

Union Calendar No. 502

113TH CONGRESS
2^D SESSION

H. R. 3674

[Report No. 113–670, Part I]

To amend the National Telecommunications and Information Administration Organization Act to provide incentives for the reallocation of Federal Government spectrum for commercial use, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 9, 2013

Mr. GUTHRIE (for himself, Ms. MATSUI, Mr. WAXMAN, Mr. WALDEN, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

DECEMBER 12, 2014

Reported from the Committee on Energy and Commerce

DECEMBER 12, 2014

The Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the National Telecommunications and Information Administration Organization Act to provide incentives for the reallocation of Federal Government spectrum for commercial use, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Spectrum In-

5 centive Act of 2013”.

6 **SEC. 2. FEDERAL SPECTRUM INCENTIVES.**

7 (a) NOTICE TO COMMISSION.—

8 (1) IN GENERAL.—Section 113(g)(4) of the Na-

9 tional Telecommunications and Information Admin-

10 istration Organization Act (47 U.S.C. 923(g)(4)) is

11 amended—

12 (A) by striking the heading and inserting

13 “NOTICE TO COMMISSION.—”;

14 (B) in the second sentence of subpara-

15 graph (A), by striking “shall notify the Com-

16 mission” and all that follows and inserting the

17 following: “shall notify the Commission—

18 “(i) of estimated relocation or sharing

19 costs and timelines for such relocation or

20 sharing; or

21 “(ii) that, instead of relocation or

22 sharing costs under this subsection and

23 section 118, a Federal entity will receive

24 payment under section 120 because such

25 entity is—

1 “(I) discontinuing the operations
2 that the Federal entity conducts on
3 such eligible frequencies without relo-
4 cating such operations to other fre-
5 quencies; or

6 “(II) relocating such operations
7 to frequencies assigned to another
8 Federal entity in order for such enti-
9 ties to share such frequencies.”; and

10 (C) by adding at the end the following:

11 “(D) This subsection and section 118 shall
12 not apply with respect to the discontinuance of
13 operations on eligible frequencies or the reloca-
14 tion of such operations by a Federal entity after
15 the Commission receives notice under subpara-
16 graph (A)(ii) with respect to such discontinu-
17 ance or relocation.”.

18 (2) CONFORMING AMENDMENTS.—Section
19 113(g) of the National Telecommunications and In-
20 formation Administration Organization Act (47
21 U.S.C. 923(g)) is amended—

22 (A) in paragraph (3)(A)(iii)(I), by striking
23 “paragraph (4)(A)” and inserting “paragraph
24 (4)(A)(i)”;

25 (B) in paragraph (4)—

1 (i) in subparagraph (B), by striking
2 “subparagraph (A)” and inserting “sub-
3 paragraph (A)(i)”; and

4 (ii) in subparagraph (C), by striking
5 “subparagraphs (A) and (B)” and insert-
6 ing “subparagraphs (A)(i) and (B)”; and

7 (C) in paragraph (5), by striking “para-
8 graph (4)(A)” and inserting “paragraph
9 (4)(A)(i)”.

10 (b) TRANSITION PLANS.—Section 113(h) of the Na-
11 tional Telecommunications and Information Administra-
12 tion Organization Act (47 U.S.C. 923(h)) is amended—

13 (1) in the heading, by striking “RELOCATION
14 OR SHARING”;

15 (2) by amending paragraph (1) to read as fol-
16 lows:

17 “(1) DEVELOPMENT OF TRANSITION PLAN BY
18 FEDERAL ENTITY.—

19 “(A) IN GENERAL.—Not later than 240
20 days before the commencement of any auction
21 of eligible frequencies described in subsection
22 (g)(2), a Federal entity authorized to use any
23 such frequency shall submit to the NTIA and
24 to the Technical Panel established by paragraph

1 (3) a transition plan in which the Federal enti-
2 ty—

3 “(i) declares the intention of such en-
4 tity—

5 “(I) to share such eligible fre-
6 quencies with a non-Federal user or
7 to relocate to other frequencies, and
8 to receive relocation or sharing costs
9 from the Spectrum Relocation Fund
10 established by section 118; or

11 “(II) to discontinue the oper-
12 ations that the Federal entity con-
13 ducts on such eligible frequencies
14 without relocating such operations to
15 other frequencies or to relocate such
16 operations to frequencies assigned to
17 another Federal entity in order for
18 such entities to share such fre-
19 quencies, and to receive payment from
20 the Federal Spectrum Incentive Fund
21 established by section 120; and

22 “(ii) describes how the entity will im-
23 plement the relocation, sharing, or dis-
24 continuance arrangement.

