

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4641

To allocate spectrum for the enhancement of wireless telecommunications, and to invest wireless spectrum auction proceeds for the military preparedness and educational preparedness of the United States for the digital era, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2002

Mr. MARKEY introduced the following bill; which was referred to the  
Committee on Energy and Commerce

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## A BILL

To allocate spectrum for the enhancement of wireless telecommunications, and to invest wireless spectrum auction proceeds for the military preparedness and educational preparedness of the United States for the digital era, 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 “Wireless Technology  
5        Investment and Digital Dividends Act of 2002”.

6        **SEC. 2. FINDINGS.**

7        The Congress finds the following:

1           (1) The United States stands to benefit in the  
2 global economy by reallocating additional airwave as-  
3 sets to the private sector for innovative wireless serv-  
4 ices.

5           (2) Congress previously mandated reallocation  
6 of over 200 megahertz of frequency spectrum from  
7 Government use to the Federal Communications  
8 Commission for private sector licensing.

9           (3) This previous reallocation spurred deploy-  
10 ment of new digital wireless services, Government  
11 action that helped to lower prices, create jobs, and  
12 increase consumer choice.

13           (4) Similarly, the public interest would be  
14 served by reallocating additional portions of the  
15 public's airwaves for use by the private sector for  
16 advanced wireless services.

17           (5) A continuation of our competition-based  
18 spectrum policy can promote innovation, create jobs,  
19 lower prices, and increase consumer choice in the  
20 marketplace.

21           (6) Determining which specific frequencies to  
22 reallocate must be done in a manner that reflects an  
23 appropriate balance between the needs of current  
24 users and the legitimate requirements of the private  
25 sector for introducing new services.

1           (7) Spectrum auctions will reap revenue that  
2           can be used to compensate incumbent users, includ-  
3           ing the military, for relocation costs.

4           (8) Auction proceeds can additionally be utilized  
5           to foster the use of educational technology, promote  
6           deployment of public telecommunications infrastruc-  
7           ture, and establish a self-sustaining fund for grants  
8           to address the digital divide.

9           (9) While more and more Americans are uti-  
10          lizing electronic tools in every aspect of their lives,  
11          a digital divide still remains in many areas of our  
12          country between rich and poor, and between urban  
13          and many rural areas.

14          (10) Utilizing spectrum auction proceeds to en-  
15          hance the use of educational technology and to in-  
16          crease public access to advanced telecommunications  
17          underscores our commitment to ensuring that our  
18          citizens obtain the skill set necessary to compete for  
19          jobs in the new economy.

20          (11) Educational preparedness will be critical if  
21          the United States is to have a technologically savvy  
22          workforce to fuel growth of our high tech economy  
23          in the global marketplace.

24          (12) The creation of a self-sustaining mecha-  
25          nism to make available annual funding for needed

1 public access and educational technology grants is  
 2 an appropriate use of revenue generated from cor-  
 3 porate use of the public’s airwaves.

4 (13) A policy that promotes investment in wire-  
 5 less technology along with a concomitant investment  
 6 in the human resources of our Nation is in the na-  
 7 tional economic interest of the United States.

8 **TITLE I—TELECOMMUNI-**  
 9 **CATIONS INFRASTRUCTURE**  
 10 **DEVELOPMENT AND CITIZEN**  
 11 **EMPOWERMENT**

12 **SEC. 101. DIGITAL DIVIDENDS TRUST FUND.**

13 Title III of the Communications Act of 1934 is  
 14 amended by inserting after section 309 (47 U.S.C. 309)  
 15 the following new section:

16 **“SEC. 309A. DIGITAL DIVIDENDS TRUST FUND.**

17 **“(a) ESTABLISHMENT.—**

18 **“(1) FUND ESTABLISHED.—**There is hereby es-  
 19 tablished in the Treasury of the United States the  
 20 Digital Dividends Trust Fund (hereinafter in this  
 21 section referred to as the ‘Fund’).

