

113TH CONGRESS  
1ST SESSION

# H. R. 3674

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.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 9, 2013

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

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## A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Spectrum In-  
5 centive Act of 2013”.

1 **SEC. 2. FEDERAL SPECTRUM INCENTIVES.**

2 (a) NOTICE TO COMMISSION.—

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

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

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

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

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

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

1                   “(II) relocating such operations  
2                   to frequencies assigned to another  
3                   Federal entity in order for such enti-  
4                   ties to share such frequencies.”; and

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

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

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

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

20                         (B) in paragraph (4)—

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

1 (ii) in subparagraph (C), by striking  
2 “subparagraphs (A) and (B)” and insert-  
3 ing “subparagraphs (A)(i) and (B)”; and  
4 (C) in paragraph (5), by striking “para-  
5 graph (4)(A)” and inserting “paragraph  
6 (4)(A)(i)”.

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

10 (1) in the heading, by striking “RELOCATION  
11 OR SHARING”;

12 (2) by amending paragraph (1) to read as fol-  
13 lows:

14 “(1) DEVELOPMENT OF TRANSITION PLAN BY  
15 FEDERAL ENTITY.—

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

24 “(i) declares the intention of such en-  
25 tity—

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

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

18          “(ii) describes how the entity will im-  
19          plement the relocation, sharing, or dis-  
20          continuance arrangement.

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

25          (3) in paragraph (2)—

1 (A) in subparagraph (D), by inserting “, to  
2 discontinue such use,” after “from such fre-  
3 quencies”;

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

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

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

12 (5) in paragraph (6)—

13 (A) by inserting “(if applicable)” after  
14 “costs”; and

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

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

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

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

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

4           (d) DEPOSIT OF AUCTION PROCEEDS.—Section  
5 309(j)(8) of the Communications Act of 1934 (47 U.S.C.  
6 309(j)(8)) is amended—

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

9           (2) in subparagraph (D)—

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

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

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

1 cent of such proceeds shall be deposited in  
2 the Federal Spectrum Incentive Fund es-  
3 tablished by section 120 of such Act and  
4 shall be available in accordance with such  
5 section. The remainder of such proceeds  
6 shall be deposited in the general fund of  
7 the Treasury, where such proceeds shall be  
8 dedicated for the sole purpose of deficit re-  
9 duction.”.

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

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

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

21 “(b) TRANSFER OF FUNDS.—The Director of OMB  
22 shall transfer from the Fund to a Federal entity an  
23 amount equal to the amount deposited in accordance with  
24 section 309(j)(8)(D)(iii) of the Communications Act of  
25 1934 that is attributable to the auction of eligible fre-



1 quencies described in section 113(g)(2) of this Act being  
2 vacated by such entity. Such amount shall be available to  
3 the Federal entity in accordance with subsection (c) and  
4 shall remain available until expended.

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

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

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

1 transferred amount shall remain available to the in-  
2 cumbent Federal entity until expended.

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

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

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

24 (a) DESCRIPTION OF ELIGIBLE FEDERAL ENTI-  
25 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 eli-  
25 gible 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”.

○