17                 stallation siting applications that, except as pro-  
18                 vided in subparagraph (B), shall be used by all  
19                 executive agencies and applicants with respect  
20                 to the buildings and other property of each such  
21                 agency.

22                 “(B) EXCEPTION.—The requirement under  
23                 subparagraph (A) for an executive agency to  
24                 use the common form or set of forms developed  
25                 by the Administrator of General Services shall

1 not apply to an executive agency if the head of  
2 the executive agency notifies the Administrator  
3 that the executive agency uses a substantially  
4 similar application.

5 “(d) DEFINITIONS.—In this section:

6 “(1) COMMUNICATIONS FACILITY INSTALLA-  
7 TION.—The term ‘communications facility installa-  
8 tion’ includes—

9 “(A) any infrastructure, including any  
10 transmitting device, tower, or support structure,  
11 and any equipment, switches, wiring, cabling,  
12 power sources, shelters, or cabinets, associated  
13 with the licensed or permitted unlicensed wire-  
14 less or wireline transmission of writings, signs,  
15 signals, data, images, pictures, and sounds of  
16 all kinds; and

17 “(B) any antenna or apparatus that—

18 “(i) is designed for the purpose of  
19 emitting radio frequency;

20 “(ii) is designed to be operated, or is  
21 operating, from a fixed location pursuant  
22 to authorization by the Commission or is  
23 using duly authorized devices that do not  
24 require individual licenses; and

1                   “(iii) is added to a tower, building, or  
2                   other structure.

3                   ~~“(2) EXECUTIVE AGENCY.—~~The term ‘executive  
4                   agency’ has the meaning given such term in section  
5                   102 of title 40, United States Code.”.

6                   (b) SAVINGS PROVISION.—An application for an  
7                   easement or right-of-way that was made or granted under  
8                   section 6409 of the Middle Class Tax Relief and Job Cre-  
9                   ation Act of 2012 (47 U.S.C. 1455) before the effective  
10                  date of this Act shall continue, subject to that section as  
11                  in effect on the day before such effective date.

12                  **SEC. 8. DIG ONCE.**

13                  (a) POLICY.—It is the policy of the United States to  
14                  encourage the deployment of communications facilities  
15                  and services because of the benefits to interstate com-  
16                  merce from investment in and use of such communications  
17                  facilities and services.

18                  (b) SENSE OF CONGRESS.—It is the sense of Con-  
19                  gress that Federal agencies should endeavor to create pol-  
20                  icy that—

21                         (1) evaluates and provides for the inclusion of  
22                         broadband conduit installation in federally funded  
23                         highway construction projects;

1           (2) provides for such inclusion without nega-  
 2           tively impacting the safety, operations, and mainte-  
 3           nance of the highway facility, its users, or others;

4           (3) promotes investment and competition by en-  
 5           suring that communications providers may access  
 6           such conduit on a nondiscriminatory basis; and

7           (4) limits any burden on State departments of  
 8           transportation incurred by the inclusion of  
 9           broadband conduit in such projects.

10 **SEC. 9. NATIONAL BROADBAND FACILITIES ASSET DATA-**  
 11 **BASE.**

12 (a) **DEFINITIONS.**—In this section:

13           (1) **COMMUNICATIONS FACILITY INSTALLA-**  
 14 **TION.**—The term “communications facility installa-  
 15 **tion”** includes—

16           (A) any infrastructure, including any  
 17           transmitting device, tower, or support structure,  
 18           and any equipment, switches, wiring, cabling,  
 19           power sources, shelters, or cabinets, associated  
 20           with the licensed or permitted unlicensed wire-  
 21           less or wireline transmission of writings, signs,  
 22           signals, data, images, pictures, and sounds of  
 23           all kinds; and

24           (B) any antenna or apparatus that—

1 (i) is designed for the purpose of  
2 emitting radio frequency;

3 (ii) is designed to be operated, or is  
4 operating, from a fixed location pursuant  
5 to authorization by the Federal Commu-  
6 nications Commission or is using duly au-  
7 thorized devices that do not require indi-  
8 vidual licenses; and

9 (iii) is added to a tower, building, or  
10 other structure.

11 (2) COVERED PROPERTY.—The term “covered  
12 property”—

13 (A) means any real property capable of  
14 supporting a communications facility installa-  
15 tion; and

16 (B) includes any interest in real property  
17 described in subparagraph (A).

18 (3) DATABASE.—The term “database” means  
19 the database established under subsection (b).

20 (4) EXECUTIVE AGENCY.—The term “Executive  
21 agency” has the meaning given the term in section  
22 105 of title 5, United States Code.

23 (b) DATABASE ESTABLISHED.—Not later than June  
24 30, 2018, the Director of the Office of Science and Tech-  
25 nology Policy, in consultation with the Chairman of the

1 Federal Communications Commission, Assistant Secretary  
2 of Commerce for Communications and Information, Under  
3 Secretary of Commerce for Standards and Technology,  
4 Administrator of General Services, and Director of the Of-  
5 fice of Management and Budget, shall—

6           (1) establish and operate a single database of  
7           any covered property that is owned, leased, or other-  
8           wise managed by an Executive agency;

9           (2) make the database available to—

10           (A) any entity that—

11                   (i) constructs or operates communica-  
12                   tions facility installations; or

13                   (ii) provides communications service;

14           and

15           (B) any other entity that the Director of  
16           the Office of Science and Technology Policy de-  
17           termines is appropriate; and

18           (3) establish a process for withholding data  
19           from the database for national security, public safe-  
20           ty, or other national strategic concerns in accord-  
21           ance with existing statutory authority and Executive  
22           order mandates with respect to handling and protec-  
23           tion of such information.

24           (c) PUBLIC COMMENT.—

1           (1) IN GENERAL.—Not later than 30 days after  
 2 the date of enactment of the MOBILE NOW Act,  
 3 the Director of the Office of Science and Technology  
 4 Policy shall seek public comment to inform the es-  
 5 tablishment and operation of the database.

6           (2) CONTENTS.—In seeking public comment  
 7 under paragraph (1), the Director shall include a re-  
 8 quest for recommendations on—

9                   (A) criteria that make real property capa-  
 10 ble of supporting communications facility instal-  
 11 lations;

12                   (B) types of information related to covered  
 13 property that should be included in the data-  
 14 base;

15                   (C) an interface by which accessibility to  
 16 the database for all users will be appropriately  
 17 efficient and secure; and

18                   (D) other information the Director deter-  
 19 mines necessary to establish and operate the  
 20 database.

21           (d) FEDERAL AGENCIES.—

22                   (1) INITIAL PROVISION OF INFORMATION.—Not  
 23 later than 90 days after the date on which the data-  
 24 base is established under subsection (b), the head of  
 25 an Executive agency shall provide to the Director of

1 the Office of Science and Technology Policy, in a  
2 manner and format to be determined by the Direc-  
3 tor, such information as the Director determines ap-  
4 propriate with respect to covered property owned,  
5 leased, or otherwise managed by the Executive agen-  
6 cy.

7 (2) CHANGE TO INFORMATION PREVIOUSLY  
8 PROVIDED.—In the case of any change to informa-  
9 tion provided to the Director of the Office of Science  
10 and Technology Policy by the head of an Executive  
11 agency under paragraph (1), the head of the Execu-  
12 tive agency shall provide updated information to the  
13 Director not later than 30 days after the date of the  
14 change.

15 (3) SUBSEQUENTLY ACQUIRED PROPERTY.—If  
16 an Executive agency acquires covered property after  
17 the date on which the database is established under  
18 subsection (b), the head of the Executive agency  
19 shall provide to the Director of the Office of Science  
20 and Technology Policy the information required  
21 under paragraph (1) with respect to the covered  
22 property not later than 30 days after the date of the  
23 acquisition.

24 (c) STATE AND LOCAL GOVERNMENTS.—The Direc-  
25 tor of the Office of Science and Technology Policy shall



1 make the database available to State and local govern-  
2 ments so that such governments may provide to the Direc-  
3 tor for inclusion in the database similar information to  
4 the information required under paragraph (1) regarding  
5 covered property owned, leased, or otherwise managed by  
6 such governments.

7 (f) DATABASE UPDATES.—

8 (1) TIMELY INCLUSION.—After the establish-  
9 ment of the database, the Director of the Office of  
10 Science and Technology Policy shall ensure that in-  
11 formation provided under subsection (d) or sub-  
12 section (e) is included in the database not later than  
13 7 days after the date on which the Director receives  
14 the information.

15 (2) DATE OF ADDITION OR UPDATE.—Informa-  
16 tion in the database relating to covered property  
17 shall include the date on which the information was  
18 added or most recently updated.

19 (g) REPORT.—Not later than 180 days after the date  
20 the Director of the Office of Science and Technology Pol-  
21 icy seeks public comment under subsection (e)(1), the Di-  
22 rector shall submit to the Committee on Commerce,  
23 Science, and Transportation of the Senate and the Com-  
24 mittee on Energy and Commerce of the House of Rep-  
25 resentatives a report on the progress in establishing the

1 database under this section. The Director shall update the  
2 report annually until the date that the database is fully  
3 operational.

4 **SEC. 10. REALLOCATION INCENTIVES.**

5       (a) ~~IN GENERAL.~~—Not later than 18 months after  
6 the date of enactment of this Act, the Secretary, in con-  
7 sultation with the Commission, the Director of OMB, and  
8 the head of each affected Federal agency (or a designee  
9 thereof) shall submit to the appropriate committees of  
10 Congress a report that includes legislative or regulatory  
11 recommendations to incentivize a Federal entity to relin-  
12 quish, or share with Federal or non-Federal users, Federal  
13 spectrum for the purpose of allowing commercial wireless  
14 broadband services to operate on that Federal spectrum.

