

[STAFF DISCUSSION DRAFT]

NOVEMBER 6, 2015; 7:05 P.M. (TIMESTAMP NEEDS TO BE CORRECTED)

114TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

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”.

8 (b) TABLE OF CONTENTS.—The table of contents of
9 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Making 500 megahertz available.
- Sec. 4. Amendments to the Spectrum Pipeline Act of 2015.
- Sec. 5. Reallocation incentives.
- Sec. 6. Payments related to spectrum transitions.
- Sec. 7. Unlicensed use in guard bands.
- Sec. 8. Prioritize discontinuance.
- Sec. 9. Pre-auction funding.
- Sec. 10. Immediate transfer of funds.
- Sec. 11. Federal spectrum leasing.
- Sec. 12. Millimeter wave rulemaking.
- Sec. 13. Timeliness of Federal agency action.
- Sec. 14. Timeliness of local action on wireless deployment.
- Sec. 15. Dig once.
- Sec. 16. National broadband facilities asset database.
- Sec. 17. Federal spectrum transparency and value.
- Sec. 18. Rule of construction.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COMMISSION.—The term “Commission”
4 means the Federal Communications Commission.

5 (2) EXECUTIVE DEPARTMENT.—The term “Ex-
6 ecutive department” has the meaning given the term
7 in section 101 of title 5, United States Code.

8 (3) FEDERAL ENTITY.—The term “Federal en-
9 tity” has the meaning given the term in section
10 113(n) of the National Telecommunications and In-
11 formation Administration Organization Act (47
12 U.S.C. 923(n)).

13 (4) INDEPENDENT ESTABLISHMENT.—The
14 term “independent establishment” has the meaning
15 given the term in section 104 of title 5, United
16 States Code.

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

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

6 (7) PPSG.—The term “PPSG” means the Pol-
7 icy and Plans Steering Group.

8 (8) SECRETARY.—The term “Secretary” means
9 the Secretary of Commerce.

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

11 (a) REQUIREMENTS.—

12 (1) IN GENERAL.—Consistent with the Presi-
13 dential Memorandum of June 28, 2010, entitled
14 “Unleashing the Wireless Broadband Revolution”,
15 not later than December 31, 2020, the Secretary,
16 working through the NTIA, shall collaborate with
17 the Commission to make available a total of 255
18 megahertz of Federal and non-Federal spectrum
19 below the frequency of 3550 megahertz for mobile
20 and fixed wireless broadband use to achieve the goal
21 of making a total of 500 megahertz of Federal and
22 non-Federal spectrum available for such use.

23 (2) AVAILABILITY.—The spectrum made avail-
24 able under paragraph (1) shall be made available to
25 be licensed by the Commission for exclusive use, or

1 made available for shared access by commercial and
2 Government users, to enable the deployment of li-
3 censed or unlicensed wireless broadband tech-
4 nologies.

5 (3) AUCTION DEADLINE.—Any spectrum made
6 available under this section for mobile or fixed wire-
7 less broadband use by competitive bidding under sec-
8 tion 309(j) of the Communications Act of 1934 (47
9 U.S.C. 309(j)) shall be auctioned not later than De-
10 cember 31, 2020.

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

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

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

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

20 (5) 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)).

25 (b) POLICY AND PLANS STEERING GROUP.—

1 (1) IN GENERAL.—The Secretary, working
2 through the NTIA, shall convene the PPSG to ad-
3 vise the NTIA on carrying out subsection (a).

4 (2) PARTICIPATION OF AGENCY HEADS.—The
5 Secretaries of Defense, the Treasury, Transpor-
6 tation, State, the Interior, Agriculture, Energy, and
7 Homeland Security, the Attorney General, the Ad-
8 ministrators of the National Aeronautics and Space
9 Administration and the Federal Aviation Adminis-
10 tration, the Director of National Intelligence, the
11 Commandant of the United States Coast Guard, and
12 the head of any other Executive department or inde-
13 pendent establishment that is authorized to use
14 spectrum shall—

15 (A) participate and cooperate fully in the
16 activities of the Secretary in carrying out sub-
17 section (a); and

18 (B) promptly provide appropriate funding
19 and staff resources for agency support to the
20 activities of the Secretary in carrying out sub-
21 section (a) and the work of the PPSG.

22 (c) DIRECTOR OF OMB.—The Director of OMB shall
23 work with the Secretary, through the NTIA and in con-
24 sultation with affected departments, agencies, and offices,
25 to provide adequate funding, incentives, and assistance to

1 enable affected departments, agencies, and offices to carry
2 out subsection (a).

3 (d) FCC.—The Commission shall work closely with
4 the Secretary, through the NTIA, to carry out the duties
5 of the Commission under this section, including—

6 (1) repurposing non-Federal spectrum as ap-
7 propriate; and

8 (2) identifying the mechanisms necessary to en-
9 sure compliance with any decisions made by the
10 Commission to carry out this section.

11 (e) ADMINISTRATIVE SUPPORT.—To the extent per-
12 mitted by law and using existing appropriations, the Sec-
13 retary, through the NTIA, shall provide administrative
14 support for the PPSG.

15 (f) RULES OF CONSTRUCTION.—Nothing in this sec-
16 tion shall be construed—

17 (1) to impair or otherwise affect the functions
18 of the Director of OMB relating to budgetary, ad-
19 ministrative, or legislative proposals; or

20 (2) to require the disclosure of classified infor-
21 mation, law enforcement sensitive information, or
22 other information that must be protected in the in-
23 terest of national security.

