

**[STAFF DISCUSSION DRAFT]**

JUNE 14, 2010

111TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To develop and implement interoperability requirements for a public safety interoperable broadband network, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

To develop and implement interoperability requirements for a public safety interoperable broadband network, 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 “Public Safety  
5 Broadband Act of 2010”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) 700 MHZ BAND.—The term “700 MHz  
2 band” means the portion of the electromagnetic  
3 spectrum between the frequencies from 698 mega-  
4 hertz to 806 megahertz.

5           (2) 700 MHZ D BLOCK SPECTRUM.—The term  
6 “700 MHz D block spectrum” means the portion of  
7 the electromagnetic spectrum between the fre-  
8 quencies from 758 megahertz to 763 megahertz and  
9 between the frequencies from 788 megahertz to 793  
10 megahertz.

11          (3) ASSISTANT SECRETARY.—The term “Assist-  
12 ant Secretary” means the Assistant Secretary of  
13 Commerce for Communications and Information.

14          (4) COMMERCIAL MOBILE SERVICE.—The term  
15 “commercial mobile service” has the meaning given  
16 such term in section 332 of the Communications Act  
17 of 1934 (47 U.S.C. 332).

18          (5) COMMISSION.—The term “Commission”  
19 means the Federal Communications Commission.

20          (6) CONSTRUCTION FUND.—The term “Con-  
21 struction Fund” means the fund established in sec-  
22 tion 201(a)(1)(A).

23          (7) GUARD BAND SPECTRUM.—The term  
24 “guard band spectrum” means the portion of the  
25 electromagnetic spectrum between the frequencies

1 from 768 megahertz to 769 megahertz and between  
2 the frequencies from 798 megahertz to 799 mega-  
3 hertz.

4 (8) MAINTENANCE AND OPERATION FUND.—  
5 The term “Maintenance and Operation Fund”  
6 means the fund established in section 202(a)(2)(A).

7 (9) NARROWBAND SPECTRUM.—The term  
8 “narrowband spectrum” means the portion of the  
9 electromagnetic spectrum between the frequencies  
10 from 769 megahertz to 775 megahertz and between  
11 the frequencies from 799 megahertz to 805 mega-  
12 hertz.

13 (10) NTIA.—The term “NTIA” means the Na-  
14 tional Telecommunications and Information Admin-  
15 istration.

16 (11) PUBLIC SAFETY ENTITY.—The term “pub-  
17 lic safety entity” means any State, local, or tribal  
18 government entity whose principal purpose is to pro-  
19 tect the safety of life, health, or property.

20 (12) UNOCCUPIED GUARD BAND SPECTRUM.—  
21 The term “unoccupied guard band spectrum” means  
22 the portion of the electromagnetic spectrum between  
23 the frequencies from 775 megahertz to 776 mega-  
24 hertz and between the frequencies from 805 mega-  
25 hertz to 806 megahertz.

1                   **TITLE I—ACHIEVING**  
2                   **INTEROPERABILITY**

3   **SEC. 101. MANAGEMENT.**

4           (a) ESTABLISHMENT.—The Commission shall take  
5 all actions necessary to ensure the deployment of a nation-  
6 wide public safety interoperable broadband network in the  
7 700 MHz band, including—

8                   (1) developing and implementing nationwide  
9                   technical and operational requirements for such net-  
10                  work;

11                  (2) adopting any rules necessary to achieve  
12                  interoperability in such network; and

13                  (3) adopting user authentication and encryption  
14                  requirements for such network.

15           (b) SPECIFICATIONS.—In carrying out subsection  
16 (a)(2), the Commission shall establish an appropriate rule,  
17 or set of rules, to ensure nationwide interoperability in  
18 such network by taking into consideration—

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

22                   (2) the availability of necessary technologies  
23                   and equipment on reasonable and non-discriminatory  
24                   licensing terms;

1           (3) the ability to evolve with technological devel-  
2           opments in the commercial marketplace;

3           (4) the ability to accommodate prioritization for  
4           public safety transmissions; and

5           (5) the ability to accommodate appropriate se-  
6           curity measures for public safety transmissions.