15       (b) ~~POST-AUCTION PAYMENTS.~~—

16           (1) ~~REPORT.~~—In preparing the report under  
17 subsection (a), the Secretary shall—

18           (A) consider whether permitting eligible  
19 Federal entities that are implementing a transi-  
20 tion plan submitted under section 113(h) of the  
21 National Telecommunications and Information  
22 Administration Organization Act (47 U.S.C.  
23 923(h)) to accept payments could result in ac-  
24 cess to the eligible frequencies that are being  
25 reallocated for exclusive non-Federal use or

1 shared use sooner than would otherwise occur  
2 without such payments; and

3 ~~(B) include the findings under subpara-~~  
4 ~~graph (A); including the analysis under para-~~  
5 ~~graph (2) and any recommendations for legisla-~~  
6 ~~tion, in the report.~~

7 ~~(2) ANALYSIS.—In considering payments under~~  
8 ~~paragraph (1)(A), the Secretary shall conduct an~~  
9 ~~analysis of whether and how such payments would~~  
10 ~~affect—~~

11 ~~(A) bidding in auctions conducted under~~  
12 ~~section 309(j) of the Communications Act of~~  
13 ~~1934 (47 U.S.C. 309(j)) of such eligible fre-~~  
14 ~~quencies; and~~

15 ~~(B) receipts collected from the auctions de-~~  
16 ~~scribed in subparagraph (A).~~

17 ~~(3) DEFINITIONS.—In this subsection:~~

18 ~~(A) PAYMENT.—The term “payment”~~  
19 ~~means a payment in cash or in-kind by any~~  
20 ~~auction winner, or any person affiliated with an~~  
21 ~~auction winner, of eligible frequencies during~~  
22 ~~the period after eligible frequencies have been~~  
23 ~~reallocated by competitive bidding under section~~  
24 ~~309(j) of the Communications Act of 1934 (47~~  
25 ~~U.S.C. 309(j)) but prior to the completion of~~

1 relocation or sharing transition of such eligible  
2 frequencies per transition plans approved by the  
3 Technical Panel.

4 (B) ELIGIBLE FREQUENCIES.—The term  
5 “eligible frequencies” has the meaning given  
6 the term in section 113(g)(2) of the National  
7 Telecommunications and Information Adminis-  
8 tration Organization Act (47 U.S.C. 923(g)(2)).

9 **SEC. 11. BIDIRECTIONAL SHARING STUDY.**

10 (a) IN GENERAL.—Not later than 1 year after the  
11 date of enactment of this Act, including an opportunity  
12 for public comment, the Commission, in collaboration with  
13 the NTIA, shall—

14 (1) conduct a bidirectional sharing study to de-  
15 termine the best means of providing Federal entities  
16 flexible access to non-Federal spectrum on a shared  
17 basis across a range of short-, mid-, and long-range  
18 timeframes, including for intermittent purposes like  
19 emergency use; and

20 (2) submit to Congress a report on the study  
21 under paragraph (1), including any recommenda-  
22 tions for legislation or proposed regulations.

23 (b) CONSIDERATIONS.—In conducting the study  
24 under subsection (a), the Commission shall consider how  
25 to balance the regulatory certainty that commercial spec-

1 tram users and Federal entities need to make longer-term  
2 investment decisions for shared access to be viable.

3 **SEC. 12. UNLICENSED SERVICES IN GUARD BANDS.**

4 (a) **IN GENERAL.**—After a feasibility assessment and  
5 public notice and comment, and in consultation with the  
6 Secretary and the head of each affected Federal agency  
7 (or a designee thereof), the Commission shall adopt rules  
8 that permit unlicensed services where feasible to use any  
9 frequencies that are designated as guard bands to protect  
10 frequencies allocated after the date of enactment of this  
11 Act by competitive bidding under section 309(j) of the  
12 Communications Act of 1934 (47 U.S.C. 309(j)), includ-  
13 ing spectrum that acts as a duplex gap between transmit  
14 and receive frequencies.

15 (b) **LIMITATION.**—The Commission may not permit  
16 any use of a guard band under this section that would  
17 cause harmful interference to a licensed service or a Fed-  
18 eral service operating in the guard band or in an adjacent  
19 band.

20 (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
21 tion shall be construed as limiting the Commission or the  
22 Secretary from making spectrum available for licensed or  
23 unlicensed use under section 3 or available for unlicensed  
24 use in any spectrum band under existing rules and regula-  
25 tions.

1 **SEC. 13. PRE-AUCTION FUNDING.**

2 Section 118(d)(3)(B)(i)(II) of the National Tele-  
3 communications and Information Administration Organi-  
4 zation Act (47 U.S.C. 928(d)(3)(B)(i)(II)) is amended by  
5 striking “5 years” and inserting “8 years”.

6 **SEC. 14. IMMEDIATE TRANSFER OF FUNDS.**

7 Section 118(e)(1) of the National Telecommuni-  
8 cations and Information Administration Organization Act  
9 (47 U.S.C. 928(e)(1)) is amended by adding at the end  
10 the following:

11 “(D) At the request of an eligible Federal  
12 entity, the Director of OMB may transfer the  
13 amount under subparagraph (A) immediately—

14 “(i) after the frequencies are reallo-  
15 cated by competitive bidding under section  
16 309(j) of the Communications Act of 1934  
17 (47 U.S.C. 309(j)); or

18 “(ii) in the case of an incumbent Fed-  
19 eral entity that is incurring relocation or  
20 sharing costs to accommodate sharing  
21 spectrum frequencies with another Federal  
22 entity, after the frequencies from which the  
23 other eligible Federal entity is relocating  
24 are reallocated by competitive bidding  
25 under section 309(j) of the Communica-  
26 tions Act of 1934 (47 U.S.C. 309(j)), with-

1 out regard to the availability of such sums  
2 in the Fund.

3 “(E) Prior to the deposit of proceeds into  
4 the Fund from an auction, the Director of  
5 OMB may borrow from the Treasury the  
6 amount under subparagraph (A) for a transfer  
7 under subparagraph (D). The Treasury shall  
8 immediately be reimbursed, without interest,  
9 from funds deposited into the Fund.”

10 **SEC. 15. AMENDMENTS TO THE SPECTRUM PIPELINE ACT**  
11 **OF 2015.**

12 Section 1008 of the Spectrum Pipeline Act of 2015  
13 (Public Law 114–74; 129 Stat. 584) is amended in the  
14 matter preceding paragraph (1) by inserting “, after an  
15 opportunity for public comment,” after “the Commission”.

16 **SEC. 16. RULES OF CONSTRUCTION.**

17 (a) **RANGES OF FREQUENCIES.**—Each range of fre-  
18 quencies described in this Act shall be construed to be in-  
19 clusive of the upper and lower frequencies in the range.

20 (b) **ASSESSMENT OF ELECTROMAGNETIC SPECTRUM**  
21 **REALLOCATION.**—Nothing in this Act shall be construed  
22 to affect any requirement under section 156 of the Na-  
23 tional Telecommunications and Information Administra-  
24 tion Organization Act (47 U.S.C. 921 note), as added by

1 section 1062(a) of the National Defense Authorization Act  
2 for Fiscal Year 2000.

3 **SEC. 17. RELATIONSHIP TO MIDDLE CLASS TAX RELIEF**  
4 **AND JOB CREATION ACT OF 2012.**

5 Nothing in this Act shall be construed to limit, re-  
6 strict, or circumvent in any way the implementation of the  
7 nationwide public safety broadband network defined in  
8 section 6001 of title VI of the Middle Class Tax Relief  
9 and Job Creation Act of 2012 (47 U.S.C. 1401) or any  
10 rules implementing that network under title VI of that Act  
11 (47 U.S.C. 1401 et seq.).

12 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

13 (a) *SHORT TITLE.*—This Act may be cited as the  
14 “Making Opportunities for Broadband Investment and  
15 Limiting Excessive and Needless Obstacles to Wireless Act”  
16 or the “MOBILE NOW Act”.

17 (b) *TABLE OF CONTENTS.*—The table of contents of this  
18 Act is as follows:

- Sec. 1. Short title; table of contents.*
- Sec. 2. Definitions.*
- Sec. 3. Making 500 megahertz available.*
- Sec. 4. Millimeter wave spectrum.*
- Sec. 5. 3 gigahertz spectrum.*
- Sec. 6. Distributed antenna systems and small cell infrastructure.*
- Sec. 7. Communications facilities deployment on Federal property.*
- Sec. 8. Broadband infrastructure deployment.*
- Sec. 9. National broadband facilities asset database.*
- Sec. 10. Reallocation incentives.*
- Sec. 11. Bidirectional sharing study.*
- Sec. 12. Unlicensed services in guard bands.*
- Sec. 13. Pre-auction funding.*
- Sec. 14. Immediate transfer of funds.*
- Sec. 15. Amendments to the Spectrum Pipeline Act of 2015.*



*Sec. 16. GAO assessment of unlicensed spectrum and Wi-Fi use in low-income neighborhoods.*

*Sec. 17. Rulemaking related to partitioning or disaggregating licenses.*

*Sec. 18. Unlicensed spectrum policy.*

*Sec. 19. National plan for unlicensed spectrum.*

*Sec. 20. Spectrum challenge prize.*

*Sec. 21. Wireless telecommunications tax and fee collection fairness.*

*Sec. 22. Rules of construction.*

*Sec. 23. Relationship to Middle Class Tax Relief and Job Creation Act of 2012.*

1 **SEC. 2. DEFINITIONS.**

2 *In this Act:*

3 (1) *APPROPRIATE COMMITTEES OF CONGRESS.*—

4 *The term “appropriate committees of Congress”*

5 *means—*

6 (A) *the Committee on Commerce, Science,*  
7 *and Transportation of the Senate;*

8 (B) *the Committee on Energy and Com-*  
9 *merce of the House of Representatives; and*

10 (C) *each committee of the Senate or of the*  
11 *House of Representatives with jurisdiction over a*  
12 *Federal entity affected by the applicable section*  
13 *in which the term appears.*

