IN THE SENATE OF THE UNITED STATES

Mr. Thune (for himself and Mr. Nelson) 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.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Making 500 megahertz available.
Sec. 4. Millimeter wave evaluation.
Sec. 5. Reports on 3 gigahertz bands.
Sec. 6. Distributed antenna systems and small cell infrastructure.
Sec. 7. Communications facilities deployment on Federal property.
Sec. 8. Dig once.
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. 15. Amendments to the Spectrum Pipeline Act of 2015.
Sec. 16. Rules of construction.
Sec. 17. Relationship to Middle Class Tax Relief and Job Creation Act of 2012.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—

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

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

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

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

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

(4) NTIA.—The term “NTIA” means the National Telecommunications and Information Administration of the Department of Commerce.

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

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

SEC. 3. MAKING 500 MEGAHertz AVAILABLE.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Consistent with the Presidential Memorandum of June 28, 2010, entitled “Unleashing the Wireless Broadband Revolution” and establishing a goal of making a total of 500 megahertz of Federal and non-Federal spectrum available for wireless broadband use by 2020, not later than December 31, 2020, the Secretary, working through the NTIA, and the Commission shall make available a total of at least 255 megahertz of Federal and non-Federal spectrum below the frequency of 6000 megahertz for mobile and fixed wireless broadband use.

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

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

(A) The band between 1695 and 1710
megahertz.

(B) The band between 1755 and 1780
megahertz.

(C) The band between 2155 and 2180
megahertz.

(D) The band between 3550 and 3700
megahertz.

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

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

(A) the need to preserve critical existing
and planned Federal Government capabilities;
(B) the impact on existing State, local, and tribal government capabilities;
(C) the international implications; and
(D) the need for appropriate enforcement mechanisms and authorities.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to impair or otherwise affect the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals;

(2) to require the disclosure of classified information, law enforcement sensitive information, or other information that must be protected in the interest of national security; or

(3) to affect any requirement under section 156 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 note), as added by section 1062(a) of the National Defense Authorization Act for Fiscal Year 2000, or any other relevant statutory requirement applicable to the reallocation of Federal spectrum.

SEC. 4. MILLIMETER WAVE EVALUATION.

(a) FEASIBILITY ASSESSMENT.—Not later than 18 months after the date of enactment of this Act or December 31, 2017, whichever comes earlier, the NTIA, in con-
sultation with the Commission, shall conduct a feasibility assessment regarding the impact of authorizing mobile or fixed terrestrial wireless operations, including for advanced mobile service operations, on Federal entities and operations in any of the following frequencies with Federal allocations:

1. The band between 24250 and 24450 megahertz.
2. The band between 25050 and 25250 megahertz.
3. The band between 31800 and 33400 megahertz.
4. The band between 42000 and 42500 megahertz.
5. The band between 71000 and 76000 megahertz.
6. The band between 81000 and 86000 megahertz.

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

1. consult directly with Federal entities with respect to frequencies with Federal allocations identified in that subsection;
2. consider what, if any, impact authorizing mobile or fixed terrestrial wireless operations, in-
including advanced mobile services operations, in any of the bands described in that subsection would have on an affected Federal entity;

(3) consider how the bands described in that subsection may be used to provide commercial wireless broadband service, including whether—

(A) such spectrum may be best used for licensed or unlicensed services, or some combination thereof; and

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

(4) identify any bands, or a portion thereof, described in that subsection that the NTIA assessment determines are feasible for authorizing for mobile or fixed terrestrial wireless operations, including any advanced mobile service operations.

(c) REPORT TO CONGRESS.—Not later than 30 days after the date the feasibility assessment under subsection (a) is complete, the NTIA shall submit to the appropriate committees of Congress a report on the feasibility assessment.

