

112TH CONGRESS
1ST SESSION

S. 1040

To enhance public safety by making more spectrum available to public safety entities, to facilitate the development of a public safety broadband network, to provide standards for the spectrum needs of public safety entities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 19, 2011

Mr. LIEBERMAN (for himself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To enhance public safety by making more spectrum available to public safety entities, to facilitate the development of a public safety broadband network, to provide standards for the spectrum needs of public safety entities, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Broadband for First Responders Act of 2011”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ALLOCATION AND ASSIGNMENT OF PUBLIC SAFETY
LICENSES AND ESTABLISHMENT OF RULES

Sec. 101. Definitions relating to public safety broadband.

Sec. 102. Allocation and assignment of public safety licenses.

Sec. 103. Establishment of rules governing public safety broadband network.

Sec. 104. Establishment of standards.

Sec. 105. Submission and approval of interoperability communications plans by
States.

Sec. 106. Rule of construction for public safety broadband licensee.

TITLE II—FUNDING

Sec. 201. Definitions.

Sec. 202. Funding.

Sec. 203. Public safety interoperable broadband network construction.

Sec. 204. Public safety interoperable broadband maintenance and operation.

Sec. 205. Audits.

Sec. 206. Auction of spectrum to fund the Construction and Maintenance and
Operation Funds.

Sec. 207. Achieving long-term interoperability and efficient use of public safety
spectrum.

Sec. 208. Report on long-term interoperability using IP-based solutions.

1 TITLE I—ALLOCATION AND AS-
2 SIGNMENT OF PUBLIC SAFE-
3 TY LICENSES AND ESTAB-
4 LISHMENT OF RULES

5 SEC. 101. DEFINITIONS RELATING TO PUBLIC SAFETY
6 BROADBAND.

7 Section 337(f) of the Communications Act of 1934
8 (47 U.S.C. 337(f)) is amended—

9 (1) by redesignating paragraphs (1) and (2) as
10 paragraphs (3) and (4), respectively; and

11 (2) by inserting before paragraph (3), as so re-
12 designated, the following:

13 “(1) PUBLIC SAFETY BROADBAND LICENSEE.—

14 The term ‘public safety broadband licensee’ means a

1 licensee, as defined by the Commission in its Second
 2 Report and Order adopted July 31, 2007 (FCC 07–
 3 132), and selected in the Commission’s Order adopt-
 4 ed November 19, 2007 (FCC 07–199), by the Com-
 5 mission to be the licensee for the 763–768/793–798
 6 MHz.

7 “(2) PUBLIC SAFETY BROADBAND SPEC-
 8 TRUM.—The term ‘public safety broadband spec-
 9 trum’ means the electromagnetic spectrum between
 10 758 megahertz and 768 megahertz, inclusive, and
 11 788 megahertz and 798 megahertz, inclusive, and
 12 any additional electromagnetic frequencies allocated
 13 by the Commission for public safety broadband
 14 use.”.

15 **SEC. 102. ALLOCATION AND ASSIGNMENT OF PUBLIC SAFE-**
 16 **TY LICENSES.**

17 (a) SPECTRUM ALLOCATION.—Section 337(a) of the
 18 Communications Act of 1934 (47 U.S.C. 337(a)) is
 19 amended—

20 (1) in paragraph (1), by striking “24” and in-
 21 serting “34”; and

22 (2) in paragraph (2), by striking “36” and in-
 23 serting “26”.

1 (b) ASSIGNMENT.—Section 337(b) of the Commu-
 2 nications Act of 1934 (47 U.S.C. 337(b)) is amended to
 3 read as follows:

4 “(b) ASSIGNMENT.—

5 “(1) ALLOCATION OF PAIRED BANDS.—Not
 6 later than 30 days after the date of enactment of
 7 the Broadband for First Responders Act of 2011,
 8 the Commission shall allocate the paired electro-
 9 magnetic spectrum bands of 758–763 megahertz and
 10 788–793 megahertz for public safety broadband
 11 communications.

12 “(2) LICENSING OF PAIRED BANDS.—Not later
 13 than 60 days after the date of enactment of the
 14 Broadband for First Responders Act of 2011, the
 15 Commission shall license the paired electromagnetic
 16 spectrum bands described under subparagraph (A)
 17 to the public safety broadband licensee.”.