1 **SEC. 4. AMENDMENTS TO THE SPECTRUM PIPELINE ACT**
2 **OF 2015.**

3 (a) SPECTRUM PIPELINE ACT OF 2015.—Title X of
4 the Spectrum Pipeline Act of 2015 (Public Law 114–74;
5 129 Stat. 584) is amended—

6 (1) in section 1004(a), by striking “30 mega-
7 hertz” and inserting “50 megahertz”;

8 (2) in section 1006(c)(1), by striking “January
9 1, 2022” and inserting “January 21, 2021”; and

10 (3) in section 1008—

11 (A) in the matter preceding paragraph

12 (1)—

13 (i) by inserting “(a) IN GENERAL.—”
14 before “Not later than” and indenting ap-
15 propriately; and

16 (ii) by inserting “, after an oppor-
17 tunity for public comment,” after “the
18 Commission”; and

19 (B) by adding at the end the following:

20 “(b) BETWEEN 3700 MEGAHERTZ AND 4200 MEGA-
21 HERTZ.—Not later than 3 years after the date of the en-
22 actment of this Act, the Commission shall—

23 “(1) after an opportunity for public comment,
24 complete an inquiry regarding whether and, if so,
25 how the Commission should apply rules that allow
26 sharing between incumbent uses and new licensed

1 and unlicensed services, similar to the rules relating
2 to the frequencies between 3550 megahertz and
3 3650 megahertz, to bands between frequencies of
4 3700 megahertz and 4200 megahertz; and

5 “(2) submit to Congress a report on the results
6 of the inquiry under paragraph (1), including a sum-
7 mary of the public comments to the inquiry.”.

8 (b) SPECTRUM RELOCATION FUND.—Section 118 of
9 the National Telecommunications and Information Ad-
10 ministration Organization Act (47 U.S.C. 928) is amend-
11 ed in subsection (g)(2)(E)(ii)(I)(aa), by inserting “sub-
12 stantially” before “increase the probability of relocation
13 from or sharing of Federal spectrum”.

14 **SEC. 5. REALLOCATION INCENTIVES.**

15 (a) IN GENERAL.—Section 113 of the National Tele-
16 communications and Information Administration Organi-
17 zation Act (47 U.S.C. 923) is amended—

18 (1) by redesignating subsection (l) as subsection
19 (m); and

20 (2) by inserting after subsection (k) the fol-
21 lowing:

22 “(l) PROVIDING INCENTIVES FOR RELINQUISHING OR
23 SHARING SPECTRUM.—

24 “(1) DEFINITION OF NET PROCEEDS.—In this
25 subsection, the term ‘net proceeds’ means proceeds

1 (including deposits and upfront payments from suc-
2 cessful bidders) attributable to the auction of eligible
3 frequencies, less any relocation or sharing costs and
4 administrative costs.

5 “(2) SHARING OF NET AUCTION PROCEEDS.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graphs (B) through (E), the Technical Panel,
8 upon the vote of not fewer than 2 members of
9 the Technical Panel, may enter into an agree-
10 ment with a Federal entity authorized to use a
11 band of eligible frequencies that is proposed to
12 be reallocated from Federal use to non-Federal
13 use or to shared use and to be assigned by com-
14 petitive bidding under section 309(j) of the
15 Communications Act of 1934 (47 U.S.C.
16 309(j)), under which—

17 “(i) the Federal entity agrees to relin-
18 quish or share the use of the band; and

19 “(ii) the Technical Panel agrees to
20 grant the Federal entity a specified per-
21 centage of the net proceeds of the auc-
22 tioned spectrum.

23 “(B) LIMITATION.—A Federal entity—

24 “(i) may not receive more than 5 per-
25 cent of the net proceeds of auctioned spec-

1 trum under subparagraph (A) unless the
2 Federal entity discontinues all operations
3 that the Federal entity conducts on the
4 frequency band that is the subject of the
5 auction; and

6 “(ii) may not receive more than 25
7 percent of the net proceeds of auctioned
8 spectrum under subparagraph (A).

9 “(C) MULTIPLE USERS.—If multiple Fed-
10 eral entities occupy a frequency band described
11 in subparagraph (A)—

12 “(i) the Technical Panel shall endeav-
13 or to enter into agreements with all of the
14 Federal entities occupying the frequency
15 band to clear the frequency band entirely
16 for auction;

17 “(ii) the total sum granted to the
18 Federal entities shall not exceed 25 per-
19 cent of the net proceeds of the auctioned
20 spectrum if all of the Federal entities au-
21 thorized to use the frequency band dis-
22 continue all operations that the Federal
23 entities conduct on the frequency band;
24 and

1 “(iii) the total sum granted to the
2 Federal entities shall not exceed 15 per-
3 cent of the net proceeds of the auctioned
4 spectrum if any of the Federal entities au-
5 thorized to use the frequency band—

6 “(I) relocates to another fre-
7 quency band; or

8 “(II) shares the frequency band.

9 “(D) MINIMUM AWARD NECESSARY.—If
10 the Technical Panel determines that it is appro-
11 priate to award a percentage of the net pro-
12 ceeds of auctioned spectrum under subpara-
13 graph (A), the Technical Panel shall award a
14 percentage that is no higher than necessary to
15 provide an incentive to a Federal entity to relin-
16 quish or share the frequency band to achieve
17 the goals described in subparagraph (E).

