

113TH CONGRESS
2D SESSION

S. 2155

To amend the National Telecommunications and Information Administration Organization Act to create a Federal Spectrum Reallocation Commission, to provide for the use of a portion of the proceeds from the auction of reallocated Federal spectrum for deficit reduction, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2014

Mr. KIRK introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the National Telecommunications and Information Administration Organization Act to create a Federal Spectrum Reallocation Commission, to provide for the use of a portion of the proceeds from the auction of reallocated Federal spectrum for deficit reduction, 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 “Maximizing Spectrum
5 Efficiency and Value Act of 2014”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Demand for electromagnetic spectrum is
4 sharply rising due to the growing advanced network
5 of communications devices that rely on spectrum to
6 transmit and receive information.

7 (2) It is necessary for the United States to
8 maintain its investments in innovation of spectrum
9 and broadband infrastructure to ensure the United
10 States is a global leader in the wireless age.

11 (3) Spectrum is a finite resource, and in order
12 to spur innovation, the United States must provide
13 for better and more efficient spectrum management.

14 (4) Many spectrum holders do not efficiently
15 use their frequency assignments, and a restructuring
16 of the usable spectrum is a viable solution to make
17 up for this lost opportunity.

18 (5) Making available additional spectrum to
19 meet the demands of broadband technologies and
20 services will prevent dropped connections, blocked
21 service, decreased connection speed, and even higher
22 prices for certain advanced applications.

23 (6) The availability of increased spectrum will
24 allow advanced technologies such as 4G mobile serv-
25 ices, high-speed wireless, high definition television,

1 and more to continue operating without network
2 problems and interference.

3 (7) The United States public debt totals not
4 less than \$14,300,000,000,000.

5 (8) Congress should look for ways to increase
6 Federal Government revenues without creating addi-
7 tional burdens on taxpayers.

8 (9) Auctioning spectrum is the most economi-
9 cally sound method for accurate valuation and as-
10 signment of spectrum to develop the next generation
11 of wireless technologies, expand broadband service to
12 underserved areas of the country, develop an inter-
13 operable public safety network, and reduce the def-
14 icit.

15 (10) Certain frequencies of spectrum have sub-
16 stantial market value and could raise significant new
17 revenue in a public auction.

18 (11) Barriers to a spectrum auction such as
19 regulatory and administrative delays are not condu-
20 cive to the free-market approach and can hurt inno-
21 vation.

22 (12) Federal Government spectrum, while ex-
23 tremely important, is vast and should be included in
24 any spectrum reform initiative.

1 **SEC. 3. FEDERAL SPECTRUM REALLOCATION COMMISSION.**

2 (a) IN GENERAL.—Part B of title I of the National
3 Telecommunications and Information Administration Or-
4 ganization Act (47 U.S.C. 921 et seq.) is amended by add-
5 ing at the end the following:

6 **“SEC. 120. FEDERAL SPECTRUM REALLOCATION COMMIS-**
7 **SION.**

8 “(a) DEFINITIONS.—In this section—

9 “(1) the term ‘appropriate congressional com-
10 mittees’ means—

11 “(A) the Committee on Appropriations of
12 the Senate;

13 “(B) the Committee on Appropriations of
14 the House of Representatives;

15 “(C) the Committee on Commerce,
16 Science, and Transportation of the Senate; and

17 “(D) the Committee on Energy and Com-
18 merce of the House of Representatives;

19 “(2) the term ‘Chairperson’ means the chair-
20 person of the Reallocation Commission designated
21 under subsection (b)(3)(B);

22 “(3) the term ‘Director’ means the Director of
23 the Reallocation Commission appointed under sub-
24 section (b)(5)(A);

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

4 “(5) the term ‘Federal entity’ means any de-
5 partment, agency, or other instrumentality of the
6 Federal Government that utilizes a Government sta-
7 tion license obtained under section 305 of the Com-
8 munications Act of 1934 (47 U.S.C. 305);

9 “(6) the term ‘Reallocation Commission’ means
10 the Federal Spectrum Reallocation Commission es-
11 tablished under subsection (b)(1); and

12 “(7) the term ‘relocation or sharing costs’—

13 “(A) means the costs incurred by a Fed-
14 eral entity to achieve comparable capability of
15 systems, regardless of whether that capability is
16 achieved by relocating to a new frequency as-
17 signment or by utilizing an alternative tech-
18 nology; and

19 “(B) includes—

20 “(i) the costs of any modification or
21 replacement of equipment, software, facili-
22 ties, operating manuals, training costs, or
23 regulations that are attributable to reloca-
24 tion;

1 “(ii) the costs of all engineering,
2 equipment, software, site acquisition, and
3 construction costs, as well as any legiti-
4 mate and prudent transaction expense, in-
5 cluding outside consultants, and reasonable
6 additional costs incurred by the Federal
7 entity that are attributable to relocation,
8 including increased recurring costs associ-
9 ated with the replacement facilities;

10 “(iii) the costs of engineering studies,
11 economic analyses, or other expenses rea-
12 sonably incurred in calculating the esti-
13 mated relocation or sharing costs that are
14 provided to the Commission under sub-
15 section (e)(1)(C) and approved by the Di-
16 rector of the Office of Management and
17 Budget under subsection (e)(1)(D);

18 “(iv) the one-time costs of any modi-
19 fication of equipment reasonably necessary
20 to accommodate commercial use of reallo-
21 cated frequencies prior to the termination
22 of the Federal entity’s primary allocation
23 or protected status, when the frequencies
24 are made available for private-sector uses
25 by competitive bidding and a Federal enti-

ty retains primary allocation or protected status in those frequencies for a period of time after the completion of the competitive bidding process; and

“(v) the costs associated with the accelerated replacement of systems and equipment if such acceleration is necessary to ensure the timely relocation of systems to a new frequency assignment.

“(b) ESTABLISHMENT AND OPERATION OF REALLOCATION COMMISSION.—

“(1) ESTABLISHMENT.—There is established an independent commission to be known as the ‘Federal Spectrum Reallocation Commission’.