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

16 (3) *FEDERAL ENTITY.*—*The term “Federal enti-*  
17 *ty” has the meaning given the term in section 113(l)*  
18 *of the National Telecommunications and Information*  
19 *Administration Organization Act (47 U.S.C. 923(l)).*

1           (4) *NTIA.*—*The term “NTIA” means the Na-*  
2           *tional Telecommunications and Information Admin-*  
3           *istration of the Department of Commerce.*

4           (5) *OMB.*—*The term “OMB” means the Office of*  
5           *Management and Budget.*

6           (6) *SECRETARY.*—*The term “Secretary” means*  
7           *the Secretary of Commerce.*

8   **SEC. 3. MAKING 500 MEGAHERTZ AVAILABLE.**

9           (a) *REQUIREMENTS.*—

10           (1) *IN GENERAL.*—*Consistent with the Presi-*  
11           *dential Memorandum of June 28, 2010, entitled*  
12           *“Unleashing the Wireless Broadband Revolution” and*  
13           *establishing a goal of making a total of 500 megahertz*  
14           *of Federal and non-Federal spectrum available on a*  
15           *licensed or unlicensed basis for wireless broadband use*  
16           *by 2020, not later than December 31, 2020, the Sec-*  
17           *retary, working through the NTIA, and the Commis-*  
18           *sion shall make available a total of at least 255 mega-*  
19           *hertz of Federal and non-Federal spectrum below the*  
20           *frequency of 6000 megahertz for mobile and fixed*  
21           *wireless broadband use.*

22           (2) *UNLICENSED AND LICENSED USE.*—*Of the*  
23           *spectrum made available under paragraph (1), not*  
24           *less than—*

1           (A) 100 megahertz shall be made available  
2           on an unlicensed basis; and

3           (B) 100 megahertz shall be made available  
4           on an exclusive, licensed basis for commercial  
5           mobile use, subject to the Commission's regu-  
6           latory purview to implement exclusive licensing  
7           in a flexible manner, including consideration of  
8           continued use of such spectrum by incumbent  
9           Federal or non-Federal entities in designated ge-  
10          ographic areas indefinitely.

11          (3) *NON-ELIGIBLE SPECTRUM.*—For purposes of  
12          satisfying the requirement under paragraph (1), the  
13          following spectrum shall not be counted:

14               (A) The frequencies between 1695 and 1710  
15               megahertz.

16               (B) The frequencies between 1755 and 1780  
17               megahertz.

18               (C) The frequencies between 2155 and 2180  
19               megahertz.

20               (D) The frequencies between 3550 and 3700  
21               megahertz.

22               (E) Spectrum that the Commission deter-  
23               mines had more than *de minimis* mobile or fixed  
24               wireless broadband operations within the band

1           *on the day before the date of enactment of this*  
2           *Act.*

3           (4) *RELOCATION PRIORITIZED OVER SHARING.*—  
4           *This section shall be carried out in accordance with*  
5           *section 113(j) of the National Telecommunications*  
6           *and Information Administration Organization Act*  
7           *(47 U.S.C. 923(j)).*

8           (5) *CONSIDERATIONS.*—*In making spectrum*  
9           *available under this section, the Secretary and Com-*  
10          *mission shall consider—*

11                   (A) *the need to preserve critical existing*  
12                   *and planned Federal Government capabilities;*

13                   (B) *the impact on existing State, local, and*  
14                   *tribal government capabilities;*

15                   (C) *the international implications;*

16                   (D) *the need for appropriate enforcement*  
17                   *mechanisms and authorities; and*

18                   (E) *the importance of the deployment of*  
19                   *wireless broadband services in rural areas of the*  
20                   *United States.*

21          (b) *RULES OF CONSTRUCTION.*—*Nothing in this sec-*  
22          *tion shall be construed—*

23                   (1) *to impair or otherwise affect the functions of*  
24                   *the Director of OMB relating to budgetary, adminis-*  
25                   *trative, or legislative proposals;*

1           (2) *to require the disclosure of classified informa-*  
2 *tion, law enforcement sensitive information, or other*  
3 *information that must be protected in the interest of*  
4 *national security; or*

5           (3) *to affect any requirement under section 156*  
6 *of the National Telecommunications and Information*  
7 *Administration Organization Act (47 U.S.C. 921*  
8 *note), as added by section 1062(a) of the National De-*  
9 *fense Authorization Act for Fiscal Year 2000, or any*  
10 *other relevant statutory requirement applicable to the*  
11 *reallocation of Federal spectrum.*

12 **SEC. 4. MILLIMETER WAVE SPECTRUM.**

13       (a) *FEASIBILITY ASSESSMENT.*—*Not later than 18*  
14 *months after the date of enactment of this Act, the NTIA,*  
15 *in consultation with the Commission, shall conduct a feasi-*  
16 *bility assessment regarding the impact, on Federal entities*  
17 *and operations in any of the following bands, of authorizing*  
18 *mobile or fixed terrestrial wireless operations, including for*  
19 *advanced mobile service operations, in the following bands:*

20           (1) *The band between 31800 and 33400 mega-*  
21 *hertz.*

22           (2) *The band between 71000 and 76000 mega-*  
23 *hertz.*

24           (3) *The band between 81000 and 86000 mega-*  
25 *hertz.*

1           **(b) REQUIREMENTS.**—*In conducting the feasibility as-*  
2 *essment under subsection (a), the NTIA shall—*

3                   (1) *consult directly with Federal entities with re-*  
4 *spect to frequencies allocated to Federal use by such*  
5 *entities in the bands identified in that subsection;*

6                   (2) *consider what, if any, impact authorizing*  
7 *mobile or fixed terrestrial wireless operations, includ-*  
8 *ing advanced mobile services operations, in any of*  
9 *such frequencies would have on an affected Federal*  
10 *entity; and*

11                   (3) *identify any such frequencies in the bands*  
12 *described in that subsection that the NTIA assessment*  
13 *determines are feasible for authorizing for mobile or*  
14 *fixed terrestrial wireless operations, including any*  
15 *advanced mobile service operations.*

16           **(c) REPORT TO CONGRESS AND THE COMMISSION.**—  
17 *Not later than 30 days after the date the feasibility assess-*  
18 *ment under subsection (a) is complete, the NTIA shall sub-*  
19 *mit to the appropriate committees of Congress a report on*  
20 *the feasibility assessment and provide a copy to the Com-*  
21 *mission.*

22           **(d) FCC PROCEEDING.**—*Not later than 2 years after*  
23 *the date of enactment of this Act or 90 days after the date*  
24 *it receives the feasibility assessment under subsection (c),*  
25 *whichever is earlier, the Commission, in consultation with*

1 *the NTIA, shall publish a notice of proposed rulemaking*  
2 *to consider service rules to authorize mobile or fixed terres-*  
3 *trial wireless operations, including for advanced mobile*  
4 *service operations, in the following radio frequency bands:*

5           (1) *The band between 24250 and 24450 mega-*  
6 *hertz.*

7           (2) *The band between 25050 and 25250 mega-*  
8 *hertz.*

9           (3) *The band between 31800 and 33400 mega-*  
10 *hertz, except for any frequencies with Federal alloca-*  
11 *tions.*

12           (4) *The band between 42000 and 42500 mega-*  
13 *hertz.*

14           (5) *The band between 71000 and 76000 mega-*  
15 *hertz, except for any frequencies with Federal alloca-*  
16 *tions.*

17           (6) *The band between 81000 and 86000 mega-*  
18 *hertz, except for any frequencies with Federal alloca-*  
19 *tions.*

20           (7) *Any frequencies with Federal allocations*  
21 *identified as feasible under subsection (b)(3).*

22           (e) *CONSIDERATIONS.—In conducting a rulemaking*  
23 *under subsection (d), the Commission shall—*

1           (1) *consult with Federal entities via the NTIA*  
2           *regarding the frequencies described in subsection*  
3           *(d)(7);*

4           (2) *consider how the bands described in sub-*  
5           *section (d) may be used to provide commercial wire-*  
6           *less broadband service, including whether—*

7                   (A) *such spectrum may be best used for li-*  
8                   *censed or unlicensed services, or some combina-*  
9                   *tion thereof; and*

10                   (B) *to permit additional licensed operations*  
11                   *in such bands on a shared basis; and*

12           (3) *include technical characteristics under which*  
13           *the bands described in subsection (d) may be em-*  
14           *ployed for mobile or fixed terrestrial wireless oper-*  
15           *ations, including any appropriate coexistence require-*  
16           *ments.*

17 **SEC. 5. 3 GIGAHERTZ SPECTRUM.**

18           (a) *BETWEEN 3100 MEGAHERTZ AND 3550 MEGA-*  
19           *HERTZ.—Not later than 18 months after the date of enact-*  
20           *ment of this Act, and in consultation with the Commission*  
21           *and the head of each affected Federal agency (or a designee*  
22           *thereof), the Secretary shall submit to the Commission and*  
23           *the appropriate committees of Congress a report evaluating*  
24           *the feasibility of allowing commercial wireless services, li-*



1 *censed or unlicensed, to share use of the frequencies between*  
2 *3100 megahertz and 3550 megahertz.*

3       (b) *BETWEEN 3700 MEGAHERTZ AND 4200 MEGA-*  
4 *HERTZ.—Not later than 18 months after the date of enact-*  
5 *ment of this Act, after notice and an opportunity for public*  
6 *comment, and in consultation with the Secretary and the*  
7 *head of each affected Federal agency (or a designee thereof),*  
8 *the Commission shall submit to the Secretary and the ap-*  
9 *propriate committees of Congress a report evaluating the*  
10 *feasibility of allowing commercial wireless services, licensed*  
11 *or unlicensed, to share use of the frequencies between 3700*  
12 *megahertz and 4200 megahertz.*

13       (c) *REQUIREMENTS.—A report under subsection (a) or*  
14 *subsection (b) shall include the following:*