7           (c) DEADLINE.—

8           (1) IN GENERAL.—The Commission shall com-  
9           plete the actions required under paragraphs (1), (2),  
10          and (3) of subsection (a) not later than 1 year after  
11          the date of enactment of this Act.

12          (2) UPDATES.—The Commission shall update  
13          such requirements and standards as necessary.

14          (d) CONSULTATION.—In carrying out subsection (a),  
15          the Commission shall consult with the Director of the Of-  
16          fice of Emergency Communications in the Department of  
17          Homeland Security, the Assistant Secretary, the Director  
18          of the National Institute of Standards and Technology,  
19          and the advisory board established in section 102.

20       **SEC. 102. ADVISORY BOARD.**

21          (a) IN GENERAL.—Not later than 90 days after the  
22          date of enactment of this Act, the Commission shall estab-  
23          lish an advisory board to advise the Commission on—

24                (1) carrying out its duties under section 101;

25          and

1           (2) the implementation of improvements to the  
2           public safety interoperable broadband network under  
3           such section.

4           (b) COMPOSITION.—The Commission shall determine  
5           the composition of the advisory board, which shall include,  
6           at a minimum, representatives from each of the following:

7           (1) State, local, and tribal governments.

8           (2) Public safety organizations.

9           (3) Providers of commercial mobile service.

10          (4) Manufacturers of communications equip-  
11          ment.

12          (c) REPORTS.—The Commission shall consult with  
13          the advisory board on any study or report on public safety  
14          spectrum, including the report required under section 302.

15          (d) TERMINATION.—The advisory board shall termi-  
16          nate 10 years after the date of enactment of this Act.

17       **SEC. 103. FLEXIBILITY AND SHARING.**

18          (a) FLEXIBLE SPECTRUM USE.—The Commission  
19          shall allow the narrowband spectrum, the guard band  
20          spectrum, and the unoccupied guard band spectrum to be  
21          used in a flexible manner, including for public safety  
22          broadband communications.

23          (b) PERMITTING SECONDARY ACCESS TO PUBLIC  
24          SAFETY SPECTRUM.—

1           (1) IN GENERAL.—The Commission shall per-  
2           mit public safety entities to allow access through  
3           written agreements to spectrum licensed to such  
4           public safety entities.

5           (2) REQUIREMENTS.—The Commission shall—

6                   (A) allow access to such spectrum only on  
7                   a secondary basis;

8                   (B) require approval by the Commission of  
9                   such written agreements; and

10                   (C) require that all funds received from  
11                   such secondary access pursuant to such written  
12                   agreements be reinvested in the public safety  
13                   interoperable broadband network by using such  
14                   funds only for constructing, maintaining, im-  
15                   proving, or purchasing equipment to be used in  
16                   conjunction with such network.

17           (c) DEADLINE.—The Commission shall take all ac-  
18           tions necessary to establish rules to carry out this section  
19           not later than 1 year after the date of enactment of this  
20           Act.

## 21                                   **TITLE II—FUNDING**

### 22           **SEC. 201. ESTABLISHMENT OF FUNDS.**

23           (a) IN GENERAL.—

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 Assistant Secretary  
7 shall establish and administer the grant pro-  
8 gram under section 202 using the funds depos-  
9 ited in the Construction Fund.

10 (C) CREDIT.—

11 (i) BORROWING AUTHORITY.—The  
12 Assistant Secretary may borrow from the  
13 general fund of the Treasury beginning on  
14 October 1, 2010, such sums as may be  
15 necessary, but not to exceed  
16 \$2,000,000,000, to implement section 202.

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 Commission shall use  
7           the funds deposited in the Maintenance and Op-  
8           eration Fund to carry out section 203.