“(2) DUTIES.—The Reallocation Commission shall carry out the duties described in this section.

“(3) MEMBERSHIP.—

“(A) APPOINTMENTS.—

“(i) IN GENERAL.—The Reallocation Commission shall be composed of 9 members appointed by the President, by and with the advice and consent of the Senate.

“(ii) REQUIREMENTS FOR MEMBERSHIP.—

1 “(I) IN GENERAL.—Of the 9
2 members appointed by the President
3 under clause (i)—

4 “(aa) not more than 1 mem-
5 ber may be a current employee or
6 contractor of the Department of
7 Defense;

8 “(bb) not more than 1 mem-
9 ber may be former employee or
10 contractor of the Department of
11 Defense;

12 “(cc) not fewer than 1 mem-
13 ber shall be a representative of
14 the commercial mobile technology
15 industry; and

16 “(dd) not fewer than 1
17 member shall be a representative
18 from a standards-setting body
19 that is accredited by the Amer-
20 ican National Standards Institute
21 to develop voluntary industry
22 standards.

23 “(II) PRIVATE-SECTOR REP-
24 RESENTATION.—In making appoint-
25 ments under clause (i), the President

1 shall ensure that there is robust pri-
 2 vate-sector representation on the Re-
 3 allocation Commission.

4 “(iii) TRANSMISSION OF NOMINA-
 5 TIONS.—Not later than 180 days after the
 6 date of enactment of this section, the
 7 President shall transmit to the Senate the
 8 nominations for appointment to the Com-
 9 mission.

10 “(iv) CONSULTATION.—In selecting
 11 individuals for nominations for appoint-
 12 ments to the Reallocation Commission, the
 13 President shall consult with—

14 “(I) the Speaker of the House of
 15 Representatives concerning the ap-
 16 pointment of 3 members;

17 “(II) the majority leader of the
 18 Senate concerning the appointment of
 19 3 members;

20 “(III) the minority leader of the
 21 House of Representatives concerning
 22 the appointment of 1 member; and

23 “(IV) the minority leader of the
 24 Senate concerning the appointment of
 25 1 member.

1 “(v) NONPOLITICAL NATURE OF AP-
2 POINTMENT.—No political test or quali-
3 fication may be used in selecting, appoint-
4 ing, promoting, or taking other personnel
5 actions with respect to members, officers,
6 agents, or employees of the Reallocation
7 Commission.

8 “(B) CHAIRPERSON.—At the time the
9 President nominates individuals for appoint-
10 ments under subparagraph (A), the President
11 shall designate 1 of the individuals nominated
12 to serve as the Chairperson of the Reallocation
13 Commission.

14 “(C) TERMS.—

15 “(i) IN GENERAL.—Each member of
16 the Reallocation Commission may serve
17 until the Commission sunsets under para-
18 graph (12).

19 “(ii) CHAIRPERSON.—The Chair-
20 person may serve until the confirmation of
21 a successor.

22 “(iii) VACANCIES.—Any vacancy in
23 the Reallocation Commission shall be filled
24 in the same manner as the original ap-
25 pointment.

1 “(D) COMPENSATION OF MEMBERS.—

2 “(i) IN GENERAL.—Each member of
3 the Reallocation Commission, other than
4 the Chairperson, shall be paid at a rate
5 equal to the daily equivalent of the min-
6 imum annual rate of basic pay payable for
7 level IV of the Executive Schedule under
8 section 5315 of title 5, United States
9 Code, for each day (including travel time)
10 during which the member is engaged in the
11 actual performance of duties vested in the
12 Reallocation Commission.

13 “(ii) CHAIRPERSON.—The Chair-
14 person shall be paid for each day referred
15 to in clause (i) at a rate equal to the daily
16 equivalent of the minimum annual rate of
17 basic pay payable for level III of the Exec-
18 utive Schedule under section 5314 of title
19 5, United States Code.

20 “(4) MEETINGS.—

21 “(A) IN GENERAL.—Each meeting of the
22 Reallocation Commission, other than meetings
23 in which classified information is to be dis-
24 cussed, shall be open to the public.

1 “(B) ACCESS TO INFORMATION.—All of
2 the proceedings, information, and deliberations
3 of the Commission shall be open, upon request,
4 to—

5 “(i) the Chairman and the ranking
6 member of the Subcommittee on Commu-
7 nications, Technology, and the Internet of
8 the Committee on Commerce, Science, and
9 Transportation of the Senate, or such
10 other members of the Subcommittee des-
11 ignated by the Chairman or ranking mem-
12 ber of the Subcommittee;

13 “(ii) the Chairman and the ranking
14 member of the Subcommittee on Commu-
15 nications and Technology of the Committee
16 on Energy and Commerce of the House of
17 Representatives, or such other members of
18 the Subcommittee designated by the Chair-
19 man or ranking member of the Sub-
20 committee; and

21 “(iii) the Chairmen and ranking mem-
22 bers of the Subcommittees on Commerce,
23 Justice, Science, and Related Agencies and
24 on Financial Services and General Govern-
25 ment of the Committees on Appropriations

1 of the Senate and of the House of Rep-
2 resentatives, or such other members of the
3 Subcommittees designated by such Chair-
4 men or ranking members.

5 “(5) DIRECTOR OF STAFF.—

6 “(A) IN GENERAL.—The Reallocation
7 Commission shall, without regard to the provi-
8 sions of title 5, United States Code, governing
9 appointments in the competitive service, appoint
10 a Director.

11 “(B) PAY.—The Director shall, without re-
12 gard to the provisions of chapter 51 and sub-
13 chapter III of chapter 53 of such title (relating
14 to classification and General Schedule pay
15 rates), be paid at the rate of basic pay payable
16 for level IV of the Executive Schedule under
17 section 5315 of title 5, United States Code.

18 “(6) STAFF.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graphs (B) and (C), the Director, with the ap-
21 proval of the Reallocation Commission, may ap-
22 point and fix the pay of additional personnel as
23 may be necessary to enable the Reallocation
24 Commission to perform the duties of the Re-
25 allocation Commission.