18 “(E) REQUIREMENTS.—

19 “(i) IN GENERAL.—The Technical
20 Panel may enter into an agreement under
21 subparagraph (A) that awards a Federal
22 entity a percentage of the net proceeds of
23 an auction of spectrum if—

24 “(I) because of the award, it is
25 much more likely than not that the in-

1 crease in net proceeds, compared to
2 what the net proceeds would be if the
3 Federal entity could only be reim-
4 bursed for relocation or sharing costs
5 under this section and section 118 as
6 in effect on the day before the date of
7 enactment of the MOBILE NOW Act,
8 will be greater than the amount of net
9 proceeds awarded to the Federal enti-
10 ty under the agreement; and

11 “(II) the Director of the Office of
12 Management and Budget, the Sec-
13 retary of Commerce, and the Chair-
14 man of the Federal Communications
15 Commission have certified to the
16 Committee on Commerce, Science,
17 and Transportation of the Senate and
18 the Committee on Energy and Com-
19 merce of the House of Representatives
20 that the requirements of subclause (I)
21 have been satisfied.

22 “(ii) SPECIFIC GOALS.—In deter-
23 mining whether entering into an agreement
24 under subparagraph (A) meets the require-
25 ment under clause (i), the Technical Panel

1 shall consider whether because of the
2 agreement—

3 “(I) more frequency bands will be
4 made available for auction;

5 “(II) the Federal entity will va-
6 cate a frequency band more quickly;

7 “(III) the frequency band will be
8 assigned to a non-Federal entity more
9 quickly;

10 “(IV) the frequency band will be
11 less encumbered by sharing restric-
12 tions relating to—

13 “(aa) geography;

14 “(bb) time; or

15 “(cc) power levels; and

16 “(V) the frequency band will be
17 assigned for non-Federal use in a
18 manner that leads to increased har-
19 monization with international alloca-
20 tions of the frequency band.

21 “(F) USE OF PROCEEDS.—Amounts paid
22 to a Federal entity under an agreement under
23 subparagraph (A)—

24 “(i) may be used by the Federal enti-
25 ty for—

1 “(I) any communications or spec-
2 trum-related purpose within the scope
3 of the statutory mission of the Fed-
4 eral entity; or

5 “(II) any purpose permitted
6 under the terms and conditions of an
7 **【discretionary】** appropriations ac-
8 count of the Federal entity for which
9 budgetary resources were cancelled for
10 a fiscal year under a sequestration
11 order under the Balanced Budget and
12 Emergency Deficit Control Act of
13 1985 (Public Law 99–177; 99 Stat.
14 1038), except that the amount used
15 for that purpose for a fiscal year may
16 not exceed the amount by which the
17 amount available to the Federal entity
18 was reduced under the sequestration
19 order for that fiscal year; and

20 “(ii) shall be in addition to any funds
21 that the Federal entity may receive as re-
22 imbursement for relocation or sharing
23 costs under section 118(c).

24 “(G) REGULATIONS.—Not later than 180
25 days after the date of enactment of the MO-

1 BILE NOW Act, the NTIA shall, after public
2 notice and comment, in consultation with the
3 Commission, and subject to approval by the Di-
4 rector of the Office of Management and Budg-
5 et, adopt additional regulations to govern the
6 workings of the Technical Panel in carrying out
7 this subsection.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
9 Section 118 of the National Telecommunications and In-
10 formation Administration Organization Act (47 U.S.C.
11 928) is amended by adding at the end the following:

12 “(j) PAYMENT OF NET AUCTION PROCEEDS.—

13 “(1) IN GENERAL.—Notwithstanding sub-
14 sections (c) through (e), with respect to any auction
15 occurring after the date of enactment of the MO-
16 BILE NOW Act of licenses for the use of spectrum
17 vacated by eligible Federal entities, there is appro-
18 priated from the Fund and available to the Director
19 of OMB for use in accordance with paragraph (2) an
20 amount equal to any percentage of net proceeds (as
21 defined in section 113(l)) from the auction agreed to
22 be awarded by the Technical Panel under section
23 113(l)(2)(A).

24 “(2) USE OF AMOUNTS.—The Director of
25 OMB, in consultation with the NTIA, shall use

1 amounts made available under paragraph (1) to
2 make payments to Federal entities to carry out
3 agreements entered into under section
4 113(l)(2)(A).”.

5 **SEC. 6. PAYMENTS RELATED TO SPECTRUM TRANSITIONS.**

6 (a) IN GENERAL.—Section 113 of the National Tele-
7 communications and Information Administration Organi-
8 zation Act (47 U.S.C. 923), as amended by section 5, is
9 further amended—

10 (1) by redesignating subsection (m) as sub-
11 section (n); and

12 (2) by inserting after subsection (l) the fol-
13 lowing:

14 “(m) CERTAIN PAYMENTS RELATED TO SPECTRUM
15 TRANSITIONS.—

16 “(1) DEFINITIONS.—In this subsection—

17 “(A) the term ‘covered transition plan’
18 means a transition plan that has been—

19 “(i) submitted to the NTIA and the
20 Technical Panel under subsection (h);

21 “(ii) reviewed and deemed sufficient
22 by the Technical Panel under that sub-
23 section; and

24 “(iii) published as provided under that
25 subsection;

1 “(B) the term ‘OMB’ means the Office of
2 Management and Budget; and

3 “(C) the term ‘Technical Panel’ means the
4 Technical Panel established under subsection
5 (h)(3).

6 “(2) CERTAIN PAYMENTS PERMITTED.—In
7 order to expedite the commercial use of eligible fre-
8 quencies described in paragraph (g)(2) and notwith-
9 standing section 1341, subchapter II of chapter 15,
10 and section 3302 of title 31, United States Code, an
11 eligible Federal entity may accept payments in cash
12 or in kind from any person—

13 “(A) to complete implementation of a cov-
14 ered transition plan more quickly than de-
15 scribed in such covered transition plan; or

16 “(B) to allow commercial or other non-
17 Federal entities more timely access to eligible
18 frequencies being reallocated in accordance with
19 a covered transition plan.