(d) FCC PROCEEDING.—Not later than 2 years after the date of enactment of this Act, the Commission, in consultation with the NTIA, shall publish a notice of proposed rulemaking to consider service rules to authorize mobile
or fixed terrestrial wireless operations, including for advanced mobile service operations, in the following radio frequency bands:

(1) The band between 24250 and 24450 megahertz, except for any frequencies with Federal allocations.

(2) The band between 25050 and 25250 megahertz, except for any frequencies with Federal allocations.

(3) The band between 31800 and 33400 megahertz, except for any frequencies with Federal allocations.

(4) The band between 42000 and 42500 megahertz, except for any frequencies with Federal allocations.

(5) The band between 71000 and 76000 megahertz, except for any frequencies with Federal allocations.

(6) The band between 81000 and 86000 megahertz, except for any frequencies with Federal allocations.

(7) Any bands identified as feasible under subsection (b)(4).

(c) CONSIDERATIONS.—In conducting the rule-making under subsection (d), the Commission shall—
consult with Federal entities via the NTIA regarding the bands described in subsection (d)(7); 

(2) consider how the bands described in subsection (d) may be used to provide commercial wireless broadband service, including whether—

(A) such spectrum may be best used for licensed or unlicensed services, or some combination thereof; and

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

(3) include technical characteristics under which the bands described in subsection (d) may be employed for mobile or fixed terrestrial wireless operations, including any appropriate coexistence requirements.

SEC. 5. REPORTS ON 3 GIGAHERTZ BANDS.

(a) BETWEEN 3100 MEGAHERTZ AND 3550 MEGAHERTZ.—Not later than 3 years after the date of enactment of this Act, and in consultation with the Commission and the head of each affected Federal agency (or a designee thereof), the Secretary shall submit to the President and the appropriate committees of Congress a report evaluating the feasibility of allowing commercial wireless services, licensed or unlicensed, to share use of the frequencies between 3100 megahertz and 3550 megahertz.
(b) Between 3700 Megahertz and 4200 Megahertz.—Not later than 3 years after the date of enactment of this Act, and in consultation with the Secretary and the head of each affected Federal agency (or a designee thereof), the Commission shall submit to the President and the appropriate committees of Congress a report evaluating the feasibility of allowing commercial wireless services, licensed or unlicensed, to share use of the frequencies between 3700 megahertz and 4200 megahertz.

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

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

(2) An assessment of the possible impacts of such sharing on Federal and non-Federal users already operating on the frequencies described in that subsection.

(3) The criteria that may be necessary to ensure shared licensed or unlicensed services would not cause harmful interference to Federal or non-Federal users already operating in the frequencies described in that subsection.
(4) If such sharing is feasible, an identification of which of the frequencies described in that sub-
section are most suitable for sharing with commercial wireless services.

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

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

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

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

SEC. 6. DISTRIBUTED ANTENNA SYSTEMS AND SMALL CELL INFRASTRUCTURE.

Not later than December 31, 2016, the Commission shall take action in its Program Alternatives for Small
Wireless Communications Facility Deployments proceeding (WT Docket 15-180).

SEC. 7. COMMUNICATIONS FACILITIES DEPLOYMENT ON FEDERAL PROPERTY.

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

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

“(1) GRANT.—If an executive agency, a State, a political subdivision or agency of a State, or a person, firm, or organization applies for the grant of an easement or right-of-way to, in, over, or on a building or other property owned by the Federal Government for the right to install, construct, modify, or maintain a communications facility installation, the executive agency having control of the building or other property may grant to the applicant, on behalf of the Federal Government, subject to paragraph (5), an easement or right-of-way to perform such installation, construction, modification, or maintenance.

“(2) APPLICATION.—

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

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

“(3) FEE.—

“(A) IN GENERAL.—Notwithstanding any
other provision of law, the Administrator of
General Services shall establish a fee for the
grant of an easement or right-of-way pursuant
to paragraph (1) that is based on direct cost re-
cover.

“(B) EXCEPTIONS.—The Administrator of
General Services may establish exceptions to
the fee amount required under subparagraph
(A)—
“(i) in consideration of the public benefit provided by a grant of an easement or right-of-way; and

“(ii) in the interest of expanding wireless and broadband coverage.