1 “(B) LIMITATION.—The Director may
2 make such appointments without regard to the
3 provisions of title 5, United States Code, gov-
4 erning appointments in the competitive service,
5 and any personnel so appointed may be paid
6 without regard to the provisions of chapter 51
7 and subchapter III of chapter 53 of that title
8 relating to classification and General Schedule
9 pay rates, except that an individual appointed
10 under this paragraph may not receive pay in ex-
11 cess of the annual rate of basic pay payable for
12 GS-18 of the General Schedule.

13 “(C) DETAIL OF GOVERNMENT EMPLOY-
14 EES.—Upon request of the Director, the Sec-
15 retary may detail any of the personnel of the
16 Department of Commerce to the Reallocation
17 Commission to assist the Reallocation Commis-
18 sion in carrying out its duties.

19 “(D) GAO AGREEMENT.—The Comptroller
20 General of the United States shall provide as-
21 sistance, including the detailing of employees, to
22 the Reallocation Commission in accordance with
23 an agreement entered into with the Reallocation
24 Commission.

1 “(7) PROCUREMENT OF TEMPORARY AND
2 INTERMITTENT SERVICES.—The Chairperson may
3 procure temporary and intermittent services under
4 section 3109 of title 5, United States Code, at rates
5 for individuals that do not exceed the daily equiva-
6 lent of the annual rate of basic pay prescribed for
7 level V of the Executive Schedule under section 5316
8 of such title.

9 “(8) PROPERTY.—The Chairperson may lease
10 space and acquire personal property to the extent
11 funds are available.

12 “(9) POSTAL AND PRINTING SERVICES.—The
13 Reallocation Commission may use the United States
14 mails and obtain printing and binding services in the
15 same manner and under the same conditions as
16 other agencies of the United States.

17 “(10) OBTAINING INFORMATION.—The Re-
18 allocation Commission may secure directly from any
19 agency or department of the United States informa-
20 tion necessary to enable it to carry out its duties
21 under this section. Upon request of any member of
22 the Reallocation Commission, the head of that agen-
23 cy or department shall furnish that information to
24 the Reallocation Commission in a full and timely
25 manner.

1 “(11) FUNDING.—There are authorized to be
 2 transferred to the Reallocation Commission
 3 \$13,000,000 from the Spectrum Relocation Fund es-
 4 tablished under section 118 to carry out the duties
 5 of the Reallocation Commission under this section,
 6 and such funds shall remain available until the term
 7 of the Reallocation Commission sunsets under para-
 8 graph (12). The funds remaining after the sunset of
 9 the Commission shall be returned to the Treasury
 10 for the sole purpose of deficit reduction.

11 “(12) SUNSET.—This subsection is repealed ef-
 12 fective 60 days after the date on which the President
 13 approves the recommendations of the Reallocation
 14 Commission pursuant to subsection (d)(4).

15 “(c) SPECTRUM UTILIZATION PLAN.—

16 “(1) IN GENERAL.—As part of the budget jus-
 17 tification documents submitted to Congress in sup-
 18 port of the budget submitted under section 1105 of
 19 title 31, United States Code, for each fiscal year, the
 20 head of each Federal entity shall include a spectrum
 21 utilization plan.

22 “(2) CONTENTS.—A spectrum utilization plan
 23 submitted by the head of a Federal entity under
 24 paragraph (1) shall include—

1 “(A) the total spectrum authorized for the
2 entity (in percentage terms and in sum) in each
3 band the entity uses;

4 “(B) the approximate number of transmit-
5 ters, end-user terminals, or receivers, excluding
6 unintended radiators, that have been deployed
7 by the entity or authorized to be used by the
8 entity;

9 “(C) if such information is available—

10 “(i) the type of transmitters, end-user
11 terminals, or receivers, excluding unin-
12 tended radiators, operated by the entity
13 and whether they are space-, air-, or
14 ground-based;

15 “(ii) the type of transmitters, end-
16 user terminals, or receivers, excluding un-
17 intended radiators, authorized to be oper-
18 ated by the entity and whether they are
19 space-, air-, or ground-based;

20 “(iii) contour maps or other informa-
21 tion that illustrates the coverage area, re-
22 ceiver performance, and other parameters
23 relevant to an assessment of the avail-
24 ability of spectrum in each band used by
25 the entity;

1 “(iv) the approximate geolocation of
2 base stations or fixed transmitters used by
3 the entity;

4 “(v) the approximate extent of use, by
5 geography, of each band of frequencies
6 used by the entity, such as the amount and
7 percentage of time of use, number of end-
8 users, or other measures as appropriate to
9 the particular band;

10 “(vi) the activities, capabilities, func-
11 tions, or missions supported by the trans-
12 mitters, end-user terminals, or receivers
13 used by the entity; and

14 “(vii) the types of unlicensed devices
15 authorized to be operated by the entity;

16 “(D) the opportunity cost borne by the en-
17 tity for each spectrum band the entity uses;

18 “(E) the planned uses of technologies or
19 expanded services requiring spectrum for a pe-
20 riod of time agreed to by the entity; and

21 “(F) suggested spectrum-efficient ap-
22 proaches to meeting the spectrum requirements
23 identified under subparagraph (E).

24 “(3) REQUIREMENT.—The head of each Fed-
25 eral entity required to submit a spectrum utilization

1 plan under paragraph (1) shall submit a copy of
2 each plan submitted under such paragraph to the
3 Reallocation Commission, the Secretary, and the
4 NTIA.

5 “(4) NATIONAL SECURITY; CLASSIFIED INFOR-
6 MATION.—

7 “(A) NATIONAL SECURITY.—If the head of
8 a Federal entity determines that disclosure of
9 information required under paragraph (1)
10 would be harmful to the national security of the
11 United States, such head shall—

12 “(i) notify the Secretary of such de-
13 termination; and

14 “(ii) provide to the Secretary—

15 “(I) the other publicly releasable
16 information required under paragraph
17 (1);

18 “(II) to the maximum extent
19 practicable, a summary description of
20 the information with respect to which
21 the determination was made; and

22 “(III) an annex containing the
23 information with respect to which the
24 determination was made.

