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OLL19A71

S.L.C.

*Asst. J. Wicker*

AMENDMENT NO. \_\_\_\_\_

Calendar No. \_\_\_\_\_

Purpose: To improve the bill.

**IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.**

**S. 2881**

To require the Federal Communications Commission to make not less than 280 megahertz of spectrum available for terrestrial use, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. WICKER

Viz:

1 On page 3, line 9, insert "subject to paragraph (2)  
2 of this subsection," after "(1)".

3 On page 4, line 1, add at the end the following:  
4 "which amount shall be deducted from the amounts re-  
5 quired to be deposited in the Treasury under paragraph  
6 (1) of this subsection,".

7 On page 5, after line 7, insert the following:

1 **SEC. 4. REPEAL OF T-BAND SPECTRUM REALLOCATION RE-**  
2 **QUIREMENT.**

3 (a) IN GENERAL.—Section 6103 of the Middle Class  
4 Tax Relief and Job Creation Act of 2012 (47 U.S.C.  
5 1413) is repealed.

6 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
7 The table of sections in section 1(b) of the Middle Class  
8 Tax Relief and Job Creation Act of 2012 (Public Law  
9 112–96; 126 Stat. 156) is amended by striking the item  
10 relating to section 6103.9–1–1

11 **SEC. 5. NEXT GENERATION 9-1-1.**

12 ~~Section 6413(b)(6) of the Middle Class Tax Relief~~  
13 ~~and Job Creation Act of 2012 (47 U.S.C. 1457(b)(6)) is~~  
14 ~~amended by striking “\$115,000,000” and inserting~~  
15 ~~“\$1,000,000,000”.~~

16 **SEC. 6. CLARIFYING ACCEPTABLE 9-1-1 OBLIGATIONS OR**  
17 **EXPENDITURES.**

18 (a) AMENDMENT TO WIRELESS COMMUNICATIONS  
19 AND PUBLIC SAFETY ACT OF 1999.—

20 (1) IN GENERAL.—Section 6(f) of the Wireless  
21 Communications and Public Safety Act of 1999 (47  
22 U.S.C. 615a–1(f)) is amended—

23 (A) in paragraph (1)—

24 (i) by striking “State, political sub-  
25 division thereof, Indian tribe, or village or  
26 regional corporation serving a region estab-

1           lished pursuant to the Alaska Native  
2           Claims Settlement Act, as amended (85  
3           Stat. 688)” and inserting “State or taxing  
4           jurisdiction”; and

5                   (ii) by striking “as specified in the  
6                   provision of State or local law adopting the  
7                   fee or charge” and inserting “in accord-  
8                   ance with the regulations promulgated  
9                   under paragraph (3)”;

10                   (B) in paragraph (2), by striking “State or  
11                   political subdivision thereof” and inserting  
12                   “State or taxing jurisdiction”; and

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

14                   “(3) ACCEPTABLE OBLIGATION OR EXPENDI-  
15           TURE.—

16                           “(A) REGULATIONS REQUIRED.—Not later  
17                   than 180 days after the date of the enactment  
18                   of this paragraph, in order to prevent diversion  
19                   of 9-1-1 fees or charges, the Commission shall  
20                   promulgate regulations designating acceptable  
21                   purposes for an obligation or expenditure by  
22                   any State or taxing jurisdiction authorized to  
23                   impose a fee or charge.

1           “(B) PURPOSES.—The acceptable purposes  
2 of an obligation or expenditure described in  
3 subparagraph (A) are only—

4           “(i) the support and implementation  
5 of 9–1–1 services of a State or taxing ju-  
6 risdiction; or

7           “(ii) operational expenses of a public  
8 safety answering point within a State or  
9 taxing jurisdiction.

10          “(C) CONSULTATION REQUIRED.—The  
11 Commission shall consult with public safety or-  
12 ganizations and State, local, and Tribal govern-  
13 ments as part of any proceeding under this  
14 paragraph.