22 **“(2) DEPOSITS.—**The corpus of the Fund shall  
 23 be the amounts deposited into the Fund pursuant to  
 24 section 309(j)(8)(D)(ii).

1       “(b) BOARD OF TRUSTEES.—The Fund shall be ad-  
2 ministered under the direction of a board of directors  
3 (hereinafter in this section referred to as ‘the board’) com-  
4 prised of—

5               “(1) the Assistant Secretary for Communica-  
6 tions and Information of the Department of Com-  
7 merce; and

8               “(2) 6 additional members, appointed by the  
9 President, with experience in one or more of the fol-  
10 lowing fields: investment management; corporate fi-  
11 nance; computer software; telecommunications; and  
12 education and cultural heritage.

13       “(c) ADMINISTRATION; PRESERVATION OF PRIN-  
14 CIPAL.—All deposits described in subsection (a)(2) shall  
15 be invested in a manner that the board finds prudent and  
16 reasonable and that is designed to ensure that annual in-  
17 come is sufficient to cover the uses specified in subsection  
18 (d) and the other expected costs of carrying out the pur-  
19 poses of this section. Such deposits shall not be expended  
20 for the support of any of the purposes authorized by sub-  
21 section (d).

22       “(d) USE OF INCOME.—Income to the fund shall be  
23 allocated by the Board as follows:

24               “(1) HUMAN CAPITAL TELECOMMUNICATIONS  
25 INVESTMENTS.—Not to exceed 65 percent of the in-

1       come for any fiscal year to the human capital tele-  
2       communications investment program under section  
3       106 of the National Telecommunications and Infor-  
4       mation Administration Organization Act.

5               “(2) BROADBAND INFRASTRUCTURE INVEST-  
6       MENTS FOR PUBLIC ACCESS AND RURAL DEVELOP-  
7       MENT.—Not to exceed 65 percent of the income for  
8       any fiscal year to the Public Broadband Infrastruc-  
9       ture Investments Program under section 107 of the  
10       National Telecommunications and Information Ad-  
11       ministration Organization Act.”.

12 **SEC. 102. HUMAN CAPITAL TELECOMMUNICATIONS INVEST-**  
13               **MENTS.**

14       Part A of the National Telecommunications and In-  
15       formation Administration Organization Act (47 U.S.C.  
16       901 et seq.) is amended by adding at the end the following  
17       new section:

18 **“SEC. 106. HUMAN CAPITAL TELECOMMUNICATIONS IN-**  
19               **VESTMENTS.**

20       “(a) GRANT PROGRAM AUTHORIZED.—From the  
21       funds available under section 309A(c)(1) of the Commu-  
22       nications Act of 1934, the Secretary shall carry out a  
23       Human Capital Telecommunications Investment Program  
24       in accordance with the requirements of this section.

1       “(b) USE OF GRANT FUNDS.—Funds made available  
2 by a grant under this section may be used for—

3           “(1) training for teachers and other educational  
4 personnel at schools and libraries eligible for services  
5 or assistance under section 254;

6           “(2) research and development for sophisti-  
7 cated, content-related educational software and pro-  
8 gramming designed to enhance learning in elemen-  
9 tary, secondary, and postsecondary education and to  
10 enable schools, libraries, and museums to reach out-  
11 side their walls and into homes, other schools, and  
12 workplaces;

13           “(3) digitizing educational materials held in our  
14 Nation’s libraries, archives, and museums and other  
15 institutions of learning;

16           “(4) technology projects supported by volun-  
17 teers enrolled in the AmeriCorps and designated by  
18 the Corporation for National Service;

19           “(5) projects enhancing the access of individ-  
20 uals with disabilities to advanced telecommunications  
21 services;

22           “(6) projects for retraining workers and unem-  
23 ployed individuals with skills applicable to the new  
24 economy; and

1           “(7) projects for after school programs for  
2 youth focused on computer literacy and interaction.