20 “(3) CONDITIONS.—In the case of any payment
21 made under paragraph (2)—

22 “(A) an eligible Federal entity may not ac-
23 cept any payment under paragraph (2) prior to
24 the eligible frequencies being reallocated by
25 competitive bidding under section 309(j) of the

1 Communications Act of 1934 (47 U.S.C.
2 309(j)) in accordance with a covered transition
3 plan, but may accept payment prior to the com-
4 pletion of reallocation or sharing;

5 “(B) an eligible Federal entity may not ac-
6 cept any payment under paragraph (2) unless—

7 “(i) the entity submits a proposal to
8 the NTIA, OMB, and the Technical
9 Panel—

10 “(I) describing the activities for
11 which the entity is to be paid or reim-
12 bursed; and

13 “(II) demonstrating how the pay-
14 ments will satisfy the requirements
15 under subparagraphs (2)(A) or
16 (2)(B); and

17 “(ii) the Technical Panel approves the
18 proposal submitted under clause (i)—

19 “(I) based on written findings of
20 the Technical Panel, made publicly
21 available on the website of the NTIA,
22 that—

23 “(aa) the funded activities
24 are very likely to complete imple-
25 mentation of a covered transition

1 plan more quickly than described
2 in such covered transition plan or
3 allow commercial or other non-
4 Federal entities more timely ac-
5 cess to eligible frequencies being
6 reallocated subject to a covered
7 transition plan, as described in
8 the proposal; and

9 “(bb) the eligible Federal
10 entity would be unable to achieve
11 the outcomes described in clause
12 (i)(II) without the payment in
13 cash or in kind that the eligible
14 Federal entity proposes to accept;
15 and

16 “(II) which, when approved, shall
17 be considered an update to the cov-
18 ered transition plan of the Federal en-
19 tity;

20 “(C) the amount of the payment accepted
21 shall be determined by NTIA and OMB based
22 on the speed with which the eligible Federal en-
23 tity clears its use of the eligible frequencies to
24 satisfy the requirements under subparagraphs
25 (A) or (B) of paragraph (2);

1 “(D) the payment may not be made until
2 30 days after the Director of OMB and the As-
3 sistant Secretary certify in writing to the Com-
4 mittee on Commerce, Science, and Transpor-
5 tation of the Senate and the Committee on En-
6 ergy and Commerce of the House of Represent-
7 atives that they have reasonably concluded—

8 “(i) the activities funded by the pay-
9 ment are very likely to complete implemen-
10 tation of a covered transition plan more
11 quickly than described in such covered
12 transition plan or allow commercial or
13 other non-Federal entities more timely ac-
14 cess to eligible frequencies being reallo-
15 cated subject to a covered transition plan,
16 as described in the proposal; and

17 “(ii) the eligible Federal entity would
18 be unable to achieve the outcomes de-
19 scribed in subparagraph (B)(i)(II) without
20 the payment that the eligible Federal enti-
21 ty proposes to accept; and

22 “(E) the eligible Federal entity shall use
23 the payment only for activities that OMB and
24 the NTIA determine will achieve the outcomes
25 described in subparagraph (B)(i)(II) or other-

1 wise satisfy the requirements under subpara-
2 graphs (A) or (B) of paragraph (2).”.

3 (b) **TECHNICAL AND CONFORMING AMENDMENTS.**—
4 Section 1002(3) of the Spectrum Pipeline Act of 2015
5 (Public Law 114–74; 129 Stat. 584) is amended by strik-
6 ing “section 113(l)” and inserting “section 113(n)”.

7 **SEC. 7. UNLICENSED USE IN GUARD BANDS.**

8 (a) **IN GENERAL.**—The Commission shall adopt rules
9 that permit for unlicensed use the use of any **[eligible]**
10 frequencies **[(as described in section 113(g)(2) of the Na-**
11 **tional Telecommunications and Information Administra-**
12 **tion Organization Act (47 U.S.C. 923(g)(2)) that are**
13 **identified for reallocation from Federal use to exclusive**
14 **non-Federal use or to shared use and]** that are designated
15 as guard bands after the date of enactment of this Act
16 to protect auctioned frequencies, including spectrum that
17 acts as a duplex gap between transmit and receive fre-
18 quencies.

19 (b) **500 MEGAHERTZ.**—The Commission shall adopt
20 rules that permit for unlicensed use the use of any of the
21 eligible 500 megahertz described in section 3(a)(1) of this
22 Act that are identified for mobile or fixed wireless
23 broadband use and that are designated as guard bands
24 to protect auctioned frequencies, including spectrum that

1 acts as a duplex gap between transmit and receive fre-
2 quencies.

3 (c) 50 MEGAHERTZ.—The Commission shall adopt
4 rules that permit for unlicensed use the use of any of the
5 eligible 50 megahertz described in section 1004(a) of the
6 Spectrum Pipeline Act of 2015 (Public Law 114–74; 129
7 Stat. 584), as amended by section 4 of this Act, that are
8 identified for reallocation from Federal use to non-Federal
9 use or shared Federal and non-Federal use, or a combina-
10 tion thereof, and that are designated as guard bands to
11 protect auctioned frequencies, including spectrum that
12 acts as a duplex gap between transmit and receive fre-
13 quencies.

14 (d) LIMITATION.—The Commission may not permit
15 any use of a guard band under this section that would
16 cause harmful interference to an auctioned frequency.