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

“(5) TIMELY CONSIDERATION OF APPLICATIONS.—

“(A) IN GENERAL.—Within a reasonable period of time after the date on which an executive agency receives a duly filed application for an easement or right-of-way under this subsection, the executive agency shall—

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

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

“(B) EXPLANATION OF DENIAL.—If an executive agency denies an application under subparagraph (A), the executive agency shall notify
the applicant in writing, including a clear statement of the reasons for the denial.

“(C) EXPLANATION OF DELAY.—If an executive agency has not granted or denied an application under subparagraph (A) before the date that is 150 days after the date that the executive agency received a duly filed application, the executive agency shall notify the applicant in writing, including a clear statement of the reasons for the delay.

“(D) APPLICABILITY OF ENVIRONMENTAL LAWS.—Nothing in this paragraph shall be construed to relieve an executive agency of the requirements of the National Historic Preservation Act (16 U.S.C. 470 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(E) POINT OF CONTACT.—Upon receiving an application under subparagraph (A), an executive agency shall designate 1 or more appropriate individuals within the executive agency to act as a point of contact with the applicant.

“(e) MASTER CONTRACTS FOR COMMUNICATIONS FACILITY INSTALLATION SITINGS.—
“(1) IN GENERAL.—Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104; 110 Stat. 151) or any other provision of law, the Administrator of General Services shall—

“(A) develop 1 or more master contracts that shall govern the placement of communications facility installation on buildings and other property owned by the Federal Government; and

“(B) in developing the master contract or contracts, standardize the treatment of the placement of communications facility installation on building rooftops or facades, the placement of communications facility installation on rooftops or inside buildings, the technology used in connection with communications facility installation placed on Federal buildings and other property, and any other key issues the Administrator of General Services considers appropriate.

“(2) APPLICABILITY.—The master contract or contracts developed by the Administrator of General Services under paragraph (1) shall apply to all publicly accessible buildings and other property owned by the Federal Government, unless the Adminis-
trator of General Services decides that issues with respect to the siting of a communications facility installation on a specific building or other property warrant nonstandard treatment of such building or other property.

“(3) APPLICATION.—

“(A) IN GENERAL.—The Administrator of General Services shall develop a common form or set of forms for communications facility installation siting applications that, except as provided in subparagraph (B), shall be used by all executive agencies and applicants with respect to the buildings and other property of each such agency.

“(B) EXCEPTION.—The requirement under subparagraph (A) for an executive agency to use the common form or set of forms developed by the Administrator of General Services shall not apply to an executive agency if the head of the executive agency notifies the Administrator that the executive agency uses a substantially similar application.

“(d) DEFINITIONS.—In this section:
“(1) COMMUNICATIONS FACILITY INSTALLATION.—The term ‘communications facility installation’ includes—

“(A) any infrastructure, including any transmitting device, tower, or support structure, and any equipment, switches, wiring, cabling, power sources, shelters, or cabinets, associated with the licensed or permitted unlicensed wireless or wireline transmission of writings, signs, signals, data, images, pictures, and sounds of all kinds; and

“(B) any antenna or apparatus that—

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

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

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

“(2) EXECUTIVE AGENCY.—The term ‘executive agency’ has the meaning given such term in section 102 of title 40, United States Code.”.
(b) SAVINGS PROVISION.—An application for an easement or right-of-way that was made or granted under section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1455) before the effective date of this Act shall continue, subject to that section as in effect on the day before such effective date.

SEC. 8. DIG ONCE.

(a) POLICY.—It is the policy of the United States to encourage the deployment of communications facilities and services because of the benefits to interstate commerce from investment in and use of such communications facilities and services.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal agencies should endeavor to create policy that—

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

(2) provides for such inclusion without negatively impacting the safety, operations, and maintenance of the highway facility, its users, or others;

(3) promotes investment and competition by ensuring that communications providers may access such conduit on a nondiscriminatory basis; and
(4) limits any burden on State departments of transportation incurred by the inclusion of broadband conduit in such projects.