1 “(B) COMMON FORMAT.—The NTIA shall
2 specify, after public input, a common format for
3 all Federal entities to follow in preparing tran-
4 sition plans under this paragraph.”;

5 (3) in paragraph (2)—

6 (A) in subparagraph (D), by inserting “, to
7 discontinue such use,” after “from such fre-
8 quencies”;

9 (B) in subparagraph (F), by inserting “,
10 discontinuance,” after “relocation”; and

11 (C) in subparagraph (G), by striking “The
12 plans” and inserting “To the extent applicable
13 given the intention declared by the entity under
14 paragraph (1)(A)(i), the plans”;

15 (4) in paragraph (4)(A), by inserting “(if appli-
16 cable)” after “timelines and”;

17 (5) in paragraph (6)—

18 (A) by inserting “(if applicable)” after
19 “costs”; and

20 (B) by inserting “, discontinuance,” after
21 “relocation” the second place it appears; and

22 (6) in paragraph (7)(A)(ii), by inserting “, dis-
23 continuance,” after “relocation”.

24 (c) RELOCATION OR DISCONTINUANCE PRIORITIZED
25 OVER SHARING.—Section 113(j) of the National Tele-

1 communications and Information Administration Organi-
2 zation Act (47 U.S.C. 923(j)) is amended—

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

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

8 (d) DEPOSIT OF AUCTION PROCEEDS.—Section
9 309(j)(8) of the Communications Act of 1934 (47 U.S.C.
10 309(j)(8)) is amended—

11 (1) in subparagraph (C)(i), by striking
12 “(D)(ii)” and inserting “(D)(ii), (D)(iii)”; and

13 (2) in subparagraph (D)—

14 (A) in clause (i), by striking “clause (ii)”
15 and inserting “clauses (ii) and (iii)”; and

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

17 “(iii) FEDERAL SPECTRUM INCEN-
18 TIVES.—Notwithstanding subparagraph
19 (A) and except as provided in subpara-
20 graph (B) and clause (ii) of this subpara-
21 graph, in the case of proceeds (including
22 deposits and upfront payments from suc-
23 cessful bidders) attributable to the auction
24 of eligible frequencies described in section
25 113(g)(2) of the National Telecommuni-

1 cations and Information Administration
2 Organization Act with respect to which the
3 Commission has received notice under sec-
4 tion 113(g)(4)(A)(ii) of such Act, 1 per-
5 cent of such proceeds shall be deposited in
6 the Federal Spectrum Incentive Fund es-
7 tablished by section 120 of such Act and
8 shall be available in accordance with such
9 section. The remainder of such proceeds
10 shall be deposited in the general fund of
11 the Treasury, where such proceeds shall be
12 dedicated for the sole purpose of deficit re-
13 duction.”.

14 (e) FEDERAL SPECTRUM INCENTIVE FUND.—Part B
15 of the National Telecommunications and Information Ad-
16 ministration Organization Act (47 U.S.C. 921 et seq.) is
17 amended by adding at the end the following:

18 **“SEC. 120. FEDERAL SPECTRUM INCENTIVE FUND.**

19 “(a) ESTABLISHMENT.—There is established in the
20 Treasury of the United States a fund to be known as the
21 Federal Spectrum Incentive Fund (in this section referred
22 to as the ‘Fund’), which shall be administered by the Of-
23 fice of Management and Budget (in this section referred
24 to as ‘OMB’), in consultation with the NTIA.

1 “(b) TRANSFER OF FUNDS.—The Director of OMB
2 shall transfer from the Fund to a Federal entity an
3 amount equal to the amount deposited in accordance with
4 section 309(j)(8)(D)(iii) of the Communications Act of
5 1934 that is attributable to the auction of eligible fre-
6 quencies described in section 113(g)(2) of this Act being
7 vacated by such entity. Such amount shall be available to
8 the Federal entity in accordance with subsection (c) and
9 shall remain available until expended.

10 “(c) USE OF FUNDS.—A Federal entity may use an
11 amount transferred under subsection (b) for the following
12 purposes:

13 “(1) OFFSET OF SEQUESTRATION.—Any pur-
14 poses permitted under the terms and conditions of
15 an appropriations account of the Federal entity that
16 was subject to sequestration for any fiscal year
17 under the Balanced Budget and Emergency Deficit
18 Control Act of 1985. The amount used for such pur-
19 poses under this paragraph may not exceed the
20 amount by which the amount available to such entity
21 under such account was reduced by sequestration for
22 such fiscal year.

