

114TH CONGRESS
1ST SESSION

S. 887

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 SENATE OF THE UNITED STATES

MARCH 26, 2015

Mr. MARKEY (for himself and Mrs. FISCHER) 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 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 2015”.

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

7 (a) NOTICE TO COMMISSION.—

1 (1) IN GENERAL.—Section 113(g)(4) of the Na-
2 tional Telecommunications and Information Admin-
3 istration Organization Act (47 U.S.C. 923(g)(4)) is
4 amended—

5 (A) by striking the heading and inserting
6 “NOTICE TO COMMISSION.—”;

7 (B) in the second sentence of subpara-
8 graph (A), by striking “shall notify the Com-
9 mission” and all that follows and inserting the
10 following: “shall notify the Commission—

11 “(i) of estimated relocation or sharing
12 costs and timelines for such relocation or
13 sharing; or

14 “(ii) that, instead of relocation or
15 sharing costs under this subsection and
16 section 118, a Federal entity will receive
17 payment under section 120 because such
18 entity is—

19 “(I) discontinuing the operations
20 that the Federal entity conducts on
21 such eligible frequencies without relo-
22 cating such operations to other fre-
23 quencies; or

24 “(II) relocating such operations
25 to frequencies assigned to another

1 Federal entity in order for such enti-
 2 ties to share such frequencies.”; and

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

4 “(D) This subsection and section 118 shall
 5 not apply with respect to the discontinuance of
 6 operations on eligible frequencies or the reloca-
 7 tion of such operations by a Federal entity after
 8 the Commission receives notice under subpara-
 9 graph (A)(ii) with respect to such discontinu-
 10 ance or relocation.”.

11 (2) CONFORMING AMENDMENTS.—Section
 12 113(g) of the National Telecommunications and In-
 13 formation Administration Organization Act (47
 14 U.S.C. 923(g)) is amended—

15 (A) in paragraph (3)(A)(iii)(I), by striking
 16 “paragraph (4)(A)” and inserting “paragraph
 17 (4)(A)(i)”;

18 (B) in paragraph (4)—

19 (i) in subparagraph (B), by striking
 20 “subparagraph (A)” and inserting “sub-
 21 paragraph (A)(i)”;

22 (ii) in subparagraph (C), by striking
 23 “subparagraphs (A) and (B)” and insert-
 24 ing “subparagraphs (A)(i) and (B)”;

1 (C) in paragraph (5), by striking “para-
 2 graph (4)(A)” and inserting “paragraph
 3 (4)(A)(i)”.

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

7 (1) in the heading, by striking “RELOCATION
 8 OR SHARING”;

9 (2) by amending paragraph (1) to read as fol-
 10 lows:

11 “(1) DEVELOPMENT OF TRANSITION PLAN BY
 12 FEDERAL ENTITY.—

13 “(A) IN GENERAL.—Not later than 240
 14 days before the commencement of any auction
 15 of eligible frequencies described in subsection
 16 (g)(2), a Federal entity authorized to use any
 17 such frequency shall submit to the NTIA and
 18 to the Technical Panel established by paragraph
 19 (3) a transition plan in which the Federal enti-
 20 ty—

21 “(i) declares the intention of such en-
 22 tity—

23 “(I) to share such eligible fre-
 24 quencies with a non-Federal user or
 25 to relocate to other frequencies, and

1 to receive relocation or sharing costs
2 from the Spectrum Relocation Fund
3 established by section 118; or

4 “(II) to discontinue the oper-
5 ations that the Federal entity con-
6 ducts on such eligible frequencies
7 without relocating such operations to
8 other frequencies or to relocate such
9 operations to frequencies assigned to
10 another Federal entity in order for
11 such entities to share such fre-
12 quencies, and to receive payment from
13 the Federal Spectrum Incentive Fund
14 established by section 120; and

15 “(ii) describes how the entity will im-
16 plement the relocation, sharing, or dis-
17 continuance arrangement.

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

22 (3) in paragraph (2)—

23 (A) in subparagraph (D), by inserting “, to
24 discontinue such use,” after “from such fre-
25 quencies”;

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

3 (C) in subparagraph (G), by striking “The
4 plans” and inserting “To the extent applicable
5 given the intention declared by the entity under
6 paragraph (1)(A)(i), the plans”;

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

9 (5) in paragraph (6)—

10 (A) by inserting “(if applicable)” after
11 “costs”; and

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

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

16 (c) RELOCATION OR DISCONTINUANCE PRIORITIZED
17 OVER SHARING.—Section 113(j) of the National Tele-
18 communications and Information Administration Organi-
19 zation Act (47 U.S.C. 923(j)) is amended—

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

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

1 (d) DEPOSIT OF AUCTION PROCEEDS.—Section
 2 309(j)(8) of the Communications Act of 1934 (47 U.S.C.
 3 309(j)(8)) is amended—