15           (1) *An assessment of the operations of Federal*  
16 *entities that operate Federal Government stations au-*  
17 *thorized to use the frequencies described in that sub-*  
18 *section.*

19           (2) *An assessment of the possible impacts of such*  
20 *sharing on Federal and non-Federal users already op-*  
21 *erating on the frequencies described in that sub-*  
22 *section.*

23           (3) *The criteria that may be necessary to ensure*  
24 *shared licensed or unlicensed services would not cause*  
25 *harmful interference to Federal or non-Federal users*



1 *is amended by striking subsections (b), (c), and (d) and*  
2 *inserting the following:*

3       “(b) *FEDERAL EASEMENTS, RIGHTS-OF-WAY, AND*  
4 *LEASES.—*

5               “(1) *GRANT.—If an executive agency, a State, a*  
6 *political subdivision or agency of a State, or a per-*  
7 *son, firm, or organization applies for the grant of an*  
8 *easement, right-of-way, or lease to, in, over, or on a*  
9 *building or other property owned by the Federal Gov-*  
10 *ernment for the right to install, construct, modify, or*  
11 *maintain a communications facility installation, the*  
12 *executive agency having control of the building or*  
13 *other property may grant to the applicant, on behalf*  
14 *of the Federal Government, subject to paragraph (5),*  
15 *an easement, right-of-way, or lease to perform such*  
16 *installation, construction, modification, or mainte-*  
17 *nance.*

18               “(2) *APPLICATION.—*

19               “(A) *IN GENERAL.—The Administrator of*  
20 *General Services shall develop a common form*  
21 *for applications for easements, rights-of-way,*  
22 *and leases under paragraph (1) for all executive*  
23 *agencies that, except as provided in subpara-*  
24 *graph (B), shall be used by all executive agencies*

1           *and applicants with respect to the buildings or*  
2           *other property of each such agency.*

3           “(B) *EXCEPTION.*—*The requirement under*  
4           *subparagraph (A) for an executive agency to use*  
5           *the common form developed by the Administrator*  
6           *of General Services shall not apply to an execu-*  
7           *tive agency if the head of an executive agency*  
8           *notifies the Administrator that the executive*  
9           *agency uses a substantially similar application.*

10          “(3) *FEE.*—

11           “(A) *IN GENERAL.*—*Notwithstanding any*  
12           *other provision of law, the Administrator of Gen-*  
13           *eral Services shall establish a fee for the grant of*  
14           *an easement, right-of-way, or lease pursuant to*  
15           *paragraph (1) that is based on direct cost recov-*  
16           *ery.*

17           “(B) *EXCEPTIONS.*—*The Administrator of*  
18           *General Services may establish exceptions to the*  
19           *fee amount required under subparagraph (A)—*

20                   “(i) *in consideration of the public ben-*  
21                   *efit provided by a grant of an easement,*  
22                   *right-of-way, or lease; and*

23                   “(ii) *in the interest of expanding wire-*  
24                   *less and broadband coverage.*

1           “(4) *USE OF FEES COLLECTED.*—Any fee  
2           amounts collected by an executive agency pursuant to  
3           paragraph (3) may be made available, as provided in  
4           appropriations Acts, to such agency to cover the costs  
5           of granting the easement, right-of-way, or lease.

6           “(5) *TIMELY CONSIDERATION OF APPLICA-*  
7           *TIONS.*—

8           “(A) *IN GENERAL.*—Not later than 270  
9           days after the date on which an executive agency  
10          receives a duly filed application for an easement,  
11          right-of-way, or lease under this subsection, the  
12          executive agency shall—

13                 “(i) grant or deny, on behalf of the  
14                 Federal Government, the application; and

15                 “(ii) notify the applicant of the grant  
16                 or denial.

17          “(B) *EXPLANATION OF DENIAL.*—If an execu-  
18          tive agency denies an application under sub-  
19          paragraph (A), the executive agency shall notify  
20          the applicant in writing, including a clear state-  
21          ment of the reasons for the denial.

22          “(C) *APPLICABILITY OF ENVIRONMENTAL*  
23          *LAWS.*—Nothing in this paragraph shall be con-  
24          strued to relieve an executive agency of the re-  
25          quirements of the National Historic Preservation

1           *Act (16 U.S.C. 470 et seq.) or the National Envi-*  
2           *ronmental Policy Act of 1969 (42 U.S.C. 4321 et*  
3           *seq.).*

4           “(D) *POINT OF CONTACT.*—*Upon receiving*  
5           *an application under subparagraph (A), an exec-*  
6           *utive agency shall designate 1 or more appro-*  
7           *priate individuals within the executive agency to*  
8           *act as a point of contact with the applicant.*

9           “(c) *MASTER CONTRACTS FOR COMMUNICATIONS FA-*  
10          *CILITY INSTALLATION SITINGS.*—

11           “(1) *IN GENERAL.*—*Notwithstanding section 704*  
12          *of the Telecommunications Act of 1996 (Public Law*  
13          *104–104; 110 Stat. 151) or any other provision of*  
14          *law, the Administrator of General Services shall—*

15           “(A) *develop 1 or more master contracts*  
16          *that shall govern the placement of communica-*  
17          *tions facility installation on buildings and other*  
18          *property owned by the Federal Government; and*

19           “(B) *in developing the master contract or*  
20          *contracts, standardize the treatment of the place-*  
21          *ment of communications facility installation on*  
22          *building rooftops or facades, the placement of*  
23          *communications facility installation on rooftops*  
24          *or inside buildings, the technology used in con-*  
25          *nection with communications facility installa-*

1            *tion placed on Federal buildings and other prop-*  
2            *erty, and any other key issues the Administrator*  
3            *of General Services considers appropriate.*

4            “(2) *APPLICABILITY.*—*The master contract or*  
5            *contracts developed by the Administrator of General*  
6            *Services under paragraph (1) shall apply to all pub-*  
7            *licly accessible buildings and other property owned by*  
8            *the Federal Government, unless the Administrator of*  
9            *General Services decides that issues with respect to*  
10           *the siting of a communications facility installation*  
11           *on a specific building or other property warrant non-*  
12           *standard treatment of such building or other prop-*  
13           *erty.*

14           “(3) *APPLICATION.*—

15           “(A) *IN GENERAL.*—*The Administrator of*  
16           *General Services shall develop a common form or*  
17           *set of forms for communications facility installa-*  
18           *tion siting applications that, except as provided*  
19           *in subparagraph (B), shall be used by all execu-*  
20           *tive agencies and applicants with respect to the*  
21           *buildings and other property of each such agen-*  
22           *cy.*

23           “(B) *EXCEPTION.*—*The requirement under*  
24           *subparagraph (A) for an executive agency to use*  
25           *the common form or set of forms developed by the*

1            *Administrator of General Services shall not*  
 2            *apply to an executive agency if the head of the*  
 3            *executive agency notifies the Administrator that*  
 4            *the executive agency uses a substantially similar*  
 5            *application.*

6            *“(d) DEFINITIONS.—In this section:*

7            *“(1) COMMUNICATIONS FACILITY INSTALLA-*  
 8            *TION.—The term ‘communications facility installa-*  
 9            *tion’ includes—*

10            *“(A) any infrastructure, including any*  
 11            *transmitting device, tower, or support structure,*  
 12            *and any equipment, switches, wiring, cabling,*  
 13            *power sources, shelters, or cabinets, associated*  
 14            *with the licensed or permitted unlicensed wireless*  
 15            *or wireline transmission of writings, signs, sig-*  
 16            *nals, data, images, pictures, and sounds of all*  
 17            *kinds; and*

18            *“(B) any antenna or apparatus that—*

19            *“(i) is designed for the purpose of*  
 20            *emitting radio frequency;*

21            *“(ii) is designed to be operated, or is*  
 22            *operating, from a fixed location pursuant to*  
 23            *authorization by the Commission or is*  
 24            *using duly authorized devices that do not*  
 25            *require individual licenses; and*



1                   “(iii) is added to a tower, building, or  
2                   other structure.

3                   “(2) *EXECUTIVE AGENCY*.—The term ‘executive  
4                   agency’ has the meaning given such term in section  
5                   102 of title 40, United States Code.”.

6                   (b) *SAVINGS PROVISION*.—An application for an ease-  
7                   ment, right-of-way, or lease that was made or granted under  
8                   section 6409 of the Middle Class Tax Relief and Job Cre-  
9                   ation Act of 2012 (47 U.S.C. 1455) before the effective date  
10                  of this Act shall continue, subject to that section as in effect  
11                  on the day before such effective date.

12                  (c) *STREAMLINING BROADBAND FACILITY APPLICA-*  
13                  *TIONS*.—

14                   (1) *DEFINITION OF COMMUNICATIONS FACILITY*  
15                   *INSTALLATION*.—In this subsection, the term “commu-  
16                   nications facility installation” has the meaning given  
17                   the term in section 6409(d) of the Middle Class Tax  
18                   Relief and Job Creation Act of 2012 (47 U.S.C.  
19                   1455(d)), as amended by subsection (a).