23 “(2) TRANSFER TO INCUMBENT FEDERAL EN-
24 TITY.—In the case of a Federal entity that is relo-
25 cating operations to frequencies assigned to an in-

1 incumbent Federal entity in order for such entities to
2 share such frequencies, to transfer an amount to the
3 incumbent Federal entity for any purposes permitted
4 under this subsection (except this paragraph). The
5 transferred amount shall remain available to the in-
6 cumbent Federal entity until expended.

7 “(d) PROHIBITION ON DUPLICATIVE PAYMENTS.—If
8 the Commission receives notice under section
9 113(g)(4)(A)(ii) of a discontinuance of operations on or
10 relocation from eligible frequencies by a Federal entity
11 that has received, from the Spectrum Relocation Fund in
12 accordance with section 118(d)(3), relocation or sharing
13 costs related to pre-auction estimates or research with re-
14 spect to such frequencies, the Director of OMB shall de-
15 duct from the amount to be transferred to such entity
16 under subsection (b) an amount equal to such costs and
17 shall transfer such amount to the Spectrum Relocation
18 Fund.”.

19 (f) DEPARTMENT OF DEFENSE SPECTRUM.—Section
20 1062(b) of the National Defense Authorization Act for
21 Fiscal Year 2000 (Public Law 106–65) does not apply to
22 frequencies with respect to which the Commission has re-
23 ceived notice under section 113(g)(4)(A)(ii) of the Na-
24 tional Telecommunications and Information Administra-
25 tion Organization Act (47 U.S.C. 923(g)(4)(A)(ii)).

1 **SEC. 3. COSTS OF INCUMBENT FEDERAL ENTITIES RE-**
2 **LATED TO SPECTRUM SHARING.**

3 (a) DESCRIPTION OF ELIGIBLE FEDERAL ENTI-
4 TIES.—Section 113(g)(1) of the National Telecommuni-
5 cations and Information Administration Organization Act
6 (47 U.S.C. 923(g)(1)) is amended—

7 (1) by striking “authorized to use a band of eli-
8 gible frequencies described in paragraph (2)”;

9 (2) by striking “spectrum frequencies” the first
10 place it appears and inserting “eligible frequencies
11 described in paragraph (2)”; and

12 (3) by striking “spectrum frequencies” the sec-
13 ond place it appears and inserting “eligible fre-
14 quencies described in such paragraph”.

15 (b) DEFINITION OF RELOCATION OR SHARING
16 COSTS.—Section 113(g)(3)(A) of the National Tele-
17 communications and Information Administration Organi-
18 zation Act (47 U.S.C. 923(g)(3)(A)) is amended—

19 (1) in clause (iv)(II), by striking “and” at the
20 end;

21 (2) in clause (v), by striking the period and in-
22 serting “; and”; and

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

24 “(vi) the costs incurred by an incum-
25 bent Federal entity to accommodate shar-
26 ing the spectrum frequencies assigned to

1 such entity with a Federal entity the oper-
2 ations of which are being relocated from el-
3 igible frequencies described in paragraph
4 (2), unless the Commission receives notice
5 under paragraph (4)(A)(ii)(II) with respect
6 to the relocation of such operations.”.

7 (c) SPECTRUM RELOCATION FUND.—Section 118 of
8 the National Telecommunications and Information Ad-
9 ministration Organization Act (47 U.S.C. 928) is amend-
10 ed—

11 (1) in subsection (c), by striking “with respect
12 to” and all that follows and inserting the following:
13 “with respect to—

14 “(1) relocation from or sharing of such eligible
15 frequencies; or

16 “(2) in the case of an incumbent Federal entity
17 described in section 113(g)(3)(A)(vi), accommo-
18 dating sharing the spectrum frequencies assigned to
19 such entity with a Federal entity the operations of
20 which are being relocated from such eligible fre-
21 quencies.”; and

22 (2) in subsection (d)—

23 (A) in paragraph (2)(A), by inserting “(or,
24 in the case of an incumbent Federal entity de-
25 scribed in section 113(g)(3)(A)(vi), the eligible

1 Federal entity the operations of which are being
2 relocated has submitted such a plan)” after
3 “transition plan”; and

4 (B) in paragraph (3)(B)(ii), by inserting
5 “except in the case of an incumbent Federal en-
6 tity described in section 113(g)(3)(A)(vi),” be-
7 fore “the transition plan”.

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