To fund grants for the immediate deployment of temporary wireless broadband service on Tribal lands and Hawaiian Home Lands, to provide emergency special temporary authority to use electromagnetic spectrum for the provision of wireless broadband service on Tribal lands and Hawaiian Home Lands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. HAALAND introduced the following bill; which was referred to the Committee on ______________________

A BILL

To fund grants for the immediate deployment of temporary wireless broadband service on Tribal lands and Hawaiian Home Lands, to provide emergency special temporary authority to use electromagnetic spectrum for the provision of wireless broadband service on Tribal lands and Hawaiian Home Lands, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “COVID–19 Designation of Immediate Special Authority of Spectrum for Tribes’ Emergency Response in Indian Country Act” or the “COVID–19 DISASTER in Indian Country Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The immediate grant of emergency special temporary authority of available spectrum that will efficiently support temporary wireless broadband networks and allow Indian Tribes to provide Tribal members with wireless broadband service over Tribal lands or Hawaiian Home Lands during the COVID–19 crisis due to the increased demand for telecommunications and disproportionate impacts of the COVID–19 pandemic in Indian Country is essential.

(2) Reservations are the most digitally disconnected areas in the United States that lack basic access to broadband and wireless services at rates comparable to, and in some cases lower than, third-world countries.

(3) In 2018, the Government Accountability Office and the Federal Communications Commission reported that only 65 percent of American Indian and Alaska Natives (AI/ANs) living on Tribal lands had access to fixed broadband services, and only 68
percent of AI/AN households on rural Tribal lands had telephone services. This is a stark comparison to only 8 percent of the national average that lacks access to fixed broadband services.

(4) Indian Tribes have previously encountered substantial barriers to accessing broadband and other communications services on Tribal lands to deploy telecommunication services for the safety and well-being of Tribal members and to decrease the alarming rates of unnecessary loss of lives that AI/ANs disproportionately experience, especially through the lack of access to health care services and emergency resources, as demonstrated during the COVID–19 pandemic that continues to disproportionately impact Indian Country.

(5) Indian Tribes’ lack of access to broadband services on Tribal lands and Hawaiian Home Lands during the COVID–19 pandemic further highlights the digital divide in Indian Country.

(6) The Government Accountability Office found that health information technology systems at the Indian Health Service rank as the Federal Government’s third-highest need for agency system modernization, since 50 percent of Indian Health Service facilities depend on outdated circuit connections
based on one or two TI circuit lines (3 Mbps), creating slower response times than any other health facility system in the United States.

(7) A 2018 Tribal health reform comment filed with the Federal Communications Commission has further stated that approximately 1.5 million people living on Tribal lands lack access to broadband and, of the 75 percent of rural Indian Health Service facilities, many still lack reliable broadband networks for American Indians and Alaska Natives (AI/ANs) to access telehealth or clinical health care services, which is a critical need in the most geographically isolated areas of the country with some of the highest poverty rates, and lack of access to reliable transportation.

(8) The Bureau of Indian Education has stated that recent estimates from 142 out of 174 schools have indicated that approximately 15 to 95 percent of students do not have access to internet services at home depending on Bureau school location and limitations on data caps during the COVID–19 crisis.
SEC. 3. DEPLOYMENT OF WIRELESS BROADBAND SERVICE ON TRIBAL LANDS AND HAWAIIAN HOME LANDS.

(a) FUNDING OF GRANTS FOR IMMEDIATE DEPLOYMENT OF WIRELESS BROADBAND SERVICE ON TRIBAL LANDS AND HAWAIIAN HOME LANDS.—In addition to any other amounts made available, out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated—

(1) $297,500,000 for grants under the community facilities grant program under section 306(a)(19) of the Consolidated Farm and Rural Development Act to Indian Tribes, qualifying Tribal entities, and the Director of the Department of Hawaiian Home Lands, for the immediate deployment of wireless broadband service on Tribal lands and Hawaiian Home Lands, respectively, through the use of emergency special temporary authority granted under subsection (b) of this section, including backhaul costs, repairs to damaged infrastructure, the cost of the repairs to which would be less expensive than the cost of new infrastructure and would support the emergency special temporary use, and the Federal share applicable to grants from such amount shall be 100 percent, which amount shall re-
main available for one year from the enactment of this Act; and