18 **SEC. 103. ESTABLISHMENT OF RULES GOVERNING PUBLIC**
 19 **SAFETY BROADBAND NETWORK.**

20 (a) ESTABLISHMENT OF RULES.—Not later than 180
 21 days after the date of enactment of this Act, the Federal
 22 Communications Commission shall establish the following
 23 rules:

24 (1) AUTHORIZING THE CONSTRUCTION AND OP-
 25 ERATION OF A PUBLIC SAFETY BROADBAND NET-

1 WORK.—The Commission shall permit the public
2 safety broadband licensee to authorize providers of
3 public safety services to construct and operate a
4 wireless public safety broadband network in the pub-
5 lic safety broadband spectrum.

6 (2) ESTABLISHING NETWORK REQUIRE-
7 MENTS.—The Commission shall require that the
8 wireless public safety broadband network described
9 under paragraph (1) shall—

10 (A) be fully interoperable and remain
11 interoperable with, and in conformance with the
12 same broadband technology standards as all
13 other public safety broadband systems deployed
14 or authorized;

15 (B) provide for roaming by Federal, State,
16 local, and tribal governments and other author-
17 ized users of the spectrum licensed to the public
18 safety broadband licensee;

19 (C) provide priority access to public safety
20 entities;

21 (D) be built to survive most disasters;

22 (E) ensure that networks of such systems
23 have the appropriate level of cyber security; and

24 (F) ensure that authorized users have the
25 ability to develop a local network, provided that

1 the uses for such network are consistent with
2 rules established by the Commission.

3 (3) ALLOWING FOR SHARED USE OF PUBLIC
4 SAFETY BROADBAND SPECTRUM AND NETWORK IN-
5 FRASTRUCTURE.—The Commission shall—

6 (A) authorize the shared use, sublicensing,
7 or leasing of the public safety broadband spec-
8 trum and network infrastructure by entities
9 that are not defined as public safety services,
10 subject to the requirements that public safety
11 services retain priority access to the spectrum,
12 pursuant to procedures adopted by the Commis-
13 sion, provided that—

14 (i) the needs of other governmental
15 entities are considered before commercial
16 entities; and

17 (ii) such use is approved by the public
18 safety broadband licensee;

19 (B) allow use of the public safety
20 broadband spectrum by emergency response
21 providers;

22 (C) ensure that any revenues derived from
23 any such shared use, sublicensing, or lease are
24 deposited in the Public Safety Interoperable
25 Broadband Network Maintenance and Oper-

1 ation Fund established under section 202(a)(2);
2 and

3 (D) ensure that the Commission retains,
4 for the 60-day period following submission of a
5 request for such shared use, sublicensing, or
6 lease the right to review and approve of any
7 such shared use, sublicensing, or lease.

8 (4) PROVIDING FOR INTEROPERABILITY AND
9 ROAMING AGREEMENTS.—The Federal Communica-
10 tions Commission, in consultation with the Director
11 of the National Institute of Standards and Tech-
12 nology, the Secretary of Homeland Security, the At-
13 torney General, and Federal, State, local, and tribal
14 public safety agencies, shall establish rules that en-
15 able—

16 (A) nationwide interoperability between
17 wireless public safety broadband networks and
18 commercial broadband networks; and

19 (B) roaming by public safety entities oper-
20 ating on a wireless public safety broadband net-
21 work across any commercial network so as to
22 gain guaranteed access to a resilient and reli-
23 able commercial network in times of an emer-
24 gency.

25 (b) DEFINITIONS.—As used in this section—

1 (1) the term “emergency response provider”
2 has the same meaning as in section 2 of the Home-
3 land Security Act of 2002 (6 U.S.C. 101); and

4 (2) the terms “public safety broadband li-
5 censee”, “public safety broadband spectrum”, and
6 “public safety services” shall have the same meaning
7 as in section 337(f) of the Communications Act of
8 1934 (47 U.S.C. 337(f)).

9 **SEC. 104. ESTABLISHMENT OF STANDARDS.**

10 Not later than 180 days after the date of enactment
11 of this Act, the Secretary of Homeland Security, in coordi-
12 nation with the Director of the National Institute of
13 Standards and Technology, shall establish an appropriate
14 set of public safety requirements for meeting the inter-
15 operability and roaming requirements developed under
16 section 103(a)(4) taking into consideration—

17 (1) the extent to which particular technologies
18 and user equipment are, or are likely to be, available
19 in the commercial marketplace;

20 (2) the availability of necessary technologies
21 and equipment on reasonable and nondiscriminatory
22 licensing terms;

23 (3) the ability of such requirements to evolve
24 with technological developments in the commercial
25 marketplace;

1 (4) the ability of such requirements to accom-
2 modate prioritization for public safety transmissions;

3 (5) the ability of such requirements to accom-
4 modate appropriate security measures for public
5 safety transmissions; and

6 (6) any other considerations the Federal Com-
7 munications Commission deems appropriate.