“(B) CLASSIFIED INFORMATION.—If the head of a Federal entity determines that any information required under paragraph (1) is classified in accordance with Executive Order 13526 (50 U.S.C. 435 note) or any successor Executive order establishing or modifying the uniform system for classifying, safeguarding, and declassifying national security information, such head shall—

“(i) notify the Secretary of such determination; and

“(ii) provide to the Secretary—

“(I) the information required under paragraph (1) that is not classified;

“(II) to the maximum extent practicable, a summary description of the information that is classified; and

“(III) an annex containing the information that is classified.

“(C) ANNEX RESTRICTION.—

“(i) AVAILABILITY TO NTIA AND RELOCATION COMMISSION.—The Secretary shall make an annex described in subparagraph (A)(ii)(III) or (B)(ii)(III) available

1 to the NTIA and the Relocation Commis-
 2 sion.

3 “(ii) NO PUBLIC AVAILABILITY.—The
 4 NTIA, the Secretary, and the Relocation
 5 Commission shall not make an annex de-
 6 scribed in subparagraph (A)(ii)(III) or
 7 (B)(ii)(III) available to the public or to
 8 any unauthorized person through any
 9 means.

10 “(d) PROCEDURE FOR MAKING RECOMMENDATIONS
 11 FOR SPECTRUM REALLOCATION.—

12 “(1) RECOMMENDATIONS BY SECRETARY OF
 13 COMMERCE.—Not later than 18 months after the
 14 date on which the President submits the budget doc-
 15 uments that include spectrum utilization plans de-
 16 scribed in subsection (c) to Congress for the first fis-
 17 cal year following the date of enactment of this sec-
 18 tion, the Secretary shall prepare and submit to the
 19 appropriate congressional committees, the Comp-
 20 troller General of the United States, and the Re-
 21 allocation Commission a report identifying and rec-
 22 ommending for reallocation bands of frequencies—

23 “(A) that are allocated on a primary basis
 24 for Federal Government use;

25 “(B) that—

1 “(i) are not required for the needs of
 2 the Federal Government at the time the
 3 report is submitted; or

4 “(ii) will not be required for such
 5 needs in the identifiable future; and

6 “(C) that can feasibly be made available,
 7 as of the date of submission of the report or at
 8 any time during the 5-year period beginning on
 9 such date, for assignment through a system of
 10 competitive bidding under section 309(j) of the
 11 Communications Act of 1934 (47 U.S.C.
 12 309(j)).

13 “(2) CRITERIA FOR IDENTIFICATION.—

14 “(A) NEEDS OF THE FEDERAL GOVERN-
 15 MENT.—In determining whether a band of fre-
 16 quencies meets one of the criteria specified in
 17 paragraph (1)(B), the Secretary shall—

18 “(i) consider whether the band of fre-
 19 quencies is used to provide a communica-
 20 tions service that is or could be available
 21 from a commercial provider or other ven-
 22 dor, or whether the communications serv-
 23 ices provided on such frequencies could be
 24 relocated to other frequencies used by the
 25 Federal Government;

1 “(ii) seek to promote—

2 “(I) the maximum practicable re-
3 liance on commercially available sub-
4 stitutes;

5 “(II) the efficient use of spec-
6 trum by Federal Government stations;

7 “(III) the development and use
8 of new communications technologies;
9 and

10 “(IV) the use of nonradiating
11 communications systems where prac-
12 ticable; and

13 “(iii) seek to avoid—

14 “(I) serious degradation of Fed-
15 eral Government services and oper-
16 ations;

17 “(II) excessive costs to the Fed-
18 eral Government and users of Federal
19 Government services; and

20 “(III) excessive disruption of ex-
21 isting use of Federal Government fre-
22 quencies by amateur radio licensees.

23 “(B) DIRECT DISCUSSIONS.—

24 “(i) IN GENERAL.—The Secretary
25 shall encourage and provide opportunities

1 for direct discussions among commercial
2 representatives and Federal Government
3 users of the spectrum to aid the Secretary
4 in determining which frequencies to rec-
5 ommend for reallocation under paragraph
6 (1).

7 “(ii) HEARINGS AND PUBLIC COM-
8 MENT.—

9 “(I) IN GENERAL.—As part of
10 the discussions required under clause
11 (i), the Secretary shall conduct public
12 hearings and accept public comment
13 on the recommendations.

14 “(II) TESTIMONY UNDER
15 OATH.—All testimony before the Sec-
16 retary at a public hearing conducted
17 under this clause shall be presented
18 under oath.

19 “(III) PUBLICATION ON
20 WEBSITE.—All testimony and public
21 comments collected under this clause
22 shall be made available on a public
23 website.

24 “(iii) REPRESENTATION.—A rep-
25 resentative of the Reallocation Commis-

1 sion, and of the Secretary at the election
 2 of the Secretary, may attend any discus-
 3 sion held under clause (i).

4 “(iv) FURTHER COMMENT.—The Sec-
 5 retary shall provide the public and the Re-
 6 allocation Commission with an opportunity
 7 to comment on the results of a discussion
 8 held under clause (i) before the Secretary
 9 submits the recommendation required
 10 under paragraph (1).

11 “(3) REVIEW AND RECOMMENDATIONS BY THE
 12 REALLOCATION COMMISSION.—

13 “(A) REVIEW.—

14 “(i) IN GENERAL.—After receiving the
 15 recommendations from the Secretary under
 16 paragraph (1), the Reallocation Commis-
 17 sion shall review and analyze the rec-
 18 ommendations.

19 “(ii) NEW AND INNOVATIVE MANAGE-
 20 MENT TECHNIQUES AND TECHNOLOGIES.—
 21 In conducting the review and analysis
 22 under clause (i), the Reallocation Commis-
 23 sion shall give priority to recommendations
 24 that make accommodation for new and in-
 25 novative management techniques and tech-

1 nologies for maximizing the value and use
2 of spectrum.