3           “(c) ELIGIBLE APPLICANTS.—The following organi-  
4 zations and agencies shall be eligible to apply for funds  
5 under this section:

6           “(1) an elementary, secondary, or postsec-  
7 ondary educational institution;

8           “(2) a nonprofit agency or organization that is  
9 exempt from income taxes under section 501(c)(3)  
10 of the Internal Revenue Code of 1986; or

11           “(3) an agency or instrumentality of a State or  
12 local government of the United States (including an  
13 agency or instrumentality of a territory or posses-  
14 sion of the United States).

15           “(d) APPLICATION.—Any organization or entity seek-  
16 ing a grant under this section shall submit to the Sec-  
17 retary an application at such time, in such manner, and  
18 containing or accompanied by such information and assur-  
19 ances as the Secretary may require by regulation.”.

20 **SEC. 103. PUBLIC BROADBAND INFRASTRUCTURE INVEST-**  
21 **MENTS.**

22           Part A of the National Telecommunications and In-  
23 formation Administration Organization Act is amended by  
24 adding after section 106 (as added by section 102 of this  
25 Act) the following new section:

1 **“SEC. 107. PUBLIC BROADBAND INFRASTRUCTURE INVEST-**  
2 **MENTS PROGRAM.**

3 “(a) GRANT PROGRAM AUTHORIZED.—From the  
4 funds available under section 309A(c)(2) of the Commu-  
5 nications Act of 1934, the Secretary shall carry out a Pub-  
6 lic Broadband Infrastructure Investments Program in ac-  
7 cordance with the requirements of this section.

8 “(b) USE OF GRANT FUNDS.—

9 “(1) PERMITTED USES.—Funds made available  
10 by a grant under this section may be used for—

11 “(A) local and regional initiatives that ex-  
12 pand public access to advanced telecommuni-  
13 cations and information services at locations  
14 that are accessible to the general public;

15 “(B) deployment of broadband tele-  
16 communications services in unserved rural  
17 areas; and

18 “(C) deployment of broadband tele-  
19 communications services to low-income housing  
20 and community centers.

21 “(2) REQUIRED USES.—Not to exceed  
22 \$300,000,000 from the funds available under section  
23 309A(c)(2) of the Communications Act of 1934 for  
24 each of the first 5 fiscal years shall be made avail-  
25 able by grant for the purpose of converting public  
26 broadcasting facilities to digital technology through

1 the public telecommunications facilities program  
2 under section 392 of the Communications Act of  
3 1934.

4 “(c) ELIGIBLE APPLICANTS.—The following organi-  
5 zations and agencies shall be eligible to apply for funds  
6 under this subsection (b)(1):

7 “(1) a nonprofit agency or organization that is  
8 exempt from income taxes under section 501(c)(3)  
9 of the Internal Revenue Code of 1986; or

10 “(2) an agency or instrumentality of a State or  
11 local government of the United States (including an  
12 agency or instrumentality of a territory or posses-  
13 sion of the United States).

14 “(d) APPLICATION.—Any organization or entity seek-  
15 ing a grant under this section shall submit to the Sec-  
16 retary an application at such time, in such manner, and  
17 containing or accompanied by such information and assur-  
18 ances as the Secretary may require by regulation.”.

1 **TITLE II—AVAILABILITY OF**  
2 **SPECTRUM FOR ADVANCED**  
3 **COMMERCIAL MOBILE SERV-**  
4 **ICES**

5 **SEC. 201. AVAILABILITY OF SPECTRUM FOR ADVANCED**  
6 **COMMERCIAL MOBILE SERVICES.**

7 (a) IDENTIFICATION.—Section 113 of the National  
8 Telecommunications and Information Administration Or-  
9 ganization Act (47 U.S.C. 923) is amended by adding at  
10 the end thereof the following new subsection:

11 “(j) DESIGNATION OF SPECTRUM FOR ADVANCED  
12 COMMERCIAL MOBILE SERVICES; RELOCATION PLAN.—

13 “(1) PLAN REQUIRED.—The Secretary shall,  
14 not later than January 1, 2003, prepare, make pub-  
15 licly available, and submit to the President, the Con-  
16 gress, and the Commission a report that—

17 “(A) designates bands of frequencies for  
18 reallocation for the provision of advanced com-  
19 mercial mobile services;

20 “(B) in consultation with the Commission,  
21 establishes a plan for the relocation or modi-  
22 fication of Federal Government stations cur-  
23 rently occupying the band of frequencies located  
24 at 1,710–1,850 megahertz, including a descrip-  
25 tion of the phases by which such relocation or

1 modification shall be accomplished consistent  
2 with the public interest; and

3 “(C) designates a 20-megahertz band of  
4 contiguous frequencies located below 2  
5 gigahertz, and a band of between 3 and 500  
6 megahertz of contiguous frequencies above 2  
7 gigahertz and below 6 gigahertz, for realloca-  
8 tion to the public for unlicensed use.

9 “(2) DEADLINES.—

10 “(A) MINIMUM FOR 2005.—Notwith-  
11 standing any other provision of law, such plan  
12 shall ensure that not less than 30, but not more  
13 than 45, megahertz of paired spectrum is avail-  
14 able and usable for advanced commercial mobile  
15 services by December 31, 2005.

16 “(B) MINIMUM FOR 2008.—Notwith-  
17 standing any other provision of law, such plan  
18 shall ensure that an additional 50 megahertz of  
19 paired spectrum is made available and usable  
20 for advanced commercial mobile services by De-  
21 cember 31, 2008.

22 “(C) POTENTIAL ADDITIONAL SPECTRUM  
23 FOR TIMELY REALLOCATION.—Notwithstanding  
24 any other provision of law, the Commission  
25 shall ensure that any rules necessary to effec-

1           tuate the timely transition to digital television  
2           are promulgated and completed by the Commis-  
3           sion prior to making available the bands of fre-  
4           quencies at 747–762 and 777–792 megahertz  
5           for advanced commercial mobile services or  
6           other competitive wireless services. The Com-  
7           mission shall ensure that any plan to achieve  
8           the clearance of such frequencies shall not re-  
9           sult in the unjust enrichment of any incumbent  
10          licensee.

11           “(D) DEFINITION.—For the purposes of  
12          subparagraph (C), the term ‘rules necessary to  
13          effectuate the timely transition to digital tele-  
14          vision’ includes rules requiring must-carry of  
15          free, over-the-air signals of broadcast television  
16          stations, minimum digital television network  
17          programming and broadcasting requirements,  
18          and rules requiring that models of television re-  
19          ceiver equipment have the capability of dis-  
20          playing digital television signals by certain  
21          dates.”.

22          (b) ALLOCATION.—Section 115 of the National Tele-  
23          communications and Information Administration Organi-  
24          zation Act (47 U.S.C. 925) is amended by adding at the  
25          end the following new subsection:

1       “(d) ALLOCATION OF SPECTRUM FOR ADVANCED  
2 COMMERCIAL MOBILE SERVICES.—

3           “(1) IN GENERAL.—With respect to the fre-  
4 quencies identified in section 113(j)(1)(A) and in  
5 section 113(j)(1)(B), the Commission shall, within  
6 60 days of the release of the report required by sec-  
7 tion 113(j), commence a proceeding to allocate such  
8 frequencies for advanced commercial mobile services  
9 and adopt technical, licensing, and service rules ap-  
10 plicable to such frequencies. Such frequencies shall  
11 be assigned by competitive bidding pursuant to sec-  
12 tion 309(j) of the 1934 Act on a schedule consistent  
13 with the relocation plan established pursuant to sec-  
14 tion 113(j)(1)(B) and the requirements of section  
15 113(g)(1)(A).