8 **SEC. 105. SUBMISSION AND APPROVAL OF INTEROPER-**
9 **ABILITY COMMUNICATIONS PLANS BY**
10 **STATES.**

11 (a) IN GENERAL.—Not later than 6 months after the
12 date of publication in the Federal Register of the rules
13 required by section 103 and the date of release of the
14 standards required by section 104, each State shall submit
15 a plan to the Secretary of Homeland Security and the
16 Federal Communications Commission detailing the terms
17 and aspects of the phased deployment for the wireless pub-
18 lic safety broadband network to be constructed in the pub-
19 lic safety broadband spectrum pursuant to section
20 103(a)(1).

21 (b) APPROVAL.—Not later than 120 days after the
22 submission of a plan under subsection (a), the Secretary
23 of Homeland Security and the Federal Communications
24 Commission shall either jointly approve or disapprove of
25 the plan.

1 **SEC. 106. RULE OF CONSTRUCTION FOR PUBLIC SAFETY**
2 **BROADBAND LICENSEE.**

3 Nothing in this Act, or the amendments made by this
4 Act, shall be construed to overturn, supercede, or other-
5 wise preempt the Federal Communications Commission's
6 Order adopted on November 19, 2007 (FCC 07–199), set-
7 ting forth the roles and responsibilities of the public safety
8 broadband licensee (as such term is defined in section
9 337(f) of the Communications Act of 1934) and the Fed-
10 eral Communications Commission, except that the fol-
11 lowing shall, by rule or order, be modified by the Commis-
12 sion:

13 (1) Any organization seeking membership to the
14 Board of Directors of the public safety broadband li-
15 censee shall be voted in by a simple majority of the
16 then serving members of the Board of Directors.

17 (2) The Board of Directors of the public safety
18 broadband licensee shall include the following orga-
19 nizations:

20 (A) International Association of Chiefs of
21 Police.

22 (B) International Association of Fire
23 Chiefs.

24 (C) National Sheriffs' Association.

25 (D) International Association of Fire
26 Fighters.

1 (E) National Volunteer Fire Council.

2 (F) Fraternal Order of Police.

3 (G) Major Cities Chiefs Association.

4 (H) Metropolitan Fire Chiefs Association.

5 (I) Major County Sheriffs' Association.

6 (J) Association of Public-Safety Commu-
7 nications Officials, International.

8 (K) National Emergency Management As-
9 sociation.

10 (L) International Association of Emer-
11 gency Managers.

12 (M) Police Executive Research Forum.

13 (N) National Criminal Justice Association.

14 (O) National Association of Police Organi-
15 zations.

16 (P) National Organization of Black Law
17 Enforcement Executives.

18 (Q) Association of Air Medical Services.

19 (R) Advocates for Emergency Medical
20 Services.

21 (S) Emergency Nurses Association.

22 (T) National Association of Emergency
23 Medical Services Physicians.

24 (U) National Association of Emergency
25 Medical Technicians.

1 (V) National Association of State Emer-
2 gency Medical Services Officials.

3 (W) National Emergency Medical Services
4 Management Association.

5 (X) International Municipal Signal Asso-
6 ciation.

7 (Y) American Probation and Parole Asso-
8 ciation.

9 (Z) National Governors Association.

10 (AA) National Association of Counties.

11 (BB) National League of Cities.

12 (CC) United States Conference of Mayors.

13 (DD) Council of State Governments.

14 (EE) International City/County Manage-
15 ment Association.

16 (FF) National Conference of State Legis-
17 latures.

18 (GG) National Association of Regional
19 Councils.

20 (HH) Utilities Telecom Council.

21 (II) American Association of State High-
22 way Transportation Officials.

23 (JJ) American Hospital Association.

24 (KK) Forestry Conservation Communica-
25 tions Association.

1 (LL) National Association of State 911
2 Administrators.

3 (MM) National Troopers Coalition.

4 (NN) National Emergency Number Asso-
5 ciation.

6 (OO) American Public Works Association.