3 “(iii) HEARINGS.—

4 “(I) IN GENERAL.—As part of
5 the review and analysis required
6 under clause (i), the Reallocation
7 Commission shall conduct public hear-
8 ings on the recommendations.

9 “(II) TESTIMONY UNDER
10 OATH.—All testimony before the Re-
11 allocation Commission at a public
12 hearing conducted under this clause
13 shall be presented under oath.

14 “(B) RECOMMENDATIONS.—

15 “(i) IN GENERAL.—Not later than
16 180 days after the date on which the Sec-
17 retary submits recommendations under
18 paragraph (1) to the Reallocation Commis-
19 sion, the Reallocation Commission shall
20 submit to the President and the appro-
21 priate congressional committees a report
22 on the findings and conclusions of the Re-
23 allocation Commission from the review and
24 analysis conducted under subparagraph

1 (A), including any recommendations for
2 Federal spectrum reallocation.

3 “(ii) REQUIREMENT.—A report sub-
4 mitted under clause (i) shall contain an ex-
5 planation and justification of any rec-
6 ommendation for Federal spectrum re-
7 allocation included in the report that is dif-
8 ferent from the recommendations sub-
9 mitted by the Secretary under paragraph
10 (1).

11 “(C) TRANSMISSION OF INFORMATION TO
12 CONGRESS.—After the Reallocation Commission
13 submits recommendations to the President
14 under subparagraph (B), upon request by a
15 Member of Congress, the Reallocation Commis-
16 sion shall provide to the Member of Congress
17 any information used by the Reallocation Com-
18 mission in making the recommendations.

19 “(D) GAO REQUIREMENTS.—The Comp-
20 troller General of the United States shall—

21 “(i) assist the Reallocation Commis-
22 sion, to the extent requested, in the review
23 and analysis under subparagraph (A); and

24 “(ii) not later than 90 days after the
25 date on which the Secretary makes rec-

ommendations under paragraph (1), submit to Congress and to the Reallocation Commission a report that contains a detailed analysis of the recommendations and selection process of the Secretary.

“(4) REVIEW BY THE PRESIDENT.—

“(A) IN GENERAL.—Not later than 30 days after the date on which the Reallocation Commission submits recommendations for Federal spectrum reallocation under paragraph (3)(B), the President shall—

“(i) determine whether to approve the recommendations made by the Reallocation Commission; and

“(ii) submit to Congress and the Reallocation Commission a report that describes the determination made under clause (i).

“(B) APPROVAL.—If the President approves the recommendations under subparagraph (A)(i), the President shall submit a copy of the recommendations to Congress.

“(C) DISAPPROVAL.—

“(i) IN GENERAL.—If the President disapproves the recommendations under

1 subparagraph (A)(i), the President shall
2 submit to Congress and to the Reallocation
3 Commission a report that describes the
4 reasons that the President disapproves of
5 the recommendations.

6 “(ii) REALLOCATION COMMISSION RE-
7 VISIONS.—Not later than 60 days after the
8 date on which the President submits to the
9 Reallocation Commission a report under
10 clause (i), the Reallocation Commission
11 shall submit to the President a revised list
12 of recommendations for reallocation of
13 Federal spectrum.

14 “(iii) APPROVAL AND DISAPPROVAL
15 OF REVISIONS.—

16 “(I) APPROVAL.—If the Presi-
17 dent approves the revised list of rec-
18 ommendations submitted by the Re-
19 allocation Commission under clause
20 (ii), the President shall submit the re-
21 vised list to Congress.

22 “(II) DISAPPROVAL.—If the
23 President disapproves the revised list
24 of recommendations submitted by the
25 Reallocation Commission under clause

1 (ii), the President and the Realloca-
2 tion Commission shall complete the
3 requirements described in clauses (i)
4 and (ii) until the President approves
5 recommendations from the Realloca-
6 tion Commission.

7 “(5) PUBLIC DISCLOSURE AND NONDISCLO-
8 SURE.—

9 “(A) IN GENERAL.—If the head of an Ex-
10 ecutive agency or Federal entity, the Chair-
11 person, or the President determines that public
12 disclosure of any information contained in the
13 reports, recommendations, testimony, or com-
14 ments required under this section would reveal
15 classified national security information or other
16 information for which there is a legal basis for
17 nondisclosure and such public disclosure would
18 be detrimental to national security, homeland
19 security, or public safety or would jeopardize
20 law enforcement investigations, the head of the
21 Executive agency or Federal entity, the Chair-
22 person, or the President shall notify the Sec-
23 retary of that determination prior to release of
24 such information.

25 “(B) ANNEX.—

1 “(i) IN GENERAL.—If the head of an
 2 Executive agency or Federal entity, the
 3 Chairperson, or the President notifies the
 4 Secretary of a determination under sub-
 5 paragraph (A), the information required to
 6 be disclosed under this section shall be in-
 7 cluded in a separate classified annex, as
 8 needed.

9 “(ii) REQUIREMENT.—A classified
 10 annex described under clause (i)—

11 “(I) shall be provided to the sub-
 12 committees of primary jurisdiction of
 13 the committees of primary jurisdiction
 14 of the Senate and House of Rep-
 15 resentatives in accordance with appro-
 16 priate national security stipulations;
 17 and

18 “(II) shall not be disclosed to the
 19 public or provided to any unauthor-
 20 ized person through any means.

21 “(e) REALLOCATION OF FEDERAL SPECTRUM.—

22 “(1) AGENCY ACTION.—

23 “(A) NTIA REQUIREMENT.—Not later
 24 than 180 days after the date on which the
 25 President submits approved recommendations

1 for the reallocation of Federal spectrum to Con-
2 gress under subparagraph (B) or (C)(iii)(I) of
3 subsection (d)(4), the NTIA shall provide to
4 each Federal entity that is required to take ac-
5 tion under the recommendations information re-
6 garding an alternative frequency assignment to
7 which the radio communications operations of
8 the Federal entity could be relocated for pur-
9 poses of calculating the estimated relocation or
10 sharing costs and timeline required under sub-
11 paragraph (C).

