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

Mr. Markey (for himself and Mrs. Fischer) introduced the following bill; which was read twice and referred to the Committee on

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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Spectrum In-
centive Act of 2015”.

SEC. 2. FEDERAL SPECTRUM INCENTIVES.

(a) NOTICE TO COMMISSION.—
(1) IN GENERAL.—Section 113(g)(4) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(4)) is amended—

(A) by striking the heading and inserting "NOTICE TO COMMISSION.—"

(B) in the second sentence of subparagraph (A), by striking "shall notify the Commission" and all that follows and inserting the following: "shall notify the Commission—

"(i) of estimated relocation or sharing costs and timelines for such relocation or sharing; or

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

"(I) discontinuing the operations that the Federal entity conducts on such eligible frequencies without relocating such operations to other frequencies; or

"(II) relocating such operations to frequencies assigned to another
Federal entity in order for such entities to share such frequencies.”; and (C) by adding at the end the following: “(D) This subsection and section 118 shall not apply with respect to the discontinuance of operations on eligible frequencies or the relocation of such operations by a Federal entity after the Commission receives notice under subpar- graph (A)(ii) with respect to such discontinuance or relocation.”.

(2) Conforming Amendments.—Section 113(g) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)) is amended— (A) in paragraph (3)(A)(iii)(I), by striking “paragraph (4)(A)” and inserting “paragraph (4)(A)(i)”;
(B) in paragraph (4)— (i) in subparagraph (B), by striking “subparagraph (A)” and inserting “subparagraph (A)(i)” ; and (ii) in subparagraph (C), by striking “subparagraphs (A) and (B)” and insert- ing “subparagraphs (A)(i) and (B)” ; and
(C) in paragraph (5), by striking “paragraph (4)(A)” and inserting “paragraph (4)(A)(i)”.

(b) TRANSITION PLANS.—Section 113(h) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(h)) is amended—

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

(2) by amending paragraph (1) to read as follows:

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

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

“(i) declares the intention of such entity—

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

“(II) to discontinue the operations that the Federal entity conducts on such eligible frequencies without relocating such operations to other frequencies or to relocate such operations to frequencies assigned to another Federal entity in order for such entities to share such frequencies, and to receive payment from the Federal Spectrum Incentive Fund established by section 120; and

“(ii) describes how the entity will implement the relocation, sharing, or discontinuance arrangement.

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

(3) in paragraph (2)—

(A) in subparagraph (D), by inserting “, to discontinue such use,” after “from such frequencies”;

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

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

(4) in paragraph (4)(A), by inserting “(if applicable)” after “timelines and”;

(5) in paragraph (6)—

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

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

(6) in paragraph (7)(A)(ii), by inserting “, discontinuance,” after “relocation”.

(e) RELOCATION OR DISCONTINUANCE PRIORITIZED OVER SHARING.—Section 113(j) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(j)) is amended—

(1) in the heading, by inserting “OR DISCONTINUANCE” after “RELOCATION”; and

(2) by inserting “or discontinuance of the operations that the Federal entity conducts on the band” after “from the band” each place it appears.
(d) Deposit of Auction Proceeds.—Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

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

(2) in subparagraph (D)—

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

(B) by adding at the end the following:

“(iii) Federal Spectrum Incentives.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B) and clause (ii) of this subparagraph, in the case of proceeds (including deposits and upfront payments from successful bidders) attributable to the auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act with respect to which the Commission has received notice under section 113(g)(4)(A)(ii) of such Act, 1 percent of such proceeds shall be deposited in the Federal Spectrum Incentive Fund established by section 120 of such Act and
shall be available in accordance with such section. The remainder of such proceeds shall be deposited in the general fund of the Treasury, where such proceeds shall be dedicated for the sole purpose of deficit reduction.”.

(e) Federal Spectrum Incentive Fund.—Part B of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 et seq.) is amended by adding at the end the following:

“Sec. 120. Federal Spectrum Incentive Fund.