7 **TITLE II—FUNDING**

8 **SEC. 201. DEFINITIONS.**

9 In this title—

10 (1) the term “appropriate committees of Con-
11 gress” means—

12 (A) the Committee on Homeland Security
13 and Governmental Affairs of the Senate;

14 (B) the Committee on Commerce, Science,
15 and Transportation of the Senate;

16 (C) the Committee on Energy and Com-
17 merce of the House of Representatives; and

18 (D) the Committee on Homeland Security
19 of the House of Representatives;

20 (2) the term “Assistant Secretary” means the
21 Assistant Secretary of Commerce for Communica-
22 tions and Information;

23 (3) the term “Commission” means the Federal
24 Communications Commission;

1 (4) the term “Construction Fund” means the
 2 Public Safety Interoperable Broadband Network
 3 Construction Fund established under section
 4 202(a)(1);

5 (5) the term “Indian tribe” has the same mean-
 6 ing as in section 4 of the Indian Self Determination
 7 Act (25 U.S.C. 450b);

8 (6) the term “Maintenance and Operation
 9 Fund” means the Public Safety Interoperable
 10 Broadband Network Maintenance and Operation
 11 Fund established under section 202(a)(2);

12 (7) the term “NTIA” means the National Tele-
 13 communications and Information Administration;

14 (8) the term “public safety entity” means an
 15 entity that provides public safety services, including
 16 a State, municipality, or locality;

17 (9) the term “public safety services” has the
 18 same meaning as in section 337(f) of the Commu-
 19 nications Act of 1934 (47 U.S.C. 337(f)); and

20 (10) the term “Secretary” means the Secretary
 21 of Homeland Security.

22 **SEC. 202. FUNDING.**

23 (a) ESTABLISHMENT OF FUNDS.—

24 (1) CONSTRUCTION FUND.—

1 (A) ESTABLISHMENT.—There is estab-
2 lished in the Treasury of the United States a
3 fund to be known as the “Public Safety Inter-
4 operable Broadband Network Construction
5 Fund”.

6 (B) PURPOSE.—The Secretary shall estab-
7 lish and administer the grant program under
8 section 203 using the funds deposited in the
9 Construction Fund.

10 (C) CREDIT.—

11 (i) BORROWING AUTHORITY.—The
12 Secretary may borrow from the general
13 fund of the Treasury beginning on October
14 1, 2011, such sums as may be necessary,
15 but not to exceed \$2,000,000,000, to im-
16 plement section 203.

17 (ii) REIMBURSEMENT.—The Secretary
18 of the Treasury shall reimburse the general
19 fund of the Treasury, without interest, for
20 any amounts borrowed under clause (i) as
21 funds are deposited into the Construction
22 Fund, but in no case later than December
23 31, 2014.

24 (2) MAINTENANCE AND OPERATION FUND.—

1 (A) ESTABLISHMENT.—There is estab-
2 lished in the Treasury of the United States a
3 fund to be known as the “Public Safety Inter-
4 operable Broadband Network Maintenance and
5 Operation Fund”.

6 (B) PURPOSE.—The Secretary shall use
7 the funds deposited in the Maintenance and Op-
8 eration Fund to carry out section 204.

9 (b) INITIAL DISTRIBUTION OF AUCTION PROCEEDS
10 IN FUNDS.—Notwithstanding subparagraphs (A) and (D)
11 of section 309(j)(8) of the Communications Act of 1934
12 (47 U.S.C. 309(j)(8)), the Secretary of the Treasury shall
13 deposit the proceeds (including deposits and up front pay-
14 ments from successful bidders) from the auction of the
15 spectrum described in section 206 in the following man-
16 ner:

17 (1) All proceeds less than or equal to
18 \$5,500,000,000 shall be deposited in the Construc-
19 tion Fund and shall be made available to the Sec-
20 retary without further appropriations.

21 (2) All proceeds exceeding \$5,500,000,000 but
22 not more than \$11,000,000,000 shall be deposited in
23 the Maintenance and Operation Fund and shall be
24 made available to the Secretary without further ap-
25 propriations.

1 (3) Any proceeds in excess of \$11,000,000,000
2 shall be deposited in the General Fund of the Treas-
3 ury, where such amounts shall be dedicated for the
4 sole purpose of deficit reduction.