20                   (2) *RECOMMENDATIONS*.—

21                   (A) *IN GENERAL*.—Not later than 2 years  
22                   after the date of enactment of this Act, the NTIA,  
23                   in coordination with the Department of the Inte-  
24                   rior, the Department of Agriculture, the Depart-  
25                   ment of Defense, the Department of Transpor-

1            *tation, the Office of Management and Budget,*  
2            *and the General Services Administration, shall*  
3            *develop recommendations to streamline the proc-*  
4            *ess for considering applications by those agencies*  
5            *under section 6409(b) of the Middle Class Tax*  
6            *Relief and Job Creation Act of 2012 (47 U.S.C.*  
7            *1455(b)), as amended by subsection (a).*

8            *(B) REQUIREMENTS FOR RECOMMENDA-*  
9            *TIONS.—The recommendations developed under*  
10           *subparagraph (A) shall include—*

11                    *(i) procedures for the tracking of appli-*  
12                    *cations described in subparagraph (A);*

13                    *(ii) methods by which to reduce the*  
14                    *amount of time between the receipt of an*  
15                    *application and the issuance of a final deci-*  
16                    *sion on an application; and*

17                    *(iii) policies to expedite renewals of an*  
18                    *easement, license, or other authorization to*  
19                    *locate a communications facility installa-*  
20                    *tion on land managed by the agencies de-*  
21                    *scribed in subparagraph (A).*

22            *(C) REPORT TO CONGRESS.—Not later than*  
23            *2 years after the date on which the recommenda-*  
24            *tions required under subparagraph (A) are devel-*  
25            *oped, the NTIA shall submit to the Committee on*

1 Commerce, Transportation, and Science of the  
2 Senate and the Committee on Energy and Com-  
3 merce of the House of Representatives a report  
4 that describes—

5 (i) the status of the implementation of  
6 the recommendations developed pursuant to  
7 subparagraph (B); and

8 (ii) any improvements to the process  
9 for considering applications described in  
10 subparagraph (A) that have resulted from  
11 those recommendations, including in par-  
12 ticular the speed at which such applications  
13 are reviewed and a final determination is  
14 issued.

15 **SEC. 8. BROADBAND INFRASTRUCTURE DEPLOYMENT.**

16 (a) *FINDING REGARDING FEDERAL AND STATE DE-*  
17 *PARTMENTS OF TRANSPORTATION.*—Congress finds that it  
18 is the policy of the United States for the Department of  
19 Transportation and State departments of transportation—

20 (1) to adjust or otherwise develop right-of-way  
21 policies for Federal-aid highways to effectively accom-  
22 modate broadband infrastructure;

23 (2) to ensure the safe and efficient accommoda-  
24 tion of broadband infrastructure in the public right-  
25 of-way;

1           (3) to include broadband stakeholders in the  
2           transportation planning process; and

3           (4) to coordinate highway construction plans  
4           with other statewide telecommunications and  
5           broadband plans.

6           (b) *DEFINITIONS.*—*In this section:*

7           (1) *APPROPRIATE STATE AGENCY.*—*The term*  
8           *“appropriate State agency” means a State govern-*  
9           *mental agency that is recognized by the executive*  
10           *branch of the State as having the experience necessary*  
11           *to evaluate and carry out projects relating to the*  
12           *proper and effective installation and operation of*  
13           *broadband infrastructure.*

14           (2) *BROADBAND INFRASTRUCTURE.*—*The term*  
15           *“broadband infrastructure” means any buried or aer-*  
16           *ial facility, and any wireless or wireline connection,*  
17           *that enables users to send and receive voice, video,*  
18           *data, graphics, or any combination thereof.*

19           (3) *BROADBAND INFRASTRUCTURE ENTITY.*—*The*  
20           *term “broadband infrastructure entity” means any*  
21           *entity that—*

22                   (A) *installs, owns, or operates broadband*  
23                   *infrastructure; and*

24                   (B) *provides broadband services to the pub-*  
25                   *lic in a manner consistent with the public inter-*

1           *est, convenience, and necessity, as determined by*  
 2           *the State.*

3           (4) *STATE.*—*The term “State” means—*

4                   (A) *a State;*

5                   (B) *the District of Columbia; and*

6                   (C) *the Commonwealth of Puerto Rico.*

7           (c) *BROADBAND INFRASTRUCTURE DEPLOYMENT.*—*To*  
 8           *facilitate the installation of broadband infrastructure and*  
 9           *achieve the policy described in subsection (a), the Secretary*  
 10           *of Transportation shall ensure that each State that receives*  
 11           *funds under chapter 1 of title 23, United States Code, meets*  
 12           *the following requirements:*

13                   (1) *BROADBAND COORDINATION.*—*The State de-*  
 14                   *partment of transportation, in coordination with ap-*  
 15                   *propriate State agencies, shall—*

16                           (A) *identify a broadband utility coordi-*  
 17                           *nator that is responsible for coordinating the*  
 18                           *broadband infrastructure right-of-way needs of*  
 19                           *the State with Federal-aid highway projects car-*  
 20                           *ried out in the State;*

21                           (B) *establish a process for the registration*  
 22                           *of broadband infrastructure entities that seek to*  
 23                           *be included in those broadband infrastructure*  
 24                           *right-of-way coordination efforts within the*  
 25                           *State;*



1           (1) *COMMUNICATIONS FACILITY INSTALLATION.*—

2           The term “communications facility installation” in-  
3           cludes—

4                   (A) any infrastructure, including any  
5                   transmitting device, tower, or support structure,  
6                   and any equipment, switches, wiring, cabling,  
7                   power sources, shelters, or cabinets, associated  
8                   with the licensed or permitted unlicensed wireless  
9                   or wireline transmission of writings, signs, sig-  
10                  nals, data, images, pictures, and sounds of all  
11                  kinds; and

12                   (B) any antenna or apparatus that—

13                           (i) is designed for the purpose of emit-  
14                           ting radio frequency;

15                           (ii) is designed to be operated, or is op-  
16                           erating, from a fixed location pursuant to  
17                           authorization by the Federal Communica-  
18                           tions Commission or is using duly author-  
19                           ized devices that do not require individual  
20                           licenses; and

21                           (iii) is added to a tower, building, or  
22                           other structure.

23           (2) *COVERED PROPERTY.*—The term “covered  
24           property”—

1           (A) means any real property capable of  
2           supporting a communications facility installa-  
3           tion; and

4           (B) includes any interest in real property  
5           described in subparagraph (A).

6           (3) *DATABASE*.—The term “database” means the  
7           database established under subsection (b).

8           (4) *EXECUTIVE AGENCY*.—The term “Executive  
9           agency” has the meaning given the term in section  
10          105 of title 5, United States Code.

11          (b) *DATABASE ESTABLISHED*.—Not later than June  
12          30, 2018, the Director of the Office of Science and Tech-  
13          nology Policy, in consultation with the Chairman of the  
14          Federal Communications Commission, Assistant Secretary  
15          of Commerce for Communications and Information, Under  
16          Secretary of Commerce for Standards and Technology, Ad-  
17          ministrators of General Services, and Director of the Office  
18          of Management and Budget, shall—

19               (1) establish and operate a single database of  
20               any covered property that is owned, leased, or other-  
21               wise managed by an Executive agency;

22               (2) make the database available to—

23                       (A) any entity that—

24                               (i) constructs or operates communica-  
25                               tions facility installations; or



1                   (ii) provides communications service;

2                   and

3                   (B) any other entity that the Director of the  
4                   Office of Science and Technology Policy deter-  
5                   mines is appropriate; and

6                   (3) establish a process for withholding data from  
7                   the database for national security, public safety, or  
8                   other national strategic concerns in accordance with  
9                   existing statutory authority and Executive order  
10                  mandates with respect to handling and protection of  
11                  such information.

12                 (c) PUBLIC COMMENT.—

13                   (1) IN GENERAL.—Not later than 30 days after  
14                   the date of enactment of the MOBILE NOW Act, the  
15                   Director of the Office of Science and Technology Pol-  
16                   icy shall seek public comment to inform the establish-  
17                   ment and operation of the database.

18                   (2) CONTENTS.—In seeking public comment  
19                   under paragraph (1), the Director shall include a re-  
20                   quest for recommendations on—

21                   (A) criteria that make real property capable  
22                   of supporting communications facility installa-  
23                   tions;

24                   (B) types of information related to covered  
25                   property that should be included in the database;

1           (C) an interface by which accessibility to  
2           the database for all users will be appropriately  
3           efficient and secure; and

4           (D) other information the Director deter-  
5           mines necessary to establish and operate the  
6           database.

7           (d) *FEDERAL AGENCIES.*—

8           (1) *INITIAL PROVISION OF INFORMATION.*—Not  
9           later than 90 days after the date on which the data-  
10          base is established under subsection (b), the head of  
11          an Executive agency shall provide to the Director of  
12          the Office of Science and Technology Policy, in a  
13          manner and format to be determined by the Director,  
14          such information as the Director determines appro-  
15          priate with respect to covered property owned, leased,  
16          or otherwise managed by the Executive agency.

17          (2) *CHANGE TO INFORMATION PREVIOUSLY PRO-*  
18          *VIDED.*—In the case of any change to information  
19          provided to the Director of the Office of Science and  
20          Technology Policy by the head of an Executive agency  
21          under paragraph (1), the head of the Executive agen-  
22          cy shall provide updated information to the Director  
23          not later than 30 days after the date of the change.