SEC. 9. NATIONAL BROADBAND FACILITIES ASSET DATABASE.

(a) Definitions.—In this section:

(1) Communications facility installation.—The term “communications facility installation” includes—

(A) any infrastructure, including any transmitting device, tower, or support structure, and any equipment, switches, wiring, cabling, power sources, shelters, or cabinets, associated with the licensed or permitted unlicensed wireless or wireline transmission of writings, signs, signals, data, images, pictures, and sounds of all kinds; and

(B) any antenna or apparatus that—

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

(ii) is designed to be operated, or is operating, from a fixed location pursuant to authorization by the Federal Communications Commission or is using duly au-
thorized devices that do not require indi-

vidual licenses; and

(iii) is added to a tower, building, or

other structure.

(2) COVERED PROPERTY.—The term “covered

property”—

(A) means any real property capable of

supporting a communications facility installa-
tion; and

(B) includes any interest in real property

described in subparagraph (A).

(3) DATABASE.—The term “database” means

the database established under subsection (b).

(4) EXECUTIVE AGENCY.—The term “Executive

database” has the meaning given the term in section

105 of title 5, United States Code.

(b) DATABASE ESTABLISHED.—Not later than June

30, 2018, the Director of the Office of Science and Tech-
nology Policy, in consultation with the Chairman of the

Federal Communications Commission, Assistant Secretary

of Commerce for Communications and Information, Under

Secretary of Commerce for Standards and Technology,

Administrator of General Services, and Director of the Of-

cine of Management and Budget, shall—
(1) establish and operate a single database of any covered property that is owned, leased, or otherwise managed by an Executive agency;

(2) make the database available to—

(A) any entity that—

(i) constructs or operates communications facility installations; or

(ii) provides communications service; and

(B) any other entity that the Director of the Office of Science and Technology Policy determines is appropriate; and

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

(c) PUBLIC COMMENT.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of the MOBILE NOW Act, the Director of the Office of Science and Technology Policy shall seek public comment to inform the establishment and operation of the database.
(2) CONTENTS.—In seeking public comment under paragraph (1), the Director shall include a request for recommendations on—

(A) criteria that make real property capable of supporting communications facility installations;

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

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

(D) other information the Director determines necessary to establish and operate the database.

(d) FEDERAL AGENCIES.—

(1) INITIAL PROVISION OF INFORMATION.—Not later than 90 days after the date on which the database is established under subsection (b), the head of an Executive agency shall provide to the Director of the Office of Science and Technology Policy, in a manner and format to be determined by the Director, such information as the Director determines appropriate with respect to covered property owned,
leased, or otherwise managed by the Executive agen-

cy.

(2) **CHANGE TO INFORMATION PREVIOUSLY **

provided.—In the case of any change to informa-

tion provided to the Director of the Office of Science

and Technology Policy by the head of an Executive

agency under paragraph (1), the head of the Execu-

tive agency shall provide updated information to the

Director not later than 30 days after the date of the

change.

(3) **SUBSEQUENTLY ACQUIRED PROPERTY.**—If

an Executive agency acquires covered property after

the date on which the database is established under

subsection (b), the head of the Executive agency

shall provide to the Director of the Office of Science

and Technology Policy the information required

under paragraph (1) with respect to the covered

property not later than 30 days after the date of the

acquisition.

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

make the database available to State and local govern-
ments so that such governments may provide to the Direc-
tor for inclusion in the database similar information to

the information required under paragraph (1) regarding
covered property owned, leased, or otherwise managed by such governments.

(f) DATABASE UPDATES.—

(1) TIMELY INCLUSION.—After the establishment of the database, the Director of the Office of Science and Technology Policy shall ensure that information provided under subsection (d) or subsection (e) is included in the database not later than 7 days after the date on which the Director receives the information.