15          “(4) PARTICIPATION.—Each State or taxing ju-  
16 risdiction shall provide any information requested by  
17 the Commission to fulfill the reporting report under  
18 paragraph (2).

19          “(5) DEFINITIONS.—In this subsection:

20           “(A) 9–1–1 SERVICES; E9–1–1 SERVICES;  
21 NEXT GENERATION 9–1–1 SERVICES.—The  
22 terms ‘9–1–1 services’, ‘E9–1–1 services’, and  
23 ‘Next Generation 9–1–1 services’ have the  
24 meanings given those terms in section 158 of  
25 the National Telecommunications and Informa-

1           tion Administration Organization Act (47  
2           U.S.C. 942).

3                   “(B) STATE OR TAXING JURISDICTION.—  
4           The term ‘State or taxing jurisdiction’ means a  
5           State, political subdivision thereof, Indian tribe,  
6           or village or regional corporation serving a re-  
7           gion established pursuant to the Alaska Native  
8           Claims Settlement Act (43 U.S.C. 1601 et  
9           seq.).”.

10           (2) EFFECTIVE DATE.—The amendment made  
11           by paragraph (1)(A) shall take effect on the date on  
12           which the Commission promulgates regulations  
13           under paragraph (3) of section 6(f) of the Wireless  
14           Communications and Public Safety Act of 1999 (47  
15           U.S.C. 615a–1(f)), as added by paragraph (1)(B).

16           (b) PROHIBITION ON 9–1–1 FEE OR CHARGE DIVER-  
17           SION.—

18                   (1) DEFINITIONS.—In this subsection—

19                           (A) the terms “9–1–1 services”, “E9–1–1  
20                           services”, and “Next Generation 9–1–1 serv-  
21                           ices” have the meanings given those terms in  
22                           section 158 of the National Telecommunications  
23                           and Information Administration Organization  
24                           Act (47 U.S.C. 942);

1 (B) the term "State" has the meaning  
2 given the term in section 7 of the Wireless  
3 Communications and Public Safety Act of 1999  
4 (47 U.S.C. 615b); and

5 (C) the term "State or taxing jurisdiction"  
6 means a State, political subdivision thereof, In-  
7 dian tribe, or village or regional corporation  
8 serving a region established pursuant to the  
9 Alaska Native Claims Settlement Act (43  
10 U.S.C. 1601 et seq.).

11 (2) EVIDENCE OF DIVERSION.—If the Chief of  
12 the Enforcement Bureau of the Commission obtains  
13 evidence that suggests a willful and knowing use of  
14 9–1–1 fees or charges for a purpose other than the  
15 purposes authorized under the regulations promul-  
16 gated under paragraph (3) of section 6(f) of the  
17 Wireless Communications and Public Safety Act of  
18 1999 (47 U.S.C. 615a–1(f)), as added by subsection  
19 (a), the Chief of the Enforcement Bureau shall pro-  
20 vide such evidence to the Attorney General.

21 (3) REPORT TO CONGRESS.—Not later than 1  
22 year after the date of enactment of this Act, and an-  
23 nually thereafter, the Commission shall publish on  
24 its website and submit to the Committee on Com-  
25 merce, Science, and Transportation of the Senate

1 and the Committee on Energy and Commerce of the  
2 House of Representatives a report that—

3 (A) identifies any State or taxing jurisdic-  
4 tion that is diverting is 9-1-1 fees or charges,  
5 as described in paragraph (2); and

6 (B) the purpose for which the fees or  
7 charges are being used.

8 (4) WORKING GROUP.—

9 (A) CONVENING.—The Attorney General,  
10 in consultation with the Chairman of the Com-  
11 mission, shall convene an interagency working  
12 group to study Government prosecution of vio-  
13 lations by States or taxing jurisdictions of the  
14 regulations promulgated under paragraph (3) of  
15 section 6(f) of the Wireless Communications  
16 and Public Safety Act of 1999 (47 U.S.C.  
17 615a-1(f)), as added by subsection (a).