24          (3) *SUBSEQUENTLY ACQUIRED PROPERTY.*—If  
25          an Executive agency acquires covered property after

1        *the date on which the database is established under*  
2        *subsection (b), the head of the Executive agency shall*  
3        *provide to the Director of the Office of Science and*  
4        *Technology Policy the information required under*  
5        *paragraph (1) with respect to the covered property*  
6        *not later than 30 days after the date of the acquisi-*  
7        *tion.*

8        *(e) STATE AND LOCAL GOVERNMENTS.—*

9            *(1) IN GENERAL.—The Director of the Office of*  
10        *Science and Technology Policy (referred to in this*  
11        *subsection as the “Director”) shall make the database*  
12        *available to State and local governments so that such*  
13        *governments may provide to the Director for inclu-*  
14        *sion in the database similar information to the infor-*  
15        *mation required under subsection (d)(1) regarding*  
16        *covered property owned, leased, or otherwise managed*  
17        *by such governments.*

18            *(2) REPORT ON INCENTIVIZING PARTICIPATION*  
19        *BY STATE AND LOCAL GOVERNMENTS.—*

20            *(A) IN GENERAL.—Not later than 1 year*  
21        *after the date of enactment of this Act, the Direc-*  
22        *tor, in consultation with the Chairman of the*  
23        *Commission, the Assistant Secretary of Com-*  
24        *merce for Communications and Information, the*  
25        *Under Secretary of Commerce for Standards and*

1           *Technology, the Administrator of General Serv-*  
2           *ices, and the Director of the Office of Manage-*  
3           *ment and Budget, shall submit to the Committee*  
4           *on Commerce, Science, and Transportation of*  
5           *the Senate and the Committee on Energy and*  
6           *Commerce of the House of Representatives a re-*  
7           *port on potential ways to incentivize State and*  
8           *local governments to provide to the Director for*  
9           *inclusion in the database similar information to*  
10          *the information required under subsection (d)(1)*  
11          *regarding covered property owned, leased, or oth-*  
12          *erwise managed by such governments pursuant*  
13          *to paragraph (1) of this subsection or through*  
14          *other means.*

15                    (B) *CONSIDERATIONS.—The Director, in*  
16                    *preparing the report under subparagraph (A),*  
17                    *shall—*

18                            (i) *consult with State and local govern-*  
19                            *ments, or their representatives, to identify*  
20                            *for inclusion in the report the most cost-ef-*  
21                            *fective options for State and local govern-*  
22                            *ments to collect and provide the information*  
23                            *described in subparagraph (A), including*  
24                            *utilizing and leveraging State broadband*  
25                            *initiatives and programs; and*

1                   (ii) make recommendations on ways  
2                   the Federal Government can assist State  
3                   and local governments in collecting and  
4                   providing the information described in sub-  
5                   paragraph (A).

6                   (C) *REPORT UPDATE.*—Not later than 2  
7                   years after the date on which the database is es-  
8                   tablished under this section, the Director shall  
9                   submit to the Committee on Commerce, Science,  
10                  and Transportation of the Senate and the Com-  
11                  mittee on Energy and Commerce of the House of  
12                  Representatives an update to the report required  
13                  under subparagraph (A) that identifies State  
14                  and local governments that have contributed to  
15                  the database and provides recommendations on  
16                  ways to further incentivize participation by  
17                  State and local governments pursuant to para-  
18                  graph (1) of this subsection or through other  
19                  means.

20                  (f) *DATABASE UPDATES.*—

21                  (1) *TIMELY INCLUSION.*—After the establishment  
22                  of the database, the Director of the Office of Science  
23                  and Technology Policy shall ensure that information  
24                  provided under subsection (d) or subsection (e) is in-

1 *cluded in the database not later than 7 days after the*  
2 *date on which the Director receives the information.*

3 (2) *DATE OF ADDITION OR UPDATE.—Information*  
4 *in the database relating to covered property shall*  
5 *include the date on which the information was added*  
6 *or most recently updated.*

7 (g) *REPORT.—Not later than 180 days after the date*  
8 *the Director of the Office of Science and Technology Policy*  
9 *seeks public comment under subsection (c)(1), the Director*  
10 *shall submit to the Committee on Commerce, Science, and*  
11 *Transportation of the Senate and the Committee on Energy*  
12 *and Commerce of the House of Representatives a report on*  
13 *the progress in establishing the database under this section.*  
14 *The Director shall update the report annually until the date*  
15 *that the database is fully operational. After the database*  
16 *is fully operational and for the next 5 years thereafter, the*  
17 *Director shall provide annual reports regarding the use of*  
18 *the database, recommendations of how the database may*  
19 *provide additional utility to the entities described in sub-*  
20 *section (b)(2), if any recommendations are warranted, and*  
21 *how previous recommendations have been implemented.*

22 **SEC. 10. REALLOCATION INCENTIVES.**

23 (a) *IN GENERAL.—Not later than 18 months after the*  
24 *date of enactment of this Act, the Secretary, in consultation*  
25 *with the Commission, the Director of OMB, and the head*

1 of each affected Federal agency (or a designee thereof), after  
2 notice and an opportunity for public comment, shall submit  
3 to the appropriate committees of Congress a report that in-  
4 cludes legislative or regulatory recommendations to  
5 incentivize a Federal entity to relinquish, or share with  
6 Federal or non-Federal users, Federal spectrum for the pur-  
7 pose of allowing commercial wireless broadband services to  
8 operate on that Federal spectrum.

9 (b) *POST-AUCTION PAYMENTS.*—

10 (1) *REPORT.*—In preparing the report under  
11 subsection (a), the Secretary shall—

12 (A) consider whether permitting eligible  
13 Federal entities that are implementing a transi-  
14 tion plan submitted under section 113(h) of the  
15 National Telecommunications and Information  
16 Administration Organization Act (47 U.S.C.  
17 923(h)) to accept payments could result in access  
18 to the eligible frequencies that are being reallo-  
19 cated for exclusive non-Federal use or shared use  
20 sooner than would otherwise occur without such  
21 payments; and

22 (B) include the findings under subpara-  
23 graph (A), including the analysis under para-  
24 graph (2) and any recommendations for legisla-  
25 tion, in the report.

1           (2) *ANALYSIS.*—*In considering payments under*  
2 *paragraph (1)(A), the Secretary shall conduct an*  
3 *analysis of whether and how such payments would af-*  
4 *fect—*

5           (A) *bidding in auctions conducted under*  
6 *section 309(j) of the Communications Act of*  
7 *1934 (47 U.S.C. 309(j)) of such eligible fre-*  
8 *quencies; and*

9           (B) *receipts collected from the auctions de-*  
10 *scribed in subparagraph (A).*

11          (3) *DEFINITIONS.*—*In this subsection:*

12           (A) *PAYMENT.*—*The term “payment” means*  
13 *a payment in cash or in-kind by any auction*  
14 *winner, or any person affiliated with an auction*  
15 *winner, of eligible frequencies during the period*  
16 *after eligible frequencies have been reallocated by*  
17 *competitive bidding under section 309(j) of the*  
18 *Communications Act of 1934 (47 U.S.C. 309(j))*  
19 *but prior to the completion of relocation or shar-*  
20 *ing transition of such eligible frequencies per*  
21 *transition plans approved by the Technical*  
22 *Panel.*

23           (B) *ELIGIBLE FREQUENCIES.*—*The term*  
24 *“eligible frequencies” has the meaning given the*  
25 *term in section 113(g)(2) of the National Tele-*



1           *communications and Information Administra-*  
2           *tion Organization Act (47 U.S.C. 923(g)(2)).*

3 **SEC. 11. BIDIRECTIONAL SHARING STUDY.**

4           *(a) IN GENERAL.—Not later than 1 year after the date*  
5 *of enactment of this Act, including an opportunity for pub-*  
6 *lic comment, the Commission, in collaboration with the*  
7 *NTIA, shall—*

8                   *(1) conduct a bidirectional sharing study to de-*  
9                   *termine the best means of providing Federal entities*  
10                  *flexible access to non-Federal spectrum on a shared*  
11                  *basis across a range of short-, mid-, and long-range*  
12                  *timeframes, including for intermittent purposes like*  
13                  *emergency use; and*

14                   *(2) submit to Congress a report on the study*  
15                  *under paragraph (1), including any recommendations*  
16                  *for legislation or proposed regulations.*

17           *(b) CONSIDERATIONS.—In conducting the study under*  
18 *subsection (a), the Commission shall—*

19                   *(1) consider the regulatory certainty that com-*  
20                  *mercial spectrum users and Federal entities need to*  
21                  *make longer-term investment decisions for shared ac-*  
22                  *cess to be viable; and*

23                   *(2) evaluate any barriers to voluntary commer-*  
24                  *cial arrangements in which non-Federal users could*  
25                  *provide access to Federal entities.*

1 **SEC. 12. UNLICENSED SERVICES IN GUARD BANDS.**

2       (a) *IN GENERAL.*—After public notice and comment,  
3 and in consultation with the Secretary and the head of each  
4 affected Federal agency (or a designee thereof), with respect  
5 to frequencies allocated for Federal use, the Commission  
6 shall adopt rules that permit unlicensed services where fea-  
7 sible to use any frequencies that are designated as guard  
8 bands to protect frequencies allocated after the date of enact-  
9 ment of this Act by competitive bidding under section 309(j)  
10 of the Communications Act of 1934 (47 U.S.C. 309(j)), in-  
11 cluding spectrum that acts as a duplex gap between trans-  
12 mit and receive frequencies.

13       (b) *LIMITATION.*—The Commission may not permit  
14 any use of a guard band under this section that would cause  
15 harmful interference to a licensed service or a Federal serv-  
16 ice operating in the guard band or in an adjacent band.

17       (c) *RULE OF CONSTRUCTION.*—Nothing in this section  
18 shall be construed as limiting the Commission or the Sec-  
19 retary from otherwise making spectrum available for li-  
20 censed or unlicensed use in any frequency band in addition  
21 to guard bands, including under section 3, consistent with  
22 their statutory jurisdictions.