(2) $3,000,000 for grants under the community facilities technical assistance and training grant program under section 306(a)(26) of such Act, without regard to sections 306(a)(26)(B) and 306(a)(26)(C) of such Act, to assist Indian Tribes, qualifying Tribal entities, and the Director of the Department of Hawaiian Home Lands in preparing applications for the grants referred to in paragraph (1) of this subsection, which amount shall remain available for one year from the enactment of this Act. Grants referred to under this paragraph (2) shall be available to Indian Tribes, qualifying Tribal entities and shall also be available to inter-Tribal government organizations, universities and colleges with Tribal serving institutions for the purposes stated herein.

(b) Emergency Special Temporary Authority to Use Available and Efficient Spectrum on Tribal Lands and Hawaiian Home Lands.—

(1) Grant of Authority.—Not later than 10 days after receiving a request from an Indian Tribe, a qualifying Tribal entity, or the Director of the Department of Hawaiian Home Lands for emergency special temporary authority to use electromagnetic
spectrum described in paragraph (3) for the provision of wireless broadband service over the Tribal lands over which the Indian Tribe or qualifying Tribal entity has jurisdiction or (in the case of a request from the Director of the Department of Hawaiian Home Lands) over the Hawaiian Home Lands, allowing unlicensed radio transmitters to operate for such provision on such spectrum at locations on such Tribal lands or Hawaiian Home Lands where such spectrum is not being used, the Commission shall grant such request on a secondary non-interference basis.

(2) DURATION.—A grant of emergency special temporary authority under paragraph (1) shall be for a period of operation to begin not later than 6 months after the date of the enactment of this Act and to remain in operation for not longer than 6 months, absent extensions granted by the Commission pursuant to the procedures of the Commission relating to special temporary authority.

(3) ELECTROMAGNETIC SPECTRUM DESCRIBED.—The electromagnetic spectrum described in this paragraph for utilization on the temporary basis is any portion of the electromagnetic spectrum—
(A) that is—

(i) between the frequencies of 2496 megahertz and 2690 megahertz, inclusive;

(ii) in the white spaces of the television broadcast spectrum between the frequencies of 470 megahertz and 790 megahertz, inclusive, excluding those frequencies utilized for other purposes under subpart H of part 15 of title 47, Code of Federal Regulations;

(iii) between the frequencies of 5925 megahertz and 7125 megahertz, inclusive; or

(iv) between frequencies of 3550 megahertz and 3700 megahertz, inclusive; and

(B) with respect to the Tribal lands or Hawaiian Home Lands over which authority to use such spectrum is requested under paragraph (1), is not assigned to any licensee.

(c) DEFINITIONS.—In this section:

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

(2) HAWAIIAN HOME LANDS.—The term “Hawaiian Home Lands” means lands held in trust for
Native Hawaiians by Hawaii pursuant to the Hawaiian Homes Commission Act, 1920.

(3) INDIAN TRIBE.—The term “Indian Tribe” means any individually identified and federally recognized Indian or Alaska Native Tribe, band, nation, pueblo, village, community, affiliated tribal group, or component reservation on the list published pursuant to the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130 et seq.).

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

(A) Indian Tribes.

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

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

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

(A) The Indian Tribe or Indian Tribes constitute or appoint more than 50 percent of the board of directors or management committee of the entity.

(B) The Indian Tribe or Indian Tribes have authority to appoint, promote, demote,
and fire senior executives who control the day-to-day activities of the entity.

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

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

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

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

(iii) the prices charged for such services.

(6) TRIBAL LANDS.—The term “Tribal lands” has the meaning given that term in section 73.7000 of title 47, Code of Federal Regulations, as of April 16, 2020, and includes the definition “Indian Country” as defined in section 1151 of title 18, United States Code, and includes fee simple and restricted fee land held by an Indian Tribe.

(7) WIRELESS BROADBAND SERVICE.—The term “wireless broadband service” means wireless broadband internet access service that is delivered—
(A) with a download speed of not less than 25 megabits per second and an upload speed of not less than 3 megabits per second; and

(B) through—

(i) mobile service;

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

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

(iv) broadcast service.