18 (B) DUTIES.—In carrying out the study  
19 under subparagraph (A), the interagency work-  
20 ing group shall—

21 (i) determine the effectiveness of any  
22 Federal laws, including regulations, poli-  
23 cies, and practices, or budgetary or juris-  
24 dictional constraints regarding the prohibi-  
25 tion under the regulations described in

1           that subparagraph on diverting 9-1-1 fees  
2           or charges away from the operational ex-  
3           penses of public safety answering points  
4           within a State or taxing jurisdiction; and

5           (ii) consider—

6           (I) whether criminal penalties  
7           would further prevent 9-1-1 fees or  
8           charges from being diverted from the  
9           operational expenses of public safety  
10          answering points within a State or  
11          taxing jurisdiction; and

12          (II) whether increased forfeiture  
13          and imprisonment penalties are ap-  
14          propriate, such as increasing the max-  
15          imum term of imprisonment for such  
16          a violation to more than 2 years.

17          (C) MEMBERS.—The interagency working  
18          group convened under subparagraph (A) shall  
19          be composed of such representatives of Federal  
20          departments and agencies as the Attorney Gen-  
21          eral considers appropriate, such as—

22                 (i) the enforcement bureau of the  
23                 Commission;

24                 (ii) the Criminal Division of the De-  
25                 partment of Justice;

1 (iii) a State or taxing jurisdiction  
2 found not to be diverting 9-1-1 fees or  
3 charges;

4 (iv) a State 9-1-1 administrator; and

5 (v) public safety organizations.

6 (D) REPORT TO CONGRESS.—Not later  
7 than 270 days after the date of enactment of  
8 this Act, the interagency working group con-  
9 vened under subparagraph (A) shall submit to  
10 the Committee on Commerce, Science, and  
11 Transportation of the Senate and the Com-  
12 mittee on Energy and Commerce of the House  
13 of Representatives a report on the findings of  
14 the study carried out under that subparagraph,  
15 including—

16 (i) any recommendations regarding  
17 the prevention and prosecution of the vio-  
18 lations described in that subparagraph;  
19 and

20 (ii) a description of the progress, if  
21 any, that relevant Federal departments  
22 and agencies have made in implementing  
23 the recommendations described in clause  
24 (i).

1 (5) FAILURE TO COMPLY.—Notwithstanding  
2 any other provision of law, any State or taxing juris-  
3 diction identified by the Commission under para-  
4 graph (3) shall be—

5 (A) ineligible for any Federal grant award  
6 that is related to the support or implementation  
7 of 9–1–1, E9–1–1, or Next Generation 9–1–1  
8 services, including a grant made under section  
9 158 of the National Telecommunications and  
10 Information Administration Organization Act  
11 (47 U.S.C. 942); and

12 (B) ineligible to participate in or send a  
13 representative to serve on the advisory com-  
14 mittee established under section 6205(a) of the  
15 Middle Class Tax Relief and Job Creation Act  
16 of 2012 (47 U.S.C. 1425(a)) or any advisory  
17 committee established by the Commission.

18 (6) CONDITION OF GRANTS.—Consistent with  
19 section 158 of the National Telecommunications and  
20 Information Administration Organization Act (47  
21 U.S.C. 942), the 9–1–1 Implementation Coordina-  
22 tion Office shall make as a condition of receipt by  
23 a State or taxing jurisdiction of any Federal grant  
24 award that is related to the support or implementa-  
25 tion of 9–1–1 services, E9–1–1 services, or Next

1 Generation 9-1-1 services, that if the State or tax-  
2 ing jurisdiction is identified under paragraph (3)  
3 during the period beginning 180 days before the  
4 date on which the grant application is submitted and  
5 ending on the last day on which the grant funds are  
6 available to the State or taxing jurisdiction, the  
7 State or taxing jurisdiction shall be ineligible for the  
8 grant and the grant funds shall be returned to the  
9 Federal Government.