12 “(B) REQUIREMENT.—To the extent prac-
13 ticable and consistent with national security
14 considerations, the NTIA shall provide the in-
15 formation described in subparagraph (A) by the
16 geographic location of the facilities or systems
17 of the Federal entity and the frequency bands
18 used by the facilities or systems.

19 “(C) IMPLEMENTATION PLAN.—

20 “(i) IN GENERAL.—Not later than 1
21 year after the date on which the President
22 submits approved recommendations for the
23 reallocation of Federal spectrum to Con-
24 gress under subparagraph (B) or (C)(iii)(I)
25 of subsection (d)(4), the head of each Fed-

1 eral entity required to relocate spectrum
2 under the recommendations shall prepare
3 and submit to the President, the appro-
4 priate congressional committees, the
5 NTIA, the Federal Communications Com-
6 mission, the Director of the Office of Man-
7 agement and Budget, and the Comptroller
8 General of the United States a plan for
9 implementation of the recommendations re-
10 lated to the Federal entity.

11 “(ii) CONTENTS.—An implementation
12 plan submitted by a Federal entity under
13 clause (i) shall include—

14 “(I) a description of how the
15 Federal entity will comply with the
16 approved recommendations for the re-
17 allocation of Federal spectrum sub-
18 mitted to Congress under subpara-
19 graph (B) or (C)(iii)(I) of subsection
20 (d)(4);

21 “(II) any statutory or regulatory
22 barriers that will prohibit the Federal
23 entity from complying with the rec-
24 ommendations described in subclause
25 (I);

1 “(III) the estimated cost to the
2 Federal entity of frequency with-
3 drawal or relocation; and

4 “(IV) the estimated timeline of
5 the Federal entity for frequency with-
6 drawal or relocation.

7 “(D) REVIEW OF IMPLEMENTATION
8 PLAN.—

9 “(i) IN GENERAL.—Not later than 30
10 days after the date on which an implemen-
11 tation plan is submitted under subpara-
12 graph (C), the Director of the Office of
13 Management and Budget shall review and
14 determine whether to approve the imple-
15 mentation plan.

16 “(ii) DISAPPROVAL.—If an implemen-
17 tation plan submitted under subparagraph
18 (C) is disapproved by the Director of the
19 Office of Management and Budget, the
20 Federal entity that submitted the imple-
21 mentation plan shall submit a revised im-
22 plementation plan under such subpara-
23 graph, and the submission and review
24 process shall continue until an implementa-
25 tion plan is approved.

1 “(iii) APPROVAL OF ALL PLANS.—Not
2 later than 7 days after the date on which
3 the Director of the Office of Management
4 and Budget approves the plans submitted
5 under subparagraph (C), the Director shall
6 notify the Federal Communications Com-
7 mission of the estimated relocation or shar-
8 ing costs and timelines of all Federal enti-
9 ties required to submit a plan under such
10 subparagraph.

11 “(iv) REVIEW OF PROGRESS.—

12 “(I) IN GENERAL.—At the begin-
13 ning of each fiscal year following ap-
14 proval of a plan required under sub-
15 paragraph (C), the Director of the Of-
16 fice of Management and Budget shall
17 review the progress of the Federal en-
18 tity in meeting the cost and timelines
19 of the implementation plan.

20 “(II) ENFORCEMENT BY DIREC-
21 TOR.—If, at any point while con-
22 ducting a review under subclause (I),
23 the Director determines the Federal
24 entity will not meet the implementa-
25 tion plan cost or timelines, the Direc-

tor shall take action to enforce the approved plan.

“(E) COMPLIANCE.—

“(i) INITIATION OF REQUIRED ACTION.—Not later than 2 years after the date on which the President submits approved recommendations for the reallocation of Federal spectrum to Congress under subparagraph (B) or (C)(iii)(I) of subsection (d)(4), the head of each Federal entity shall initiate all actions required to comply with the approved recommendations.

“(ii) COMPLETION OF REQUIRED ACTION.—Not later than 5 years after the date on which the President submits approved recommendations for the reallocation of Federal spectrum to Congress under subparagraph (B) or (C)(iii)(I) of subsection (d)(4), the head of each Federal entity shall complete all actions required to comply with the approved recommendations.

“(2) CONGRESSIONAL DISAPPROVAL.—

“(A) IN GENERAL.—No Federal entity may initiate any action in accordance with the approved recommendations for the reallocation of Federal spectrum submitted to Congress by the President under subparagraph (B) or (C)(iii)(I) of subsection (d)(4) if there is enacted a joint resolution disapproving the recommendations before the earlier of—

“(i) the end of the 45-day period beginning on the date on which the President submits the recommendations to Congress under subparagraph (B) or (C)(iii)(I) of subsection (d)(4); or

“(ii) the adjournment of Congress sine die for the session during which the recommendations described in clause (i) are submitted.

“(B) COMPUTATION OF TIME PERIOD.—The days on which either the Senate or the House of Representatives is not in session because of an adjournment for more than 3 days to a day certain shall be excluded in the computation of the time period described in subparagraph (A)(i).

1 “(3) NOTIFICATION OF SUCCESSFUL RELOCA-
2 TION.—The President shall terminate the authoriza-
3 tion of a Federal entity and notify the Secretary and
4 the Federal Communications Commission of the ter-
5 mination if—

6 “(A) the NTIA determines that a Federal
7 entity has achieved comparable capability of
8 systems by relocating to a new frequency as-
9 signment or by utilizing an alternative tech-
10 nology; or

11 “(B) the Federal entity has unreasonably
12 failed to comply with the timeline for relocation
13 approved by the Director of the Office of Man-
14 agement and Budget under paragraph (1)(D).

15 “(f) AUCTION OF AVAILABLE FREQUENCIES.—

16 “(1) IN GENERAL.—Not later than 18 months
17 after the date on which the President submits ap-
18 proved recommendations for the reallocation of Fed-
19 eral spectrum to Congress under subparagraph (B)
20 or (C)(iii)(I) of subsection (d)(4), the Federal Com-
21 munications Commission shall promulgate rules for
22 the conduct of auctions of frequencies that will be
23 made available according to such recommendations
24 for assignment of new initial licenses subject to new
25 service rules or for other purposes.