17 **SEC. 8. PRIORITIZE DISCONTINUANCE.**

18 Section 113(j) of the National Telecommunications
19 and Information Administration Organization Act (47
20 U.S.C. 923(j)) is amended—

21 (1) in the heading, by inserting “OR DIS-
22 CONTINUANCE” after “RELOCATION”; and

23 (2) by inserting “or discontinuance of the oper-
24 ations that the Federal entity conducts on the band”
25 after “from the band” each place it appears.

1 **SEC. 9. 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. 10. 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)), without regard to the
18 availability of such sums in the Fund; or

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

1 tions Act of 1934 (47 U.S.C. 309(j)), with-
2 out regard to the availability of such sums
3 in the Fund.

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

11 **SEC. 11. FEDERAL SPECTRUM LEASING.**

12 (a) LEASE AUTHORITY.—Notwithstanding any other
13 provision to the contrary in the National Telecommuni-
14 cations and Information Administration Organization Act
15 (47 U.S.C. 901 et seq.), a Federal entity may, subject to
16 the requirements of this section, lease its right to use spec-
17 trum to a lessee upon such terms as the head of such Fed-
18 eral entity considers appropriate to promote the public in-
19 terest if—

20 (1) such spectrum is assigned by the NTIA to
21 such Federal entity on an exclusive basis in the geo-
22 graphic area of such Federal entity’s authorization;

23 (2) in the event such spectrum has not been as-
24 signed by the NTIA to such Federal entity on an ex-
25 clusive basis, the lease for the use of such spectrum

1 has been consented to by all channel licensees, tak-
2 ing into consideration any use of such spectrum by
3 non-Federal entities pursuant to authorization by
4 the Commission;

5 (3) such spectrum is not required for the needs
6 of such Federal entity during the term of the lease;

7 (4) such lease of which has been approved by
8 the Director of OMB and the NTIA; and

9 (5) such lease will not result in costs to the
10 Federal Government, or losses of services or benefits
11 to the public, that—

12 (A) are excessive in relation to the benefits
13 to the public that may be provided by the lease;

14 or

15 (B) may be detrimental to national secu-
16 rity, homeland security, or public safety.

17 (b) CONDITIONS ON LEASES.—A lease under sub-
18 section (a)—

19 (1) shall be for a term of not more than 15
20 years and may be renewed for successive terms of
21 not more than 15 years;

22 (2) shall be terminated as of the date that the
23 Commission commences an auction under section
24 309(j) of the Communications Act of 1934 (47
25 U.S.C. 309(j)) of the leased spectrum if 90 days' ad-

1 vance notice is provided to the lessee, but otherwise
2 shall not be terminated unless at least 12 months'
3 advance notice is provided to the lessee;

4 (3) shall provide that the lessee's use of the
5 spectrum must comply with the Commission's regu-
6 lations; and

7 (4) shall provide for the payment to the NTIA
8 by the lessee of consideration in an amount that is
9 not less than the fair market value of the lease in-
10 terest, as reasonably determined by the Federal enti-
11 ty.

12 (c) AUCTION OF LEASED RIGHTS.—

13 (1) IN GENERAL.—All leases for the right to
14 use Federal spectrum shall be awarded by competi-
15 tive bidding under regulations promulgated by the
16 NTIA in accordance with subsection (d). The NTIA
17 shall grant such leases to the highest qualified bid-
18 der or bidders.

19 (2) NOTICE OF LEASE AUCTIONS.—Notice of
20 the auction of leases, and the terms of bidding, au-
21 thorized by this subsection shall be published not
22 less than 30 days before the date of the auction in
23 accordance with rules and regulations promulgated
24 by the NTIA.

25 (3) DEPOSIT AND USE OF PROCEEDS.—

1 (A) DEPOSIT.—All funds paid to the
2 NTIA for or under leases granted under this
3 subsection shall be deposited in a special ac-
4 count in the Treasury established for the Fed-
5 eral entity leasing its spectrum use rights.

6 (B) USE OF PROCEEDS.—The proceeds de-
7 posited in the special account established for
8 the Federal entity concerned shall be available
9 to the Federal entity, in such amounts as pro-
10 vided in appropriation Acts, for—

11 (i) maintenance, alteration, or im-
12 provement of existing facilities under the
13 control of such Federal entity;

14 (ii) construction or acquisition of new
15 facilities;

16 (iii) lease of facilities; or

17 (iv) administrative expenses incurred
18 under this section by such Federal entity.

19 (4) LEASE AWARDS.—Leases shall be issued
20 not later than 60 days after full payment by the suc-
21 cessful bidder.

22 (d) REGULATIONS.—Not later than 180 days after
23 the date of enactment of this Act, the NTIA shall, after
24 public notice and comment and subject to approval by the
25 Director of OMB, promulgate regulations to govern the

1 implementation of this section. The NTIA shall specify,
2 after an opportunity for public comment, a common for-
3 mat for all leases involving spectrum authorized for use
4 by a Federal entity.

5 **SEC. 12. MILLIMETER WAVE RULEMAKING.**

6 (a) IN GENERAL.—Not later than June 30, 2017, the
7 Commission shall conduct a rulemaking proceeding to de-
8 velop service rules to authorize mobile and fixed oper-
9 ations, including for advanced mobile service operations,
10 in—

11 (1) the band between 71000 and 76000 mega-
12 hertz; and

13 (2) the band between 81000 and 86000 mega-
14 hertz.

15 (b) CONSIDERATIONS.—In conducting the rule-
16 making under subsection (a), the Commission shall con-
17 sider whether to permit unlicensed operations in the bands
18 described in that subsection, including by devices author-
19 ized to operate by the Commission under part 15 of title
20 47, Code of Federal Regulations, or any successor regula-
21 tion.