“(a) Establishment.—There is established in the Treasury of the United States a fund to be known as the Federal Spectrum Incentive Fund (in this section referred to as the ‘Fund’), which shall be administered by the Office of Management and Budget (in this section referred to as ‘OMB’), in consultation with the NTIA.

“(b) Transfer of Funds.—The Director of OMB shall transfer from the Fund to a Federal entity an amount equal to the amount deposited in accordance with section 309(j)(8)(D)(iii) of the Communications Act of 1934 that is attributable to the auction of eligible frequencies described in section 113(g)(2) of this Act being vacated by such entity. Such amount shall be available to
the Federal entity in accordance with subsection (c) and shall remain available until expended.

“(c) Use of Funds.—A Federal entity may use an amount transferred under subsection (b) for the following purposes:

“(1) Offset of Sequestration.—Any purposes permitted under the terms and conditions of an appropriations account of the Federal entity for which budgetary resources were cancelled for a fiscal year under a sequestration order under the Balanced Budget and Emergency Deficit Control Act of 1985. The amount used for such purposes for a fiscal year under this paragraph may not exceed the amount by which the amount available to such entity under such account was reduced under the sequestration order for such fiscal year.

“(2) Transfer to Incumbent Federal Entity.—In the case of a Federal entity that is relocating operations to frequencies assigned to an incumbent Federal entity in order for such entities to share such frequencies, to transfer an amount to the incumbent Federal entity for any purposes permitted under paragraph (1). The transferred amount shall remain available to the incumbent Federal entity until expended.
“(d) Prohibition on Duplicative Payments.—If the Commission receives notice under section 113(g)(4)(A)(ii) of a discontinuance of operations on or relocation from eligible frequencies by a Federal entity that has received, from the Spectrum Relocation Fund in accordance with section 118(d)(3), relocation or sharing costs related to pre-auction estimates or research with respect to such frequencies, the Director of OMB shall deduct from the amount to be transferred to such entity under subsection (b) an amount equal to such costs and shall transfer such amount to the Spectrum Relocation Fund.”.

(f) Department of Defense Spectrum.—Section 1062(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) does not apply to frequencies with respect to which the Federal Communications Commission has received notice under section 113(g)(4)(A)(ii) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(4)(A)(ii)).

SEC. 3. COSTS OF INCUMBENT FEDERAL ENTITIES RELATED TO SPECTRUM SHARING.

(a) Description of Eligible Federal Entities.—Section 113(g)(1) of the National Telecommuni-
(47 U.S.C. 923(g)(1)) is amended—

(1) by striking “authorized to use a band of eligible frequencies described in paragraph (2)”;

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

(3) by striking “spectrum frequencies” the second place it appears and inserting “eligible frequencies described in such paragraph”.

(b) Definition of Relocation or Sharing Costs.—Section 113(g)(3)(A) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(3)(A)) is amended—

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

(2) in clause (v), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(vi) the costs incurred by an incumbent Federal entity to accommodate sharing the spectrum frequencies assigned to such entity with a Federal entity the operations of which are being relocated from eligible frequencies described in paragraph
(2), unless the Commission receives notice under paragraph (4)(A)(ii)(II) with respect to the relocation of such operations.”.

(c) SPECTRUM RELOCATION FUND.—Section 118 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 928) is amended—

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

“with respect to—

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

“(2) in the case of an incumbent Federal entity described in section 113(g)(3)(A)(vi), accommodating sharing the spectrum frequencies assigned to such entity with a Federal entity the operations of which are being relocated from such eligible frequencies.”; and

(2) in subsection (d)—

(A) in paragraph (2)(A), by inserting “(or, in the case of an incumbent Federal entity described in section 113(g)(3)(A)(vi), the eligible Federal entity the operations of which are being relocated has submitted such a plan)” after “transition plan”; and
(B) in paragraph (3)(B)(ii), by inserting “except in the case of an incumbent Federal entity described in section 113(g)(3)(A)(vi),” before “the transition plan.”