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

6 (2) in subparagraph (D)—

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

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

10 “(iii) FEDERAL SPECTRUM INCEN-
 11 TIVES.—Notwithstanding subparagraph
 12 (A) and except as provided in subpara-
 13 graph (B) and clause (ii) of this subpara-
 14 graph, in the case of proceeds (including
 15 deposits and upfront payments from suc-
 16 cessful bidders) attributable to the auction
 17 of eligible frequencies described in section
 18 113(g)(2) of the National Telecommuni-
 19 cations and Information Administration
 20 Organization Act with respect to which the
 21 Commission has received notice under sec-
 22 tion 113(g)(4)(A)(ii) of such Act, 1 per-
 23 cent of such proceeds shall be deposited in
 24 the Federal Spectrum Incentive Fund es-
 25 tablished by section 120 of such Act and

1 shall be available in accordance with such
 2 section. The remainder of such proceeds
 3 shall be deposited in the general fund of
 4 the Treasury, where such proceeds shall be
 5 dedicated for the sole purpose of deficit re-
 6 duction.”.

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

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

12 “(a) **ESTABLISHMENT.**—There is established in the
 13 Treasury of the United States a fund to be known as the
 14 Federal Spectrum Incentive Fund (in this section referred
 15 to as the ‘Fund’), which shall be administered by the Of-
 16 fice of Management and Budget (in this section referred
 17 to as ‘OMB’), in consultation with the NTIA.

18 “(b) **TRANSFER OF FUNDS.**—The Director of OMB
 19 shall transfer from the Fund to a Federal entity an
 20 amount equal to the amount deposited in accordance with
 21 section 309(j)(8)(D)(iii) of the Communications Act of
 22 1934 that is attributable to the auction of eligible fre-
 23 quencies described in section 113(g)(2) of this Act being
 24 vacated by such entity. Such amount shall be available to

1 the Federal entity in accordance with subsection (c) and
2 shall remain available until expended.

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

6 “(1) OFFSET OF SEQUESTRATION.—Any pur-
7 poses permitted under the terms and conditions of
8 an appropriations account of the Federal entity for
9 which budgetary resources were cancelled for a fiscal
10 year under a sequestration order under the Balanced
11 Budget and Emergency Deficit Control Act of 1985.
12 The amount used for such purposes for a fiscal year
13 under this paragraph may not exceed the amount by
14 which the amount available to such entity under
15 such account was reduced under the sequestration
16 order for such fiscal year.

17 “(2) TRANSFER TO INCUMBENT FEDERAL EN-
18 TITY.—In the case of a Federal entity that is relo-
19 cating operations to frequencies assigned to an in-
20 cumbent Federal entity in order for such entities to
21 share such frequencies, to transfer an amount to the
22 incumbent Federal entity for any purposes permitted
23 under paragraph (1). The transferred amount shall
24 remain available to the incumbent Federal entity
25 until expended.

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

13 (f) DEPARTMENT OF DEFENSE SPECTRUM.—Section
 14 1062(b) of the National Defense Authorization Act for
 15 Fiscal Year 2000 (Public Law 106–65) does not apply to
 16 frequencies with respect to which the Federal Communica-
 17 tions Commission has received notice under section
 18 113(g)(4)(A)(ii) of the National Telecommunications and
 19 Information Administration Organization Act (47 U.S.C.
 20 923(g)(4)(A)(ii)).

21 **SEC. 3. COSTS OF INCUMBENT FEDERAL ENTITIES RE-**
 22 **LATED TO SPECTRUM SHARING.**

23 (a) DESCRIPTION OF ELIGIBLE FEDERAL ENTI-
 24 TIES.—Section 113(g)(1) of the National Telecommuni-

1 cations and Information Administration Organization Act
 2 (47 U.S.C. 923(g)(1)) is amended—

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

5 (2) by striking “spectrum frequencies” the first
 6 place it appears and inserting “eligible frequencies
 7 described in paragraph (2)”;

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

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

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

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

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

20 “(vi) the costs incurred by an incum-
 21 bent Federal entity to accommodate shar-
 22 ing the spectrum frequencies assigned to
 23 such entity with a Federal entity the oper-
 24 ations of which are being relocated from el-
 25 igible frequencies described in paragraph

1 (2), unless the Commission receives notice
 2 under paragraph (4)(A)(ii)(II) with respect
 3 to the relocation of such operations.”.

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

8 (1) in subsection (c), by striking “with respect
 9 to” and all that follows and inserting the following:
 10 “with respect to—

11 “(1) relocation from or sharing of such eligible
 12 frequencies; or

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

19 (2) in subsection (d)—

20 (A) in paragraph (2)(A), by inserting “(or,
 21 in the case of an incumbent Federal entity de-
 22 scribed in section 113(g)(3)(A)(vi), the eligible
 23 Federal entity the operations of which are being
 24 relocated has submitted such a plan)” after
 25 “transition plan”; and

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

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