22 **SEC. 13. TIMELINESS OF FEDERAL AGENCY ACTION.**

23 Section 6409(b) of the Middle Class Tax Relief and
24 Job Creation Act of 2012 (47 U.S.C. 1455(b)) is amend-
25 ed—

1 (1) by striking paragraph (1) and inserting the
2 following:

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

16 (2) by adding at the end the following:

17 “(5) TIMING FOR CONSIDERATION OF APPLICA-
18 TIONS.—

19 “(A) IN GENERAL.—Not later than 90
20 days after the date on which an executive agen-
21 cy receives a duly filed application for an ease-
22 ment or right-of-way under this subsection, the
23 executive agency shall—

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

1 “(ii) notify the applicant of the grant
2 or denial.

3 “(B) EXPLANATION.—If an executive
4 agency denies an application under subpara-
5 graph (A), the executive agency shall notify the
6 applicant in writing, including a clear statement
7 of the reasons for the denial.

8 “(C) APPLICABILITY OF ENVIRONMENTAL
9 LAWS.—Nothing in this paragraph shall be con-
10 strued to relieve **【an executive agency】** of the
11 requirements of the **【National Historic Preser-
12 vation Act (16 U.S.C. 470 et seq.)/NOTICE**
13 this was transferred during positive law enact-
14 ment of title 54; **NEED CITE】** or the National
15 Environmental Policy Act of 1969 (42 U.S.C.
16 4321 et seq.).

17 “(D) SINGLE POINT OF CONTACT.—Upon
18 receiving an application under subparagraph
19 (A), an executive agency shall designate an in-
20 dividual within the executive agency to act as
21 the point of contact with the applicant.

22 “(6) DEFINITION OF COMMUNICATIONS FACIL-
23 ITY INSTALLATION.—In this subsection, the term
24 ‘communications facility installation’ includes—

1 “(A) any wireless or wireline infrastructure
2 for the transmission of writing, signs, signals,
3 data, images, pictures, and sounds of all kinds;

4 “(B) the transmitting device, tower, or
5 support structure, and any equipment, switches,
6 wiring, cabling, power sources, shelters, or cabi-
7 nets, associated with the provision of commu-
8 nications services; and

9 “(C) any antenna or apparatus that—

10 “(i) is designed for the purpose of
11 emitting radio frequency;

12 “(ii) is designed to be operated, or is
13 operating, from a fixed location pursuant
14 to authorization by the Commission; and

15 “(iii) is added to a tower, building, or
16 other structure.”.

17 **SEC. 14. TIMELINESS OF LOCAL ACTION ON WIRELESS DE-**
18 **PLOYMENT.**

19 Section 332(c)(7)(B) of the Communications Act of
20 1934 (47 U.S.C. 332(c)(7)(B)) is amended by striking
21 clauses (i), (ii), and (iii) and inserting the following:

22 “(i) A State or local law, including
23 any statute, ordinance, regulation, deci-
24 sion, or other legal requirement, that regu-
25 lates the placement, construction, and

1 modification of personal wireless service fa-
2 cilities shall not—

3 “(I) unreasonably discriminate
4 among providers of functionally equiv-
5 alent services or providers of personal
6 wireless service facilities;

7 “(II) except as provided in clause
8 (iii), prohibit or have the effect of pro-
9 hibiting the provision of personal
10 wireless services or personal wireless
11 service facilities, or the ability of any
12 entity to provide any service in sup-
13 port of personal wireless service facili-
14 ties;

15 “(III) require removal or replace-
16 ment of a personal wireless service fa-
17 cility due to—

18 “(aa) the passage of time; or

19 “(bb) the availability of al-
20 ternative technology or design;

21 “(IV) establish or enforce regula-
22 tions or procedures to evaluate radio
23 frequency signal strength existence; or

24 “(V) prohibit the placement of
25 emergency backup power systems that

1 otherwise comply with Federal and
2 State environmental regulations appli-
3 cable to such systems.

4 “(ii)(I) A State or local government or
5 instrumentality thereof shall act on any re-
6 quest for authorization to place, construct,
7 or modify personal wireless service facili-
8 ties within a reasonable period of time
9 after the request is duly filed with such
10 government or instrumentality, taking into
11 account the nature and scope of such re-
12 quest.

13 “(II) The requirement to act on
14 a request within a reasonable period
15 of time under subclause (I) shall
16 apply collectively to all proceedings re-
17 quired for the approval of the request.

18 “(iii) Any decision by a State or local
19 government or instrumentality thereof to
20 deny a request to place, construct, or mod-
21 ify personal wireless service facilities shall
22 be in writing and supported by substantial
23 evidence contained in a written record and
24 publicly released contemporaneously.”.

1 **SEC. 15. DIG ONCE.**

2 **[TBD]**

3 **SEC. 16. NATIONAL BROADBAND FACILITIES ASSET DATA-**
4 **BASE.**

5 (a) **NTIA AUTHORITY.**—Section 103(b)(3) of the
6 National Telecommunications and Information Adminis-
7 tration Organization Act (47 U.S.C. 902(b)(3)) is amend-
8 ed—

9 (1) in subparagraph (B), by striking “and” at
10 the end;

11 (2) in subparagraph (C), by striking the period
12 at the end and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(D) shall assign to the NTIA the respon-
15 sibility for providing for the establishment and
16 operation of a database in accordance with sec-
17 tion 106.”.