23 **SEC. 13. PRE-AUCTION FUNDING.**

24       Section 118(d)(3)(B)(i)(II) of the National Tele-  
25 communications and Information Administration Organi-

1 *zation Act (47 U.S.C. 928(d)(3)(B)(i)(II)) is amended by*  
2 *striking “5 years” and inserting “8 years”.*

3 **SEC. 14. IMMEDIATE TRANSFER OF FUNDS.**

4 *Section 118(e)(1) of the National Telecommunications*  
5 *and Information Administration Organization Act (47*  
6 *U.S.C. 928(e)(1)) is amended by adding at the end the fol-*  
7 *lowing:*

8 *“(D) At the request of an eligible Federal*  
9 *entity, the Director of OMB may transfer the*  
10 *amount under subparagraph (A) immediately—*

11 *“(i) after the frequencies are reallo-*  
12 *cated by competitive bidding under section*  
13 *309(j) of the Communications Act of 1934*  
14 *(47 U.S.C. 309(j)); or*

15 *“(ii) in the case of an incumbent Fed-*  
16 *eral entity that is incurring relocation or*  
17 *sharing costs to accommodate sharing spec-*  
18 *trum frequencies with another Federal enti-*  
19 *ty, after the frequencies from which the*  
20 *other eligible Federal entity is relocating*  
21 *are reallocated by competitive bidding*  
22 *under section 309(j) of the Communications*  
23 *Act of 1934 (47 U.S.C. 309(j)), without re-*  
24 *gard to the availability of such sums in the*  
25 *Fund.*



1           (2) *REQUIREMENTS.*—*In conducting the study*  
2 *under paragraph (1), the Comptroller General shall*  
3 *consider and evaluate—*

4                   (A) *the availability of wireless Internet hot*  
5 *spots and access to unlicensed spectrum in low-*  
6 *income neighborhoods, particularly for elemen-*  
7 *tary and school-aged children in such neighbor-*  
8 *hoods;*

9                   (B) *any barriers preventing or limiting the*  
10 *deployment and use of wireless networks in low-*  
11 *income neighborhoods;*

12                   (C) *how to overcome any barriers described*  
13 *in subparagraph (B), including through incen-*  
14 *tives, policies, or requirements that would in-*  
15 *crease the availability of unlicensed spectrum*  
16 *and related technologies in low-income neighbor-*  
17 *hoods; and*

18                   (D) *how to encourage home broadband*  
19 *adoption by households with elementary and sec-*  
20 *ondary school-age children that are in low-in-*  
21 *come neighborhoods.*

22           (b) *REPORT.*—*Not later than 1 year after the date of*  
23 *enactment of this Act, the Comptroller General shall submit*  
24 *to the Committee on Commerce, Science, and Transpor-*

1 *tation of the Senate and the Committee on Energy and*  
 2 *Commerce of the House of Representatives a report that—*

3 *(1) summarizes the findings of the study con-*  
 4 *ducted under subsection (a); and*

5 *(2) makes recommendations with respect to po-*  
 6 *tential incentives, policies, and requirements that*  
 7 *could help achieve the goals described in subpara-*  
 8 *graphs (C) and (D) of subsection (a)(2).*

9 **SEC. 17. RULEMAKING RELATED TO PARTITIONING OR**  
 10 **DISAGGREGATING LICENSES.**

11 *(a) DEFINITIONS.—In this section—*

12 *(1) COVERED SMALL CARRIER.—The term “cov-*  
 13 *ered small carrier” means a carrier (as defined in*  
 14 *section 3 of the Communications Act of 1934 (47*  
 15 *U.S.C. 153)) that—*

16 *(A) has not more than 1,500 employees (as*  
 17 *determined under section 121.106 of title 13,*  
 18 *Code of Federal Regulations, or any successor*  
 19 *thereto); and*

20 *(B) offers services using the facilities of the*  
 21 *carrier.*

22 *(2) RURAL AREA.—The term “rural area” means*  
 23 *any area other than—*

1           (A) a city, town, or incorporated area that  
2           has a population of more than 20,000 inhab-  
3           itants; or

4           (B) an urbanized area contiguous and adja-  
5           cent to a city or town that has a population of  
6           more than 50,000 inhabitants.

7           (b) *RULEMAKING.*—

8           (1) *IN GENERAL.*—Not later than 1 year after  
9           the date of enactment of this Act, the Commission  
10          shall initiate a rulemaking proceeding to assess  
11          whether to establish a program, or modify existing  
12          programs, under which a licensee that receives a li-  
13          cense for the exclusive use of spectrum in a specific  
14          geographic area under section 301 of the Communica-  
15          tions Act of 1934 (47 U.S.C. 301) may partition or  
16          disaggregate the license by sale or long-term lease—

17                   (A) in order to—

18                           (i) provide services consistent with the  
19                           license; and

20                           (ii) make unused spectrum available  
21                           to—

22                                   (I) an unaffiliated covered small  
23                                   carrier; or

24                                   (II) an unaffiliated carrier to  
25                                   serve a rural area; and

1           (B) if the Commission finds that such a  
2           program would promote—

3                   (i) the availability of advanced tele-  
4                   communications services in rural areas; or  
5                   (ii) spectrum availability for covered  
6                   small carriers.

7           (2) *CONSIDERATIONS.*—In conducting the rule-  
8           making proceeding under paragraph (1), the Commis-  
9           sion shall consider, with respect to the program pro-  
10          posed to be established under that paragraph—

11                   (A) whether reduced performance require-  
12                   ments with respect to spectrum obtained through  
13                   the program would facilitate deployment of ad-  
14                   vanced telecommunications services in the areas  
15                   covered by the program;

16                   (B) what conditions may be needed on  
17                   transfers of spectrum under the program to allow  
18                   covered small carriers that obtain spectrum  
19                   under the program to build out the spectrum in  
20                   a reasonable period of time;

21                   (C) what incentives may be appropriate to  
22                   encourage licensees to lease or sell spectrum, in-  
23                   cluding—



1           (i) extending the term of a license  
2           granted under section 301 of the Commu-  
3           nications Act of 1934 (47 U.S.C. 301); or

4           (ii) modifying performance require-  
5           ments of the license relating to the leased or  
6           sold spectrum; and

7           (D) the administrative feasibility of—

8           (i) the incentives described in subpara-  
9           graph (C); and

10           (ii) other incentives considered by the  
11           Commission that further the goals of this  
12           section.

13           (3) *FORFEITURE OF SPECTRUM.*—If a party  
14           fails to meet any build out requirements set by the  
15           Commission for any spectrum sold or leased under  
16           this section, the right to the spectrum shall be forfeited  
17           to the Commission unless the Commission finds that  
18           there is good cause for the failure of the party.

19           (4) *REQUIREMENT.*—The Commission may offer  
20           a licensee incentives or reduced performance require-  
21           ments under this section only if the Commission finds  
22           that doing so would likely result in increased avail-  
23           ability of advanced telecommunications services in a  
24           rural area.

1 **SEC. 18. UNLICENSED SPECTRUM POLICY.**

2 (a) *STATEMENT OF POLICY.*—*It is the policy of the*  
3 *United States—*

4 (1) *to maximize the benefit to the people of the*  
5 *United States of the spectrum resources of the United*  
6 *States;*

7 (2) *to advance innovation and investment in*  
8 *wireless broadband services; and*

9 (3) *to promote spectrum policy that makes avail-*  
10 *able on an unlicensed basis radio frequency bands*  
11 *sufficient to meet consumer demand for unlicensed*  
12 *wireless broadband operations.*

13 (b) *COMMISSION RESPONSIBILITIES.*—*The Commis-*  
14 *sion shall ensure that the efforts of the Commission related*  
15 *to spectrum allocation and assignment make available on*  
16 *an unlicensed basis radio frequency bands sufficient to meet*  
17 *demand for unlicensed wireless broadband operations if*  
18 *doing so is, after taking into account the future needs of*  
19 *other spectrum users—*

20 (1) *reasonable; and*

21 (2) *in the public interest.*

22 (c) *COMMISSION ACTION.*—*Not later than 18 months*  
23 *after the date of enactment of this Act, the Commission shall*  
24 *take action to implement subsection (b).*

25 **SEC. 19. NATIONAL PLAN FOR UNLICENSED SPECTRUM.**

26 (a) *DEFINITIONS.*—*In this section:*

1           (1) *SPECTRUM RELOCATION FUND.*—*The term*  
2           *“Spectrum Relocation Fund” means the Fund estab-*  
3           *lished under section 118 of the National Tele-*  
4           *communications and Information Administration Or-*  
5           *ganization Act (47 U.S.C. 928).*

6           (2) *UNLICENSED OPERATIONS.*—*The term “unli-*  
7           *censed operations” means the use of spectrum on a*  
8           *non-exclusive basis under—*

9                   (A) *part 15 of title 47, Code of Federal Reg-*  
10                  *ulations; or*

11                   (B) *licensing by rule under part 96 of title*  
12                  *47, Code of Federal Regulations.*

13           (b) *NATIONAL PLAN.*—*Not later than 1 year after the*  
14           *date of enactment of this Act, the Commission, in consulta-*  
15           *tion with the NTIA, shall develop a national plan for mak-*  
16           *ing additional radio frequency bands available for unli-*  
17           *censed operations.*

18           (c) *REQUIREMENTS.*—*The plan developed under this*  
19           *section shall—*

20                   (1) *identify an approach that ensures that con-*  
21                  *sumers have access to additional spectrum to conduct*  
22                  *unlicensed operations in a range of radio frequencies*  
23                  *to meet consumer demand;*

24                   (2) *recommend specific actions by the Commis-*  
25                  *sion and the NTIA to permit unlicensed operations in*

1       *additional radio frequency ranges that the Commis-*  
2       *sion finds—*

3               *(A) are consistent with the statement of pol-*  
4               *icy under section 18(a);*

5               *(B) will—*

6                   *(i) expand opportunities for unlicensed*  
7                   *operations in a spectrum band; or*

8                   *(ii) otherwise improve spectrum utili-*  
9                   *zation and intensity of use of bands where*  
10                  *unlicensed operations are already per-*  
11                  *mitted;*

12               *(C) will not cause harmful interference to*  
13               *Federal or non-Federal users of such bands; and*

14               *(D) will not significantly impact homeland*  
15               *security or national security communications*  
16               *systems; and*

17               *(3) examine additional ways, with respect to ex-*  
18               *isting and planned databases or spectrum access sys-*  
19               *tems designed to promote spectrum sharing and access*  
20               *to spectrum for unlicensed operations—*

21                   *(A) to improve accuracy and efficacy;*

22                   *(B) to reduce burdens on consumers, manu-*  
23                   *facturers, and service providers; and*

24                   *(C) to protect sensitive Government infor-*  
25                   *mation.*

1       (d) *SPECTRUM RELOCATION FUND.*—*To be included as*  
2 *part of the plan developed under this section, the NTIA*  
3 *shall share with the Commission recommendations about*  
4 *how to reform the Spectrum Relocation Fund—*