5 (c) TRANSFER OF FUNDS AT COMPLETION OF CON-
6 STRUCTION.—The Secretary of the Treasury shall transfer
7 to the Maintenance and Operation Fund any funds re-
8 maining in the Construction Fund after the date of the
9 completion of the construction phase of the nationwide
10 public safety interoperable broadband network to be estab-
11 lished under section 203, as such completion date is deter-
12 mined by the Secretary.

13 (d) TRANSFER OF FUNDS TO TREASURY.—Any
14 funds remaining in the Maintenance and Operation Fund
15 after the end of the 10-year period following the deter-
16 mination by the Secretary that construction of the nation-
17 wide public safety interoperable broadband network to be
18 established under section 203 has been completed shall be
19 transferred to the General Fund of the Treasury, where
20 such amounts shall be dedicated for the sole purpose of
21 deficit reduction.

22 (e) AUTHORIZATION OF APPROPRIATIONS.—

23 (1) CONSTRUCTION FUND.—There are author-
24 ized to be appropriated to the Secretary for deposit
25 in the Construction Fund in and after fiscal year

1 2012 a total amount not to exceed \$5,500,000,000
 2 minus any amounts equal to the amount deposited
 3 in the Construction Fund pursuant to subsection
 4 (b)(1).

5 (2) MAINTENANCE AND OPERATION FUND.—

6 There are authorized to be appropriated to the Sec-
 7 retary for deposit in the Maintenance and Operation
 8 Fund in and after fiscal year 2012 a total amount
 9 not to exceed \$5,500,000,000 minus any amounts
 10 equal to the amount deposited in the Maintenance
 11 and Operation Fund pursuant to subsection (b)(2).

12 **SEC. 203. PUBLIC SAFETY INTEROPERABLE BROADBAND**
 13 **NETWORK CONSTRUCTION.**

14 (a) ESTABLISHMENT OF CONSTRUCTION GRANT
 15 PROGRAM.—The Secretary shall take such action as is
 16 necessary to establish a grant program to assist States,
 17 municipalities, and Indian tribes to establish a nationwide
 18 public safety interoperable broadband network in the 700
 19 MHz band.

20 (b) PROJECTS.—The projects for which construction
 21 grants may be made under this section are the following:

22 (1) Construction of a new public safety inter-
 23 operable broadband network using public safety in-
 24 frastructure in the 700 MHz band.

1 (2) Improvement of the existing public safety
2 networks and construction of new infrastructure to
3 meet public safety requirements in the 700 MHz
4 band, the 800 MHz band, or the 4.9 GHz band.

5 (3) Migration of public safety entity use to the
6 700 MHz band.

7 (c) MATCHING REQUIREMENTS.—

8 (1) FEDERAL SHARE.—The Federal share of
9 the cost of carrying out a project under this section
10 may not exceed 80 percent of the eligible costs of
11 carrying out a project, as determined by the Sec-
12 retary in consultation with the Chairman of the
13 Commission.

14 (2) NON-FEDERAL SHARE.—The non-Federal
15 share of the cost of carrying out a project under this
16 section may be provided through an in-kind con-
17 tribution.

18 (d) REQUIREMENTS.—Not later than 1 year after the
19 date of enactment of this Act, the Secretary shall establish
20 requirements for the grant program established under this
21 section, including the following:

22 (1) Defining eligible costs for purposes of sub-
23 section (c)(1).

(2) Determining the scope of network infrastructure eligible for grant funding under this section.

4 (3) Conditioning grant funding on compliance
5 with the licensing terms of the Commission.

(4) Ensuring that all grant funds are in compliance and support the goals of the National Emergency Communications Plan and the Statewide Communication Interoperability Plans for each State and territory.

(e) TECHNICAL ASSISTANCE.—The Secretary shall enhance the Office of Emergency Communications Technical Assistance Program to assist recipients of grant amounts under this section with best practices and guidance in implementing projects for which the recipient received a construction grant under this section.

17 SEC. 204. PUBLIC SAFETY INTEROPERABLE BROADBAND
18 MAINTENANCE AND OPERATION.

(a) MAINTENANCE AND OPERATION REIMBURSEMENT PROGRAM.—The Secretary shall administer a program through which not more than 50 percent of maintenance and operational expenses associated with the public safety interoperable broadband network may be reimbursed from the Maintenance and Operation Fund for those expenses that are attributable to the maintenance,

1 operation, and improvement of the public safety interoper-
2 able broadband network.