18 (b) **NATIONAL BROADBAND FACILITIES ASSET**
19 **DATABASE.**—Part A of the National Telecommunications
20 and Information Administration Organization Act (47
21 U.S.C. 901 et seq.) is amended by adding at the end the
22 following:

23 **“SEC. 106. NATIONAL BROADBAND FACILITIES ASSET DATA-**
24 **BASE.**

25 “(a) **DEFINITIONS.**—In this section—

1 “(1) the term ‘communications facility installa-
2 tion’ includes—

3 “(A) any wireless or wireline infrastructure
4 for the transmission of writing, signs, signals,
5 data, images, pictures, and sounds of all kinds;

6 “(B) the transmitting device, tower, or
7 support structure, and any equipment, switches,
8 wiring, cabling, power sources, shelters, or cabi-
9 nets, associated with the provision of commu-
10 nications services; and

11 “(C) any antenna or apparatus that—

12 “(i) is designed for the purpose of
13 emitting radio frequency;

14 “(ii) is designed to be operated, or is
15 operating, from a fixed location pursuant
16 to authorization by the Commission; and

17 “(iii) is added to a tower, building, or
18 other structure;

19 “(2) the term ‘covered property’—

20 “(A) means any real property capable of
21 supporting communications facility installa-
22 tions; and

23 “(B) includes any interest in real property
24 described in subparagraph (A);

1 “(3) the term ‘database’ means the database es-
2 tablished under subsection (b); and

3 “(4) the term ‘Executive agency’ has the mean-
4 ing given the term in section 105 of title 5, United
5 States Code.

6 “(b) DATABASE ESTABLISHED.—Not later than
7 **【270 days】** after the date of enactment of the MOBILE
8 NOW Act, the Assistant Secretary, in consultation with
9 the Chairman of the Commission, the Under Secretary of
10 Commerce for Standards and Technology, the Adminis-
11 trator of General Services, and the Director of the Office
12 of Management and Budget, shall—

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

16 “(2) make the database available to—

17 “(A) any entity that—

18 “(i) constructs or operates commu-
19 nications facility installations; or

20 “(ii) provides **【broadband/communica-**
21 **tions】** service; and

22 “(B) any other entity that the Assistant
23 Secretary determines is appropriate.

24 “(c) NOTICE OF INQUIRY.—

1 “(1) IN GENERAL.—Not later than **【30 days】**
2 after the date of enactment of the MOBILE NOW
3 Act, the Assistant Secretary shall issue a notice of
4 inquiry to seek public comment to inform the estab-
5 lishment and operation of the database.

6 “(2) CONTENTS.—The notice of inquiry issued
7 under paragraph (1) shall include a request for rec-
8 ommendations 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 cov-
13 ered property that should be included in the
14 database;

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 Assistant Sec-
19 retary determines necessary to establish and op-
20 erate the database.

21 “(d) FEDERAL AGENCIES.—

22 “(1) INITIAL PROVISION OF INFORMATION.—
23 Not later than **【90 days】** after the date on which
24 the database is established under subsection (b), the
25 head of an Executive agency, in accordance with the

1 obligation of an Executive agency under section
2 105(c)(2) to furnish the NTIA with such informa-
3 tion as the NTIA may require in the performance of
4 its functions, shall provide to the Assistant Sec-
5 retary, in a manner and format to be determined by
6 the Assistant Secretary, such information as the As-
7 sistant Secretary determines appropriate with re-
8 spect to covered property owned, leased, or otherwise
9 managed by the Executive agency.

10 “(2) CHANGE TO INFORMATION PREVIOUSLY
11 PROVIDED.—In the case of any change to informa-
12 tion provided to the Assistant Secretary by the head
13 of an Executive agency under paragraph (1), the
14 head of the Executive agency shall provide updated
15 information to the Assistant Secretary not later than
16 30 days after the date of the change.

17 “(3) SUBSEQUENTLY ACQUIRED PROPERTY.—If
18 an Executive agency acquires covered property after
19 the date on which the database is established under
20 subsection (b), the head of the Executive agency
21 shall provide to the Assistant Secretary the informa-
22 tion required under paragraph (1) with respect to
23 the covered property not later than 30 days after the
24 date of the acquisition.

25 “(4) NATIONAL SECURITY EXCLUSION.—

1 “(A) CLASSIFIED INFORMATION.—The
2 head of an Executive agency may exclude classi-
3 fied information from the information provided
4 to the Assistant Secretary under paragraph (1).

5 “(B) OTHER INFORMATION.—If the head
6 of an Executive agency determines, in consulta-
7 tion with the Assistant Secretary, that inclusion
8 of information (other than classified informa-
9 tion) about covered property of the Executive
10 agency in the database would harm national se-
11 curity, the head of the Executive agency may
12 exclude the information from the information
13 provided to the Assistant Secretary under para-
14 graph (1).

15 “(C) CLASSIFIED INFORMATION DE-
16 FINED.—In this paragraph, the term ‘classified
17 information’ means any—

18 “(i) information or material that has
19 been determined by the Federal Govern-
20 ment pursuant to an Executive order, stat-
21 ute, or regulation to require protection
22 against unauthorized disclosure for reasons
23 of national security; or

1 “(ii) restricted data (as defined in sec-
2 tion 11(y) of the Atomic Energy Act of
3 1954 (42 U.S.C. 2014(y)).

4 “(e) STATE AND LOCAL GOVERNMENTS.—The As-
5 sistant Secretary shall make the database available to
6 State and local governments so that such governments
7 may provide to the Assistant Secretary for inclusion in the
8 database similar information to the information required
9 under paragraph (1) regarding covered property owned,
10 leased, or otherwise managed by such governments.

11 “(f) DATABASE UPDATES.—

12 “(1) TIMELY INCLUSION.—After the establish-
13 ment of the database, the Assistant Secretary shall
14 ensure that information provided under subsection
15 (d) or subsection (e) is included in the database not
16 later than 7 days after the date on which the Assist-
17 ant Secretary receives the information.