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 upfront pay-  
14          ments from successful bidders) from the auction of the  
15          spectrum described in section 301 and the auction of the  
16          700 MHz D block spectrum as follows:

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 Assist-  
20               ant Secretary without further appropriations.

21               (2) Any proceeds exceeding \$5,500,000,000  
22               shall be deposited in the Maintenance and Operation  
23               Fund and shall be made available to the Commission  
24               without further appropriations.

1           (c) TRANSFER OF FUNDS AT COMPLETION OF CON-  
2     STRUCTION.—The Secretary of the Treasury shall transfer  
3     to the Maintenance and Operation Fund any funds re-  
4     maining in the Construction Fund after the date of the  
5     completion of the construction phase, as determined by the  
6     Assistant Secretary.

7           (d) TRANSFER OF FUNDS TO TREASURY.—The Sec-  
8     retary of the Treasury shall transfer to the general fund  
9     of the Treasury any funds remaining in the Maintenance  
10    and Operation Fund after the end of the 10-year period  
11    that begins after the date of the completion of the con-  
12    struction phase, as determined by the Assistant Secretary.

13          (e) AUTHORIZATION OF APPROPRIATIONS.—

14           (1) ASSISTANT SECRETARY.—There are author-  
15     ized to be appropriated to the Assistant Secretary  
16     for deposit in the Construction Fund in and after  
17     fiscal year 2012 a total amount equal to  
18     \$5,500,000,000 minus the amount deposited in the  
19     Construction Fund under subsection (b)(1).

20           (2) COMMISSION.—There are authorized to be  
21     appropriated to the Commission for deposit in the  
22     Maintenance and Operation Fund in and after fiscal  
23     year 2012 a total amount equal to \$5,500,000,000  
24     minus the amount deposited in the Maintenance and  
25     Operation Fund under subsection (b)(2).

1 **SEC. 202. PUBLIC SAFETY INTEROPERABLE BROADBAND**  
2 **NETWORK CONSTRUCTION.**

3 (a) CONSTRUCTION GRANT PROGRAM ESTABLISH-  
4 MENT.—The Assistant Secretary, in consultation with the  
5 Commission and the Secretary of Homeland Security,  
6 shall take such action as is necessary to establish a grant  
7 program to assist public safety entities to establish a na-  
8 tionwide public safety interoperable broadband network in  
9 the 700 MHz band.

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

12 (1) Construction of a new public safety inter-  
13 operable broadband network using commercial infra-  
14 structure or public safety infrastructure, or both, in  
15 the 700 MHz band.

16 (2) Improvement of the existing commercial  
17 networks and construction of new infrastructure to  
18 meet public safety requirements, as defined by the  
19 Commission, that operate as part of the public safe-  
20 ty interoperable broadband network in the 700 MHz  
21 band.

22 (c) MATCHING REQUIREMENTS.—

23 (1) FEDERAL SHARE.—The Federal share of  
24 the cost of carrying out a project under this section  
25 may not exceed 80 percent of the eligible costs of

1 carrying out a project, as determined by the Assist-  
2 ant Secretary in consultation with the Commission.

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

7 (d) REQUIREMENTS.—Not later than 6 months after  
8 the date of enactment of this Act, the Assistant Secretary,  
9 in consultation with the Commission, shall establish grant  
10 program requirements including the following:

11 (1) Defining entities that are eligible to receive  
12 a grant under this section.

13 (2) Defining eligible costs for purposes of sub-  
14 section (c)(1).

15 (3) Determining the scope of network infra-  
16 structure eligible for grant funding under this sec-  
17 tion.

18 (4) Conditioning grant funding on compliance  
19 with the Commission's license terms.

20 (5) Prioritizing grants for projects that ensure  
21 maximum population coverage.