3 (b) REPORT.—Not later than 7 years after the com-
4 mencement of the reimbursement program established
5 under subsection (a), the Secretary shall submit to the ap-
6 propriate committees of Congress a report on whether to
7 continue to provide funding for the Maintenance and Op-
8 eration Fund following completion of the period provided
9 for under section 202(d).

10 **SEC. 205. AUDITS.**

11 (a) IN GENERAL.—Not later than 3 years after the
12 date of enactment of this Act, and every 3 years there-
13 after, the Comptroller General of the United States shall
14 perform an audit of the financial statements, records, and
15 accounts of the—

16 (1) Construction Fund established under sec-
17 tion 202(a)(1);

18 (2) Maintenance and Operation Fund estab-
19 lished under section 202(a)(2);

20 (3) construction grant program established
21 under section 203; and

22 (4) maintenance and operation grant program
23 established under section 204.

1 (b) GAAP.—Each audit required under subsection
2 (a) shall be conducted in accordance with generally accept-
3 able accounting procedures.

4 (c) REPORT TO CONGRESS.—A copy of each audit re-
5 quired under subsection (a) shall be submitted to the ap-
6 propriate committees of Congress.

7 **SEC. 206. AUCTION OF SPECTRUM TO FUND THE CON-**
8 **STRUCTION AND MAINTENANCE AND OPER-**
9 **ATION FUNDS.**

10 (a) IDENTIFICATION OF SPECTRUM.—Not later than
11 1 year after the date of enactment of this Act, the Assist-
12 ant Secretary shall identify, at a minimum, 15 megahertz
13 of contiguous spectrum at frequencies located between
14 1675 megahertz and 1710 megahertz, inclusive, to be
15 made available for immediate reallocation.

16 (b) AUCTION.—Not later than January 31, 2014, the
17 Commission shall conduct the auction of the following li-
18 censes, by commencing the bidding for:

19 (1) The spectrum between the frequencies of
20 1915 megahertz and 1920 megahertz, inclusive.

21 (2) The spectrum between the frequencies of
22 1995 megahertz and 2000 megahertz, inclusive.

23 (3) The spectrum between the frequencies of
24 2020 megahertz and 2025 megahertz, inclusive.

1 (4) The spectrum between the frequencies of
2 2175 megahertz and 2180 megahertz, inclusive.

3 (5) The spectrum between the frequencies of
4 2155 megahertz and 2175 megahertz, inclusive.

5 (6) The spectrum between the frequencies of
6 1755 megahertz and 1850 megahertz, inclusive.

7 (7) The spectrum identified pursuant to sub-
8 section (a).

9 (c) EXTENSION OF AUCTION AUTHORITY.—Section
10 309(j)(11) of the Communications Act of 1934 (47 U.S.C.
11 309(j)(11)) is amended by striking “2012” and inserting
12 “2020”.

13 (d) ELIGIBILITY.—The Commission shall ensure that
14 no bidder is deemed ineligible for or otherwise excluded
15 from an auction specified in this Act, or any other com-
16 petitive bidding process under section 309(j) of the Com-
17 munications Act of 1934, on account of its size or amount
18 of its other spectrum holdings.

19 **SEC. 207. ACHIEVING LONG-TERM INTEROPERABILITY AND**
20 **EFFICIENT USE OF PUBLIC SAFETY SPEC-**
21 **TRUM.**

22 (a) MANDATING MIGRATION OF FEDERAL LAW EN-
23 FORCEMENT.—Not later than 10 years after the date of
24 enactment of this Act, each Federal law enforcement agen-
25 cy shall move all of their communications not being carried

1 on commercial networks to spectrum located in the 700
2 MHz and 800 MHz bands.

3 (b) SPECTRUM BELOW 512 MHz.—

4 (1) IN GENERAL.—Beginning on the date of en-
5 actment of this Act, the Commission shall not renew
6 any license to use spectrum located on frequencies
7 above 170 megahertz and below 512 megahertz
8 granted to a public safety licensee, unless the li-
9 censee is able to demonstrate—

10 (A) that migration to a different spectrum
11 band will cause considerable economic hardship
12 to the State or local government jurisdiction in
13 which such licensee is located;

14 (B) migration to a different spectrum band
15 would adversely impact the ability of the li-
16 censee to protect and serve the community in
17 which such licensee is located; or

18 (C) there are an insufficient number of fre-
19 quencies above the 700 MHz band to support
20 the land-mobile communications needs of the li-
21 censee.