1 “(2) REQUIREMENT.—In promulgating rules
2 under paragraph (1), the Federal Communications
3 Commission shall—

4 “(A) minimize the cost to the taxpayer of
5 the transition of the spectrum to be auctioned
6 to its newly identified use; and

7 “(B) ensure that any licensing conditions
8 established are restricted to interference protec-
9 tions and ethical, geographic, and financial
10 qualifications of licensees.

11 “(3) SCHEDULE FOR AUCTIONS.—Not later
12 than 2 years after the date on which the President
13 submits approved recommendations for the realloca-
14 tion of Federal spectrum to Congress under sub-
15 paragraph (B) or (C)(iii)(I) of subsection (d)(4), the
16 Federal Communications Commission shall com-
17 mence auctions under this subsection.

18 “(g) RELOCATION OF FEDERAL GOVERNMENT STA-
19 TIONS.—

20 “(1) RELOCATION OR SHARING COSTS.—Any
21 Federal entity that operates a Federal Government
22 station assigned to a band of frequencies and that
23 incurs relocation or sharing costs because of the re-
24 allocation of frequencies from Federal use to non-
25 Federal use pursuant to this section shall receive

1 payment for such costs from the Spectrum Reloca-
2 tion Fund, in accordance with section 118.

3 “(2) FEDERAL ACTION TO EXPEDITE SPEC-
4 TRUM TRANSFER.—Any Federal Government station
5 that operates on electromagnetic spectrum that has
6 been identified in the approved recommendations for
7 the reallocation of Federal spectrum submitted to
8 Congress by the President under subparagraph (B)
9 or (C)(iii)(I) of subsection (d)(4) shall, to the max-
10 imum extent practicable through the use of the au-
11 thority granted under this section and any other ap-
12 plicable provision of law, take action to relocate its
13 spectrum use to other frequencies that are allocated
14 for Federal use or to consolidate its spectrum use
15 with other Federal Government stations in a manner
16 that maximizes the spectrum available for non-Fed-
17 eral use.

18 “(3) FAILURE TO COMPLY.—If a Federal entity
19 does not comply with the timeline established in the
20 implementation plan of the entity that was approved
21 under subsection (e)(1)(D), Congress may decrease
22 the amount appropriated to the entity in the fol-
23 lowing fiscal year by up to $\frac{1}{2}$ of 1 percent.

24 “(4) EQUIPMENT UPGRADES FOR DEPARTMENT
25 OF DEFENSE.—If a band of frequencies assigned to

1 the Department of Defense is reallocated from Fed-
2 eral use to non-Federal use pursuant to this section,
3 the relocation or sharing costs for which the Depart-
4 ment may receive payment from the Spectrum Relo-
5 cation Fund under section 118 shall include the
6 costs of replacement with state-of-the-art equipment
7 of any of the equipment used for relocated oper-
8 ations, whether or not such replacement is necessary
9 to achieve comparable capability of systems, if the
10 Secretary of Defense considers such replacement ap-
11 propriate.

12 “(h) TREATMENT OF CERTAIN SPECTRUM SUBJECT
13 TO OTHER REALLOCATION PROCESSES.—In the case of
14 spectrum that has been identified for reallocation, is in
15 the process of being reallocated, or has been reallocated
16 from Federal to non-Federal use under any other provi-
17 sion of law or administrative process, but with respect to
18 relocation from which the Federal entity being relocated
19 has not received payment for relocation or sharing costs,
20 such spectrum shall be treated as spectrum allocated for
21 Federal use that may be recommended for reallocation by
22 the Secretary, the Reallocation Commission, or the Presi-
23 dent under this section.”.

24 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AUCTION PROCEEDS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) in paragraph (3), by striking subparagraph (F) and inserting the following:

“(F) for any auction of—

“(i) eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)), the recovery of 110 percent of estimated relocation or sharing costs as provided to the Commission under section 113(g)(4) of such Act; and

“(ii) frequencies described in section 120(f)(1) of the National Telecommunications and Information Administration Organization Act, the recovery of 110 percent of estimated relocation or sharing costs as provided to the Commission under section 120(e)(1)(D)(iii) of such Act.”;

(B) in paragraph (8)(D)—

(i) in clause (i), by inserting “or (iii)” after “provided in clause (ii)”; and

1 (ii) by adding at the end the fol-
2 lowing:

3 “(iii) PROCEEDS RELATING TO MAXI-
4 MIZING SPECTRUM EFFICIENCY AND
5 VALUE ACT OF 2013.—With respect to each
6 auction of frequencies described in section
7 120(f)(1) of the National Telecommuni-
8 cations and Information Administration
9 Organization Act—

10 “(I) an amount of the proceeds
11 equal to the estimated relocation or
12 sharing costs provided to the Commis-
13 sion under section 120(e)(1)(D)(iii) of
14 such Act for relocation of Federal en-
15 tities from the frequencies being as-
16 signed through such auction shall be
17 deposited in the Spectrum Relocation
18 Fund; and

19 “(II) the remainder of the pro-
20 ceeds shall be deposited in the general
21 fund of the Treasury for the sole pur-
22 pose of deficit reduction.”; and

23 (C) in paragraph (16)—

(i) in the header, by striking “ELIGIBLE FREQUENCIES” and inserting “RE-ALLOCATED FEDERAL SPECTRUM”;

(ii) by striking subparagraphs (A) and (B) and inserting the following:

“(A) SPECIAL REGULATIONS.—The Commission shall revise the regulations prescribed under paragraph (4)(F) to prescribe methods by which—

“(i) the total cash proceeds from any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall at least equal 110 percent of the total estimated relocation or sharing costs provided to the Commission pursuant to section 113(g)(4) of such Act; and

“(ii) the total cash proceeds from any auction of frequencies described in section 120(f)(1) of such Act shall at least equal 110 percent of the total estimated relocation or sharing costs provided to the Commission pursuant to section 120(e)(1)(D)(iii) of such Act.