16           “(2) SPECTRUM COMMONS.—With respect to  
17 the frequencies designated for reallocation pursuant  
18 to section 113(j)(1)(C), the Commission shall estab-  
19 lish any rules necessary for unlicensed use of such  
20 spectrum and make it available to the public by De-  
21 cember 31, 2004.

22           “(3) PRESERVATION OF COMPETITION-BASED  
23 SPECTRUM POLICY.—The frequencies identified in  
24 paragraph (1) shall be assigned by the Commission  
25 pursuant to section 309(j) of the 1934 Act. In con-

1       ducting such assignment, the Commission shall rees-  
2       tablish limits on the amount of spectrum that a li-  
3       censee may accumulate or utilize in individual mar-  
4       kets in a manner that is sufficient to ensure, at a  
5       minimum, the same number of unaffiliated licensees  
6       that were competing in such markets as of October  
7       1, 2001.

8               “(4) PRESERVATION OF ITFS.—Notwith-  
9       standing any other provision of law, the Commission  
10      shall not commence any proceeding to reallocate the  
11      band of frequencies located at 2,500–2,690 mega-  
12      hertz from instructional television fixed services to  
13      any other service.”.

14 **SEC. 202. RELOCATION OF FEDERAL GOVERNMENT STA-**  
15 **TIONS.**

16       (a) RELOCATION FROM SPECTRUM FOR ADVANCED  
17      COMMERCIAL MOBILE SERVICES.—Section 113(g) of Na-  
18      tional Telecommunications and Information Administra-  
19      tion Organization Act (47 U.S.C. 923(g)) is amended by  
20      adding at the end the following new paragraph:

21               “(4) SPECIAL PROVISIONS FOR RELOCATION  
22      FROM SPECTRUM FOR ADVANCED COMMERCIAL MO-  
23      BILE SERVICES.—

24                       “(A) APPLICABILITY.—The provisions of  
25                       this paragraph shall apply in lieu of the provi-

1 sions of paragraphs (1) through (3) with re-  
2 spect to relocating the operations of Federal en-  
3 tities from the frequencies reallocated to ad-  
4 vanced commercial mobile services under sec-  
5 tion 115(d).

6 “(B) AUTHORITY TO ACCEPT COMPENSA-  
7 TION.—In order to expedite the commercial use  
8 of the electromagnetic spectrum and notwith-  
9 standing section 3302(b) of title 31, United  
10 States Code, the head of any Federal entity  
11 may accept from the Spectrum Relocation  
12 Trust Fund compensation for the costs of relo-  
13 cating such entity’s operations from one or  
14 more frequencies to another frequency or fre-  
15 quencies. The costs for which the Federal entity  
16 shall be compensated shall be the relocation  
17 costs of the entity’s operations, except that the  
18 entity may be compensated for the replacement  
19 costs of relocating a particular station if the  
20 head of such entity can demonstrate to the  
21 President that such a level of compensation is  
22 vital to the national security or public safety.

23 “(C) REQUIREMENT TO COMPENSATE FED-  
24 ERAL ENTITIES.—The Federal entity shall be  
25 compensated in advance for the costs that the

1 Federal entity incurs under subparagraph (B).  
2 Such compensation may take the form of a cash  
3 payment or in-kind compensation. Such com-  
4 pensation shall come from the Spectrum Relo-  
5 cation Trust Fund.

6 “(D) SPECTRUM RELOCATION TRUST  
7 FUND.—

8 “(i) ESTABLISHMENT.—There is es-  
9 tablished in the Treasury a Spectrum Relo-  
10 cation Trust Fund (referred to in this sub-  
11 paragraph as the ‘Fund’), consisting of  
12 amounts deposited pursuant to section  
13 309(j)(8)(D)(i) of the 1934 Act.