22 (2) RECOMMENDATION.—Not later than 5
23 years after date of enactment, the Commission, in
24 consultation with the Secretary, the NTIA, and Fed-
25 eral, State, and local public safety agencies, shall

1 issue a recommendation to Congress on the feasi-
 2 bility of public safety entities ending their use of
 3 spectrum located on frequencies above 170 mega-
 4 hertz and below 512 megahertz, and moving all such
 5 use to the spectrum licensed to public safety services
 6 in the 700 MHz and 800 MHz bands.

7 (3) AVAILABILITY OF FUNDS.—The Secretary
 8 may make amounts available from the Maintenance
 9 and Operation Fund to facilitate the migration of
 10 public safety entity use of spectrum located on fre-
 11 quencies above 170 megahertz and below 512 mega-
 12 hertz to use of spectrum licensed to public safety
 13 services in the 700 MHz and 800 MHz bands.

14 (c) SPECTRUM IN THE 4.9 GHz BAND.—

15 (1) ELIGIBILITY FOR USE OF SPECTRUM.—The
 16 Commission shall modify section 90.1203(b) of sub-
 17 part Y or part 90 of the Code of Federal Regula-
 18 tions (47 C.F.R. 90.1203(b)) (relating to eligibility
 19 of use of spectrum frequencies in the 4940–4990
 20 MHz band) to ensure that—

21 (A) governmental entities providing public
 22 safety services retain primary authority to use
 23 such spectrum; and

24 (B) non-governmental entities may use the
 25 spectrum on a secondary basis, provided that—

1 (i) such secondary use does not cause
2 harmful interference to public safety users
3 of that spectrum;

4 (ii) the non-governmental entity seek-
5 ing such secondary use demonstrates to
6 the Commission that such secondary use
7 will not cause interference to public safety
8 users of that spectrum; and

9 (iii) if such secondary use causes any
10 interference to a public safety user, such
11 entity shall immediately cease such use
12 until such interference has been mitigated
13 to the satisfaction of the public safety user.

14 (2) FEE FOR SECONDARY USE OF SPECTRUM.—

15 (A) IN GENERAL.—The Commission shall
16 charge a recurring licensing fee to each non-
17 governmental entity for any secondary use of
18 spectrum by such entity described under para-
19 graph (1).

20 (B) TREATMENT OF REVENUES.—Any rev-
21 enues generated from the recurring licensing
22 fee charged under subparagraph (A) shall be
23 deposited in Maintenance and Operation Fund
24 until the date identified under section 202(d),
25 after which all such revenues shall be deposited

1 in the General Fund of the Treasury, where
 2 such amounts shall be dedicated for the sole
 3 purpose of deficit reduction.

4 (d) REPORTS ON EFFICIENT USE OF PUBLIC SAFE-
 5 TY SPECTRUM.—

6 (1) GAO STUDY AND REPORT.—Not later than
 7 3 years after the date of enactment of this Act, the
 8 Comptroller General of the United States shall con-
 9 duct a study and submit a report to the appropriate
 10 committees of Congress that identifies—

11 (A) those parts of the radio spectrum
 12 above 174 MHz and below 512 MHz used by
 13 any public safety entity that could be returned
 14 to the Commission for auction in accordance
 15 with subsection (d); and

16 (B) the cost of migrating any such entity
 17 from use of the returned spectrum to use of al-
 18 ternative spectrum.

19 (2) FCC STUDY AND REPORT.—Not later than
 20 3 years after the date of enactment of this Act, and
 21 every 3 years thereafter, the Commission shall con-
 22 duct a study and submit to the appropriate commit-
 23 tees of Congress a report—

24 (A) on the spectrum held by the public
 25 safety broadband licensee;

1 (B) on how efficiently such spectrum is
2 being used; and

3 (C) that provides a recommendation for
4 whether more spectrum needs to be made avail-
5 able to meet the needs of public safety entities.

6 **SEC. 208. REPORT ON LONG-TERM INTEROPERABILITY**
7 **USING IP-BASED SOLUTIONS.**

8 Not later than 2 years after the date of enactment
9 of this Act, the Commission, in consultation with the Sec-
10 retary and the Assistant Secretary, shall issue a report
11 and order, after allowing time for notice and comment,
12 including comment from public safety users, and submit
13 such report to the appropriate committees of Congress, on
14 whether Internet Protocol-enabled solutions could aid
15 interoperability.

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