1 “(B) CONCLUSION OF AUCTIONS CONTIN-
2 GENT ON MINIMUM PROCEEDS.—

3 “(i) IN GENERAL.—The Commission
4 may not conclude any auction—

5 “(I) of eligible frequencies de-
6 scribed in section 113(g)(2) of the
7 National Telecommunications and In-
8 formation Administration Organiza-
9 tion Act (47 U.S.C. 923(g)(2)) if the
10 total cash proceeds attributable to
11 such spectrum are less than 110 per-
12 cent of the total estimated relocation
13 or sharing costs provided to the Com-
14 mission pursuant to section 113(g)(4)
15 of such Act; or

16 “(II) of frequencies described in
17 section 120(f)(1) of such Act if the
18 total cash proceeds attributable to
19 such spectrum are less than 110 per-
20 cent of the total estimated relocation
21 or sharing costs provided to the Com-
22 mission pursuant to section
23 120(e)(1)(D)(iii) of such Act.

24 “(ii) INABILITY TO CONCLUDE AUC-
25 TION.—If the Commission is unable to

1 conclude an auction because of the require-
 2 ment of subclause (I) or (II) of clause (i),
 3 the Commission shall cancel the auction,
 4 return within 45 days after the auction
 5 cancellation date any deposits from partici-
 6 pating bidders held in escrow, and absolve
 7 such bidders from any obligation to the
 8 United States to bid in any subsequent re-
 9 auction of such spectrum.”; and

10 (iii) in subparagraph (C)—

11 (I) by striking “eligible fre-
 12 quencies” and inserting “frequencies”;
 13 and

14 (II) by striking “an eligible Fed-
 15 eral entity’s” and inserting “a Federal
 16 entity’s”.

17 (2) SEPARATION FROM RELOCATION PROCESS

18 UNDER SECTION 113 OF THE NTIA ORGANIZATION
 19 ACT.—Section 113(g)(2)(B) of the National Tele-
 20 communications and Information Administration Or-
 21 ganization Act (47 U.S.C. 923(g)(2)(B)) is amended
 22 by inserting before the period at the end the fol-
 23 lowing: “, or frequencies described in section
 24 120(f)(1) of this Act”.

1 (3) SPECTRUM RELOCATION FUND.—Section
 2 118 of the National Telecommunications and Infor-
 3 mation Administration Organization Act (47 U.S.C.
 4 928) is amended—

5 (A) by striking subsection (c) and inserting
 6 the following:

7 “(c) USED TO PAY RELOCATION OR SHARING
 8 COSTS.—The amounts in the Fund—

9 “(1) from auctions of eligible frequencies de-
 10 scribed in section 113(g)(2) are authorized to be
 11 used to pay relocation or sharing costs, as defined
 12 in section 113(g)(3), of an eligible Federal entity in-
 13 curring such costs with respect to relocation from or
 14 sharing of those frequencies; and

15 “(2) from auctions of frequencies described in
 16 section 120(f)(1) are authorized to be used to pay
 17 relocation or sharing costs, as defined in section
 18 120(a)(7), of a Federal entity incurring such costs
 19 with respect to relocation from those frequencies.”;

20 (B) in subsection (d)—

21 (i) in paragraph (1), by striking “sub-
 22 section (c) of this section” and inserting
 23 “paragraph (1) and the relocation or shar-
 24 ing costs specified in paragraph (2) of sub-
 25 section (c)”;

1 (ii) in paragraph (2)—

2 (I) in the matter before subpara-
3 graph (A), by striking “eligible”;

4 (II) in subparagraph (C), by
5 striking “for approval” each place it
6 appears; and

7 (III) in the matter after subpara-
8 graph (C), by striking “Unless dis-
9 approved” and all that follows and in-
10 sserting “In the case of an initial
11 transfer to a Federal entity incurring
12 relocation or sharing costs with re-
13 spect to relocation from frequencies
14 described in section 120(f)(1), ap-
15 proval of the implementation plan of
16 the entity under section 120(e)(1)(D)
17 constitutes approval under subpara-
18 graph (B).”; and

19 (C) in subsection (e)—

20 (i) in the header, by striking “ELIGI-
21 BLE”;

22 (ii) in paragraph (1)—

23 (I) in subparagraph (A), by strik-
24 ing “section 113(g)(1) of this Act”
25 and inserting “section 113(g)(1), or

1 Federal entities incurring relocation
 2 or sharing costs with respect to relo-
 3 cation from frequencies described in
 4 section 120(f)(1)”;

5 (II) in subparagraph (B), by
 6 striking “An eligible Federal entity”
 7 and inserting “A Federal entity”; and

8 (III) in subparagraph (C), by
 9 striking “eligible”; and

10 (iii) in paragraph (2), by striking “An
 11 eligible Federal entity” and inserting “A
 12 Federal entity”.

13 **SEC. 4. PROHIBITION AGAINST CERTAIN CONDITIONS ON**
 14 **LICENSURE AND AUCTION PARTICIPATION.**

15 Section 309(j) of the Communications Act of 1934,
 16 as amended by section 3(b)(1), is further amended by add-
 17 ing at the end the following:

18 “(18) PROHIBITION AGAINST CERTAIN CONDI-
 19 TIONS ON LICENSURE AND AUCTION PARTICIPA-
 20 TION.—The Commission may not—

21 “(A) establish on a license for the use of
 22 spectrum frequencies any condition relating to
 23 its Report and Order with regard to Preserving
 24 the Open Internet; Broadband Industry Prac-

1 tices (GN Docket No. 09–191, WC Docket No.
2 07–52) (adopted December 21, 2010);

3 “(B) restrict the number or type of bidders
4 or any specific bidder from participating in any
5 public auction for the assignment of licenses for
6 the use of spectrum frequencies;

7 “(C) prescribe the rates or terms of or oth-
8 erwise condition services that may be offered by
9 successful bidders in any such auction; or

10 “(D) notwithstanding section 316, impose
11 any additional license requirements or rules on
12 successful bidders once any such auction has
13 been completed.”.

○