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

(g) REPORT.—Not later than 180 days after the date the Director of the Office of Science and Technology Policy seeks public comment under subsection (c)(1), the Director shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the progress in establishing the database under this section. The Director shall update the report annually until the date that the database is fully operational.
SEC. 10. REALLOCATION INCENTIVES.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the Commission, the Director of OMB, and the head of each affected Federal agency (or a designee thereof) shall submit to the appropriate committees of Congress a report that includes legislative or regulatory recommendations to incentivize a Federal entity to relinquish, or share with Federal or non-Federal users, Federal spectrum for the purpose of allowing commercial wireless broadband services to operate on that Federal spectrum.

(b) POST-AUCTION PAYMENTS.—

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

(A) consider whether permitting eligible Federal entities that are implementing a transition plan submitted under section 113(h) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(h)) to accept payments could result in access to the eligible frequencies that are being reallocated for exclusive non-Federal use or shared use sooner than would otherwise occur without such payments; and

(B) include the findings under subparagraph (A), including the analysis under para-
graph (2) and any recommendations for legislation, in the report.

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

(A) bidding in auctions conducted under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of such eligible frequencies; and

(B) receipts collected from the auctions described in subparagraph (A).

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

(A) **PAYMENT.**—The term “payment” means a payment in cash or in kind by any auction winner, or any person affiliated with an auction winner, of eligible frequencies during the period after eligible frequencies have been reallocated by competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) but prior to the completion of relocation or sharing transition of such eligible frequencies per transition plans approved by the Technical Panel.
(B) ELIGIBLE FREQUENCIES.—The term “eligible frequencies” has the meaning given the term in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)).

SEC. 11. BIDIRECTIONAL SHARING STUDY.

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

(1) conduct a bidirectional sharing study to determine the best means of providing Federal entities flexible access to non-Federal spectrum on a shared basis across a range of short-, mid-, and long-range time frames, including for intermittent purposes like emergency use; and

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

(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Commission shall consider how to balance the regulatory certainty that commercial spectrum users and Federal entities need to make longer-term investment decisions for shared access to be viable.
SEC. 12. UNLICENSED SERVICES IN GUARD BANDS.

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

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

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the Commission or the Secretary from making spectrum available for licensed or unlicensed use under section 3 or available for unlicensed use in any spectrum band under existing rules and regulations.

SEC. 13. PRE-AUCTION FUNDING.

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

SEC. 14. IMMEDIATE TRANSFER OF FUNDS.

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

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

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

“(ii) in the case of an incumbent Fed-
eral entity that is incurring relocation or
sharing costs to accommodate sharing
spectrum frequencies with another Federal
entity, after the frequencies from which the
other eligible Federal entity is relocating
are reallocated by competitive bidding
under section 309(j) of the Communi-
tations Act of 1934 (47 U.S.C. 309(j)), with-
out regard to the availability of such sums
in the Fund.
“(E) Prior to the deposit of proceeds into the Fund from an auction, the Director of OMB may borrow from the Treasury the amount under subparagraph (A) for a transfer under subparagraph (D). The Treasury shall immediately be reimbursed, without interest, from funds deposited into the Fund.”.

SEC. 15. AMENDMENTS TO THE SPECTRUM PIPELINE ACT OF 2015.

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

SEC. 16. RULES OF CONSTRUCTION.

(a) RANGES OF FREQUENCIES.—Each range of frequencies described in this Act shall be construed to be inclusive of the upper and lower frequencies in the range.

(b) ASSESSMENT OF ELECTROMAGNETIC SPECTRUM REALLOCATION.—Nothing in this Act shall be construed to affect any requirement under section 156 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 note), as added by section 1062(a) of the National Defense Authorization Act for Fiscal Year 2000.
SEC. 17. RELATIONSHIP TO MIDDLE CLASS TAX RELIEF AND JOB CREATION ACT OF 2012.

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