22 **SEC. 203. PUBLIC SAFETY INTEROPERABLE BROADBAND**  
23 **MAINTENANCE AND OPERATION.**

24 (a) MAINTENANCE AND OPERATION REIMBURSE-  
25 MENT PROGRAM.—The Commission shall administer a

1 program through which not more than 50 percent of main-  
2 tenance and operational expenses associated with the pub-  
3 lic safety interoperable broadband network may be reim-  
4 bursed from the Maintenance and Operation Fund for  
5 those expenses that are attributable to the maintenance,  
6 operation, and improvement of the public safety interoper-  
7 able broadband network.

8 (b) RULEMAKING.—

9 (1) RULEMAKING PROCEEDING.—Not later  
10 than 1 year after the date of enactment of this Act,  
11 the Commission shall conduct a rulemaking to deter-  
12 mine the requirements of the program described  
13 under subsection (a).

14 (2) PRIORITY.—The rulemaking conducted pur-  
15 suant to paragraph (1) may contain provisions to  
16 prioritize reimbursement under the program de-  
17 scribed under subsection (a).

18 (c) REPORT.—Not later than 7 years after the date  
19 that the rule established under subsection (b)(1) becomes  
20 effective, the Commission shall submit to Congress a re-  
21 port on whether to continue to provide funding for the  
22 Maintenance and Operation Fund after the end of the 10-  
23 year period that begins after the date of the completion  
24 of the construction phase, as determined by the Assistant  
25 Secretary.

1       **TITLE III—MISCELLANEOUS**

2       **SEC. 301. AUCTION OF SPECTRUM.**

3       (a) IN GENERAL.—

4               (1) IDENTIFICATION OF SPECTRUM.—Not later  
5       than 1 year after the date of enactment of this Act,  
6       the Assistant Secretary shall identify, at a minimum,  
7       25 megahertz of contiguous spectrum at frequencies  
8       located between 1675 megahertz and 1710 mega-  
9       hertz, inclusive, to be made available for immediate  
10      reallocation.

11              (2) AUCTION.—Not later than January 31,  
12      2013, the Commission shall conduct the auction of  
13      the licenses, by commencing the bidding, for the fol-  
14      lowing:

15                      (A) The spectrum between the frequencies  
16                      of 2155 megahertz and 2180 megahertz, inclu-  
17                      sive.

18                      (B) The spectrum identified pursuant to  
19                      paragraph (1).

20      (b) EXTENSION OF AUCTION AUTHORITY.—Section  
21      309(j)(11) of the Communications Act of 1934 (47 U.S.C.  
22      309(j)(11)) is amended by striking “2012” and inserting  
23      “2020”.

1 **SEC. 302. FCC REPORT ON SPECTRUM NEEDS.**

2 Not later than 5 years after the date of enactment  
3 of this Act and every 5 years thereafter, the Commission  
4 shall conduct a study and submit to Congress a report  
5 on the spectrum held by public safety entities or dedicated  
6 to the public safety interoperable broadband network and  
7 shall examine how such spectrum is being used and pro-  
8 vide a recommendation for whether more spectrum needs  
9 to be made available to meet the needs of public safety  
10 entities.

11 **SEC. 303. GAO REPORT ON SATELLITE BROADBAND.**

12 Not later than 2 years after the date of enactment  
13 of this Act, the Comptroller General of the United States  
14 shall conduct a study and submit to Congress a report  
15 on the current and future capabilities of fixed and mobile  
16 satellite broadband to assist public safety entities during  
17 an emergency.

18 **SEC. 304. ACCESS TO GSA SCHEDULES.**

19 The Administrator of General Services shall establish  
20 rules under which public safety entities may access and  
21 use the rates offered to the General Services Administra-  
22 tion for communications services and devices.

23 **SEC. 305. FEDERAL INFRASTRUCTURE SHARING.**

24 The Administrator of General Services shall establish  
25 rules to allow public safety agencies to have access to Fed-

- 1 eral infrastructure to construct and maintain the public
- 2 safety interoperable broadband network.