18 “(2) DATE OF ADDITION OR UPDATE.—Infor-
19 mation in the database relating to covered property
20 shall include the date on which the information was
21 added or most recently updated.”.

22 **SEC. 17. FEDERAL SPECTRUM TRANSPARENCY AND VALUE.**

23 (a) ANALYSIS OF ECONOMIC OPPORTUNITY COST.—

24 (1) DEVELOPMENT OF FRAMEWORK.—Not later
25 than 1 year after the date of enactment of this Act,

1 the NTIA, in consultation with the Commission and
2 the Director of OMB, shall develop a framework for
3 determining the annual economic opportunity cost of
4 each specific Federal spectrum band assigned or oth-
5 erwise allocated for use by a Federal entity.

6 (2) SCOPE.—The framework developed under
7 paragraph (1) shall cover all federally allocated spec-
8 trum bands between 150 megahertz and 6000 mega-
9 hertz, inclusive.

10 (3) GOALS.—The goals of the framework devel-
11 oped under paragraph (1) are—

12 (A) to provide Federal entities with a sus-
13 tained long-term measure of spectrum value to
14 inform the spectrum management decisions of
15 such Federal entities; and

16 (B) to provide the public with increased
17 transparency about how Federal entities use a
18 scarce physical resource.

19 (4) REQUIREMENTS.—The framework devel-
20 oped under paragraph (1) shall—

21 (A) define the term “opportunity cost” as
22 the value of the spectrum, in dollar terms, as
23 if such spectrum were to be reallocated on a li-
24 censed basis to the highest commercial alter-

1 native use that currently does not have access
2 to that spectrum;

3 (B) be updated, annually, to take into ac-
4 count observed market valuations from spec-
5 trum auctions, secondary spectrum trading, and
6 other market indicators of spectrum value;

7 (C) determine the opportunity costs borne
8 by each Federal entity for each spectrum band
9 that is entirely under the control of a single
10 Federal entity; and

11 (D) determine the opportunity costs for
12 spectrum assigned or otherwise allocated to
13 each Federal entity concerned for both primary
14 use and secondary use.

15 (b) REPORTS ON OPPORTUNITY COSTS.—Each Fed-
16 eral entity that has been assigned or otherwise allocated
17 use of a Federal spectrum band shall report, as an off-
18 budget item, the opportunity cost borne by the entity for
19 each spectrum band the entity uses—

20 (1) in the budget of the Federal entity to be in-
21 cluded in the budget of the United States Govern-
22 ment submitted by the President under section 1105
23 of title 31, United States Code; and

1 (2) in the annual financial statement of the
2 Federal entity required to be filed under section
3 3515 of title 31, United States Code.

4 (c) SPECTRUM VALUE ANALYSIS.—Not later than 5
5 years after the date of enactment of this Act, and every
6 5 years thereafter, each Federal entity that has been as-
7 signed or otherwise allocated use of a Federal spectrum
8 band, or otherwise utilizes such spectrum, shall engage in
9 an analysis comparing the opportunity cost of that spec-
10 trum, as such cost is determined by the framework devel-
11 oped by the NTIA under subsection (a), to the projected
12 costs of the Federal entity relocating to other Federal
13 Government spectrum holdings, co-locating with other
14 Government agencies, leasing other non-Federal spectrum,
15 or contracting out for its spectrum activities.

16 (d) SPECTRUM TECHNOLOGY STUDY.—

17 (1) IN GENERAL.—Not later than 18 months
18 after the date of enactment of this Act, and every
19 5 years thereafter, the Chief Technology Officer, in
20 consultation with the Assistant Secretary of Com-
21 merce for Communications and Information and the
22 Comptroller General of the United States, shall ex-
23 amine the technologies and equipment used by Fed-
24 eral entities operating on Federal spectrum alloca-

1 tions and determine if such technologies and equip-
2 ment are the most spectrum-efficient available.

3 (2) CERTAIN DETERMINATIONS MADE.—If the
4 results of any study required under paragraph (1)
5 determine that the technologies and equipment of
6 Federal entities operating on Federal spectrum allo-
7 cations are not the most spectrum-efficient available,
8 the Chief Technology Officer, in consultation with
9 the Assistant Secretary and the Comptroller General
10 shall determine—

11 (A) what the costs would be to upgrade
12 such systems to more up-to-date and readily
13 available systems;

14 (B) what benefits would be gained from
15 upgrading, particularly any cost savings or in-
16 creases in spectrum utilization efficiency; and

17 (C) if there are any possible problems with
18 upgrading to more up-to-date systems.

19 (e) SPECTRUM OPPORTUNITY COST AND FRAME-
20 WORK STUDY.—

21 (1) IN GENERAL.—The Comptroller General of
22 the United States, in consultation with the NTIA,
23 shall—

24 (A) conduct a review of the framework de-
25 veloped under subsection (a);

1 (B) conduct a review of the reports re-
2 quired under subsection (b) and each process
3 that a Federal entity concerned uses to evaluate
4 the opportunity cost borne for each spectrum
5 band that Federal entity uses; and

6 (C) make recommendations on how to im-
7 prove such framework and reporting.

8 (2) REPORT.—Not later than 2 years after the
9 date of enactment of this Act, and biennially there-
10 after, the Comptroller General shall submit to the
11 Committee on Commerce, Science, and Transpor-
12 tation of the Senate and the Committee on Energy
13 and Commerce of the House of Representatives a re-
14 port on the review and recommendations required
15 under paragraph (1).

16 **SEC. 18. RULE OF CONSTRUCTION.**

17 Each range of frequencies described in this Act shall
18 be construed to be inclusive of the upper and lower fre-
19 quencies in the range.