T 10 **SEC. 7. STUDY ON USE OF 4.9GHZ SPECTRUM BAND.**

11 ~~(a) DEFINITION. In this section, the term "4.9 GHz~~  
12 ~~band" means the band of electromagnetic spectrum be-~~  
13 ~~tween the frequencies of 4940 megahertz and 4990 mega-~~  
14 ~~hertz, inclusive.~~

15 ~~(b) EVALUATION. Not later than 1 year after the~~  
16 ~~date of enactment of this Act, the Commission shall com-~~  
17 ~~plete an evaluation of the 4.9 GHz band to determine the~~  
18 following:

19 ~~(1) The number of licenses for the use of such~~  
20 ~~band and the number of licensees who hold such li-~~  
21 ~~enses.~~

22 ~~(2) The size of the geographic area covered by~~  
23 ~~each such license, and the overlap, if any, between~~  
24 ~~the geographic areas covered by such licenses.~~

1 ~~(3) The amount of spectrum authorized to be~~  
2 ~~used under each license.~~

3 ~~(4) The purposes for which such spectrum is~~  
4 ~~being used under each such license.~~

5 ~~(c) MORATORIUM.—On or after the date of enact~~  
6 ~~ment of this Act, the Commission may not grant a license~~  
7 ~~for the use of the 4.9 GHz band.~~

8 ~~(d) MODIFICATION OF EXISTING LICENSES.~~

9 ~~(1) AUTHORITY. After the completion of the~~  
10 ~~evaluation required under subsection (b), the Com-~~  
11 ~~mission may modify a license for the use of the 4.9~~  
12 ~~GHz band by—~~

13 ~~(A) reducing the size of the geographic~~  
14 ~~area covered by the license;~~

15 ~~(B) reducing the amount of spectrum au-~~  
16 ~~thorized to be used under the license; or~~

17 ~~(C) taking both of the actions described in~~  
18 ~~subparagraphs (A) and (B).~~

19 ~~(2) LIMITATION.~~

20 ~~(A) IN GENERAL. On or after the date of~~  
21 ~~enactment of this Act, the Commission may not~~  
22 ~~modify a license for the use of the 4.9 GHz~~  
23 ~~band except as provided in paragraph (1).~~

24 ~~(B) REVOCATION.—Nothing in subpara-~~  
25 ~~graph (A) may be construed to limit the author~~

1 ~~ity of the Commission to revoke a license de-~~  
2 ~~scribed in that subparagraph under section 312~~  
3 ~~of the Communications Act of 1934 (47 U.S.C.~~  
4 ~~312).~~

5 ~~(2) PROTEST RIGHT INAPPLICABLE — The right~~  
6 ~~of a licensee to protest a proposed order of modifica-~~  
7 ~~tion of its license under section 316 of the Commu-~~  
8 ~~nications Act of 1934 (47 U.S.C. 316) shall not~~  
9 ~~apply in the case of a modification made under para-~~  
10 ~~graph (1).~~

11 ~~(c) REPORT — Not later than 1 year after completing~~  
12 ~~the evaluation under subsection (b), the Chairman of the~~  
13 ~~Commission shall submit a report to the Committee on~~  
14 ~~Commerce, Science, and Transportation of the Senate and~~  
15 ~~the Committee on Energy and Commerce of the House~~  
16 ~~of Representatives enumerating~~

17 ~~(1) an exhaustive list of all purposes and appli-~~  
18 ~~cations for which spectrum in the 4.9 GHz band is~~  
19 ~~used, and~~

20 ~~(2) how frequently such spectrum is used for~~  
21 ~~each such purpose or application~~

22 **SEC. 8. NTIA OFFICE OF SPECTRUM MANAGEMENT.**

23 There is authorized to be appropriate to the Office  
24 of Spectrum Management of the National Telecommuni-  
25 cations and Information Administration for fiscal year

- 1 2020, \$100,000,000 for spectrum management systems,
- 2 which shall remain available until expended.