5           (1) *to address costs incurred by Federal entities*  
6 *related to sharing radio frequency bands with radio*  
7 *technologies conducting unlicensed operations; and*

8           (2) *to ensure the Fund has sufficient funds to*  
9 *cover—*

10           (A) *the costs described in paragraph (1);*

11           *and*

12           (B) *other expenditures allowed of the Fund*  
13 *under section 118 of the National Telecommuni-*  
14 *cations and Information Administration Organi-*  
15 *zation Act (47 U.S.C. 928).*

16       (e) *REPORT REQUIRED.*—

17           (1) *IN GENERAL.*—*Not later than 1 year after*  
18 *the date of enactment of this Act, the Commission*  
19 *shall submit to the appropriate committees of Con-*  
20 *gress a report that describes the plan developed under*  
21 *this section, including any recommendations for legis-*  
22 *lative change.*

23           (2) *PUBLICATION ON COMMISSION WEBSITE.*—

24           *Not later than the date on which the Commission sub-*  
25 *mits the report under paragraph (1), the Commission*

1       *shall make the report publicly available on the website*  
2       *of the Commission.*

3   **SEC. 20. SPECTRUM CHALLENGE PRIZE.**

4       *(a) FINDINGS.—Congress finds the following:*

5           *(1) The future competitiveness and global tech-*  
6       *nology leadership of the United States depend, in*  
7       *part, upon the availability and efficient use of spec-*  
8       *trum.*

9           *(2) Dramatic improvement in spectrum effi-*  
10       *ciency would spur innovation, investment, and eco-*  
11       *nomi growth.*

12           *(3) Radio frequency spectrum is vital for emer-*  
13       *gency communications, national security, law enforce-*  
14       *ment, aviation, maritime safety, space communica-*  
15       *tions, and numerous other Federal functions.*

16           *(4) Prize competitions can spur innovation in*  
17       *the private and public sectors.*

18       *(b) DEFINITION OF PRIZE COMPETITION.—In this sec-*  
19       *tion, the term “prize competition” means a prize competi-*  
20       *tion conducted by the Secretary under subsection (c)(1).*

21       *(c) SPECTRUM CHALLENGE PRIZE.—*

22           *(1) IN GENERAL.—The Secretary, in consultation*  
23       *with the Assistant Secretary of Commerce for Com-*  
24       *munications and Information and the Under Sec-*  
25       *retary of Commerce for Standards and Technology,*

1 shall, subject to the availability of funds for prize  
2 competitions under this section—

3 (A) conduct prize competitions to dramati-  
4 cally accelerate the development and commer-  
5 cialization of technology that improves spectrum  
6 efficiency and is capable of cost-effective deploy-  
7 ment; and

8 (B) define a measurable set of performance  
9 goals for participants in the prize competitions  
10 to demonstrate their solutions on a level playing  
11 field while making a significant advancement  
12 over the current state of the art.

13 (2) *AUTHORITY OF SECRETARY.*—In carrying  
14 out paragraph (1), the Secretary may—

15 (A) enter into a grant, contract, cooperative  
16 agreement, or other agreement with a private  
17 sector for-profit or nonprofit entity to administer  
18 the prize competitions;

19 (B) invite the Defense Advanced Research  
20 Projects Agency, the Commission, the National  
21 Aeronautics and Space Administration, the Na-  
22 tional Science Foundation, or any other Federal  
23 agency to provide advice and assistance in the  
24 design or administration of the prize competi-  
25 tions; and

1           (C) award not more than \$5,000,000, in the  
2           aggregate, to the winner or winners of the prize  
3           competitions.

4           (d) *CRITERIA*.—Not later than 180 days after the date  
5           on which funds for prize competitions are made available  
6           pursuant to this section, the Commission shall publish a  
7           technical paper on spectrum efficiency providing criteria  
8           that may be used for the design of the prize competitions.

9           (e) *AUTHORIZATION OF APPROPRIATIONS*.—There are  
10          authorized to be appropriated such sums as may be nec-  
11          essary to carry out this section.

12   **SEC. 21. WIRELESS TELECOMMUNICATIONS TAX AND FEE**  
13                           **COLLECTION FAIRNESS.**

14          (a) *SHORT TITLE*.—This section may be cited as the  
15          “Wireless Telecommunications Tax and Fee Collection  
16          Fairness Act of 2016”.

17          (b) *FINDINGS*.—Congress finds the following:

18               (1) A State may designate an in-State or out-of-  
19               State person as a collection agent for the State and  
20               impose upon the person a duty to collect certain taxes  
21               and fees for wireless telecommunications services from  
22               residents of the State.

23               (2) States have the sovereign right to tax their  
24               citizens, subject to the Constitution of the United  
25               States and Federal law. States do not have the right



1        *to tax interstate commerce or to impose taxes or other*  
2        *obligations on citizens of other States without limita-*  
3        *tion.*

4            (3) *A collection agent for a State may feasibly*  
5        *collect taxes and fees from a customer in connection*  
6        *with a financial transaction to which the agent and*  
7        *customer are parties.*

8            (4) *Congress can help ensure against unreason-*  
9        *able burdens on interstate commerce by prohibiting*  
10       *each State from imposing a duty on any person to*  
11       *serve as a collection agent for the State unless the col-*  
12       *lection is in connection with a financial transaction.*

13       (c) *DEFINITIONS.—In this section:*

14            (1) *FINANCIAL TRANSACTION.—The term “finan-*  
15       *cial transaction” means a transaction in which the*  
16       *purchaser or user of a wireless telecommunications*  
17       *service upon whom a tax, fee, or surcharge is imposed*  
18       *gives cash, credit, or any other exchange of monetary*  
19       *value or consideration to the person who is required*  
20       *to collect or remit the tax, fee, or surcharge.*

21            (2) *LOCAL JURISDICTION.—The term “local ju-*  
22       *risdiction” means a political subdivision of a State.*

23            (3) *STATE.—The term “State” means any of the*  
24       *several States, the District of Columbia, and any ter-*  
25       *ritory or possession of the United States.*

1           (4) *STATE OR LOCAL JURISDICTION.*—*The term*  
2           *“State or local jurisdiction” includes any govern-*  
3           *mental entity or person acting on behalf of a State*  
4           *or local jurisdiction that has the authority to assess,*  
5           *impose, levy, or collect taxes or fees.*

6           (5) *WIRELESS TELECOMMUNICATIONS SERV-*  
7           *ICE.*—*The term “wireless telecommunications service”*  
8           *means a commercial mobile radio service, as defined*  
9           *in section 20.3 of title 47, Code of Federal Regula-*  
10           *tions, or any successor thereto.*

11           (d) *FINANCIAL TRANSACTION REQUIREMENT.*—

12           (1) *IN GENERAL.*—*A State, or a local jurisdic-*  
13           *tion of a State, may not require a person to collect*  
14           *from, or remit on behalf of, any other person a State*  
15           *or local tax, fee, or surcharge imposed on a purchaser*  
16           *or user with respect to the purchase or use of any*  
17           *wireless telecommunications service within the State*  
18           *unless the collection or remittance is in connection*  
19           *with a financial transaction between—*

20                   (A) *the person that the State or local juris-*  
21                   *diction requires to collect or remit the tax, fee,*  
22                   *or surcharge; and*

23                   (B) *the purchaser or user of the wireless*  
24                   *telecommunications service.*

1           (2) *RULE OF CONSTRUCTION.*—*Nothing in this*  
2 *subsection shall be construed to affect the right of a*  
3 *State or local jurisdiction to require the collection of*  
4 *any tax, fee, or surcharge in connection with a finan-*  
5 *cial transaction.*

6           (e) *ENFORCEMENT.*—

7           (1) *PRIVATE RIGHT OF ACTION.*—*Any person ag-*  
8 *grieved by a violation of subsection (d) may bring a*  
9 *civil action in an appropriate district court of the*  
10 *United States for equitable relief in accordance with*  
11 *paragraph (2) of this subsection.*

12           (2) *JURISDICTION OF DISTRICT COURTS.*—*Not-*  
13 *withstanding section 1341 of title 28, United States*  
14 *Code, or the constitution or laws of any State, the*  
15 *district courts of the United States shall have juris-*  
16 *isdiction, without regard to the amount in controversy*  
17 *or citizenship of the parties, to grant such mandatory*  
18 *or prohibitive injunctive relief, interim equitable re-*  
19 *lief, and declaratory judgments as may be necessary*  
20 *to prevent, restrain, or terminate any acts in viola-*  
21 *tion of subsection (d).*

22 **SEC. 22. RULES OF CONSTRUCTION.**

23           (a) *RANGES OF FREQUENCIES.*—*Each range of fre-*  
24 *quencies described in this Act shall be construed to be inclu-*  
25 *sive of the upper and lower frequencies in the range.*

1           **(b) ASSESSMENT OF ELECTROMAGNETIC SPECTRUM**  
2 *REALLOCATION.*—*Nothing in this Act shall be construed to*  
3 *affect any requirement under section 156 of the National*  
4 *Telecommunications and Information Administration Or-*  
5 *ganization Act (47 U.S.C. 921 note), as added by section*  
6 *1062(a) of the National Defense Authorization Act for Fis-*  
7 *cal Year 2000.*

8 **SEC. 23. RELATIONSHIP TO MIDDLE CLASS TAX RELIEF AND**  
9 **JOB CREATION ACT OF 2012.**

10           *Nothing in this Act shall be construed to limit, restrict,*  
11 *or circumvent in any way the implementation of the na-*  
12 *tionwide public safety broadband network defined in section*  
13 *6001 of title VI of the Middle Class Tax Relief and Job*  
14 *Creation Act of 2012 (47 U.S.C. 1401) or any rules imple-*  
15 *menting that network under title VI of that Act (47 U.S.C.*  
16 *1401 et seq.).*



Calendar No. 446

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 2555**

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**A BILL**

To provide opportunities for broadband investment,  
and for other purposes.

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APRIL 28, 2016

Reported with an amendment