14 “(ii) EXPENDITURE OF AMOUNTS FOR  
15 REIMBURSEMENT OF RELOCATED OPER-  
16 ATIONS.—The Secretary of the Treasury  
17 shall transfer from the Fund to each Fed-  
18 eral entity the sums identified under sub-  
19 paragraph (B) to pay the costs of reloca-  
20 tion or modification of the entity’s stations  
21 and the head of such entity shall use such  
22 sums to make payments to satisfy such  
23 costs.

24 “(iii) MAXIMUM DEPOSITS.—If the  
25 NTIA determines that the proceeds of an

1 auction the proceeds of which are required  
2 to be deposited in the Fund have exceeded  
3 or will exceed a sum equal to (I) the re-  
4 placement costs incurred in connection  
5 with such auction, plus (II) 10 percent of  
6 any auction proceeds above such amount,  
7 the NTIA shall notify the Secretary of the  
8 Treasury. Upon receipt of such notice, the  
9 Secretary of the Treasury shall, notwith-  
10 standing section 309(j)(8) of the Commu-  
11 nications Act of 1934 (47 U.S.C.  
12 309(j)(8)), transfer the remainder of the  
13 proceeds of any such auction in excess of  
14 such sum to the Digital Dividends Trust  
15 Fund established by section 309A of the  
16 1934 Act.

17 “(iv) TERMINATION.—When the  
18 NTIA determines that no additional Fed-  
19 eral Government stations need to be relo-  
20 cated or modified, NTIA shall notify the  
21 Secretary of the Treasury, who shall termi-  
22 nate the Fund. Any unallocated funds re-  
23 maining in the Fund shall be transferred  
24 to the Fund specified in clause (iii).”.

1 **SEC. 203. DEFINITIONS.**

2 Section 111 of the National Telecommunications and  
3 Information Administration Organization Act (47 U.S.C.  
4 921) is amended by adding at the end the following new  
5 paragraphs:

6 “(4) The term ‘relocation costs’ means the costs  
7 that will be incurred by a Federal entity to achieve  
8 comparable capability of systems that are relocated  
9 to a new frequency assignment or band or otherwise  
10 modified, including the costs of any modification, re-  
11 placement, or reissuance of equipment and facilities  
12 incurred by that entity.

13 “(5) The term ‘replacement costs’ means the  
14 costs that would be incurred by a Federal entity to  
15 replace existing equipment or facilities in order to  
16 relocate to a new frequency assignment or band.”.

17 **TITLE III—DISTRIBUTION OF**  
18 **PROCEEDS OF AUCTIONS FOR**  
19 **ADVANCED COMMERCIAL MO-**  
20 **BILE SERVICES**

21 **SEC. 301. DIVISION BETWEEN TRUST FUNDS.**

22 Section 309(j)(8) of the Communications Act of 1934  
23 (47 U.S.C. 309(j)(8)) is amended—

24 (1) in subparagraph (A), by striking “subpara-  
25 graph (B)” and inserting “subparagraphs (B) and  
26 (D)”; and

1           (2) by adding at the end the following new sub-  
2 paragraph:

3           “(D) PROCEEDS OF AUCTIONS FOR AD-  
4 VANCED COMMERCIAL MOBILE SERVICES.—Not-  
5 withstanding subparagraph (A), the proceeds of  
6 any competitive bidding under this subsection  
7 with respect to the spectrum allocated for ad-  
8 vanced commercial mobile services pursuant to  
9 section 115(d)(1) of the National Telecommuni-  
10 cations and Information Administration Organi-  
11 zation Act shall, after the deduction of salaries  
12 and expenses required by subparagraph (B), be  
13 allocated as follows:

14           “(i) the first \$5,000,000,000 shall be  
15 deposited in the Relocated Federal Entities  
16 Trust Fund established BY section  
17 113(g)(4)(D) of such Act; and

18           “(ii) the remainder of the proceeds of  
19 such competitive bidding shall be deposited  
20 in the Digital Dividends Trust Fund estab-  
21 lished by section 309A of this Act.”.

○