



Democratic Staff – Discussion Draft Summary
The Public Safety Broadband and Wireless Innovation Act of 2011
Committee on Energy and Commerce

The Public Safety Broadband and Wireless Innovation Act of 2011 would accomplish two related goals. First, it would create a nationwide, interoperable public safety broadband network. Second, it would provide the Federal Communications Commission (FCC) with incentive auction authority to both efficiently and responsibly repurpose broadcast spectrum, and to help fund the creation of the interoperable public safety network. The legislation would also put our nation on sound footing to meet the growing demand for wireless broadband services by requiring federal agencies to conduct a comprehensive spectrum inventory and create a federal spectrum strategic plan, among others.

Title I – Creating the Nationwide Public Safety Broadband Network

To ensure that public safety is provided with the advanced communications capabilities needed to protect the safety of life, health, and property, the legislation provides for the following:

D Block Reallocation: The legislation reallocates the D Block spectrum for public safety use, meeting public safety’s future spectrum requirements and incentivizing public-private partnerships that will be key to a successful and efficient public safety broadband network.

Network Sharing: The legislation encourages sharing of public safety network spectrum and infrastructure. First, the bill addresses the need for public safety to interoperate with other entities that play a key role in emergency response. Second, the bill promotes spectrum and network sharing opportunities as part of negotiated public-private partnerships to construct, manage, maintain, and operate the public safety broadband network. Federal public safety departments and agencies are permitted shared access to the spectrum.

Reasoned Approach for Transitioning to Broadband: The legislation requires a reasonable transition to the flexible and more efficient use of 700 MHz narrowband spectrum. The FCC is directed to report on opportunities to gain additional efficiencies across all public safety spectrum bands, including the prospect of returning spectrum via incentive auction authority where public safety would have an opportunity to share in auction proceeds.

Device Availability: The Commission is directed to ensure the availability of devices capable of operating in the public safety broadband spectrum – known as “Band Class 14” – at costs comparable to consumer devices.

Title II – Governance

Public Safety Broadband Corporation: Effective governance is paramount to the success of the public safety broadband network. Accordingly, the legislation would establish a private, non-profit entity, the Public Safety Broadband Corporation, as the national governance vehicle that ensures the primary goal of achieving a nationwide level of interoperability for first responders, while exercising the fiscal responsibility and technical and operational expertise demanded of this national asset.

Membership on the Board of Directors of the Corporation is diversified across 15 members representing federal, state, and local governmental expertise, public safety representatives, and individuals with commercial wireless industry experience. The Secretary of Commerce, who sits as one of the four permanent federal members of the Board, appoints the non-federal and private-sector members, as well as the Chair of the Board.

The considerable expertise residing in the Board is designed to be focused on high-level decision-making and ultimate accountability and fiscal responsibility. A single Chief Executive Officer having significant experience in commercial wireless networks will assist the Board with its duties and responsibilities. The legislation also creates two targeted support structures: a Program Management Office and a Technical and Operations Advisory Body. The Program Management Office is a flexible entity responsible for day-to-day operations of the Corporation, as well as the significant responsibilities including the administration of requests for proposals to construct, manage, maintain, and operate the network. The Advisory Body is designed to convey valuable perspective and input to the Corporation and the Program Management Office concerning the needs of federal, state, Tribal, and local public safety entities.

Ensuring a Fair, Transparent Equipment Marketplace: All procurements are subject to an open competitive bidding process designed to ensure that multiple equipment and technology vendors are afforded a full and fair opportunity to participate in the construction, management, maintenance, and operation of the public safety network.

Leveraging Commercial Wireless Broadband Expertise: The legislation incorporates various requirements and incentives for maximizing use of the network infrastructure and expertise of commercial mobile data service providers, and ensuring reliance upon open commercial standards in use by such providers. At the same time, the bill would enable a variety of public-private partnership opportunities.

State and Local Public Safety Roles: A national governance model is necessary to establish and preserve nationwide interoperability, uniformity of network deployments and economies of scale in network, and device equipment costs for public safety. At the same time, the legislation provides robust mechanisms for state and local public safety input. Through State Public Safety Broadband Offices, states will:

- Coordinate all state and local public safety requirements and assets for incorporation into requests for proposals,
- Seek out opportunities for establishing multi-state regional networks,
- Consult on the development, evaluation, and selection of responses to requests for proposals,
- Specify such entities that should be able to interoperate with first responders in emergencies, and
- Advise the Corporation on the distribution of funding for the construction, management, maintenance, and operation of the network.

Next Generation 911 Services: A significant source of the data to be transmitted over the public safety broadband network will be from 9-1-1 public safety answering points and dispatch centers. Next Generation 9-1-1 services will complement the advanced broadband capabilities of the public safety network by enabling the delivery of voice, text, photos, video, and other data to 9-1-1 call centers. The legislation promotes the deployment of Next Generation 9-1-1 services by commissioning important studies and reports on costs and legal and regulatory matters.

Title III – Increasing Spectrum Efficiency

Spectrum Auctions: In order to ensure more spectrum will be made available in a timely and efficient manner to handle increasing demand for wireless broadband services, the legislation directs the Commission to identify and auction—in consultation with the NTIA—approximately 180 MHz of the following spectrum to be made available for commercial mobile broadband:

- 15 MHz between 1675-1710 MHz by 2014 (minus exclusion zones)
- 15 MHz to be identified by the FCC to pair with the 1675-1710 MHz band by 2014
- 25 MHz between 2155-2180 MHz by 2014
- 25 MHz between 1755-1850 MHz by 2018, unless the President identifies other spectrum for reallocation that can reasonably be expected to produce comparable auction receipts
- The 3550-3650 MHz band, unless it is reallocated for unlicensed use (minus exclusion zones)

Proceeds from these auctions will be deposited into the Public Safety Trust Fund (after making appropriate deposits into the Spectrum Relocation Fund, as required by the Commercial Spectrum Enhancement Act for relocation of federal users).

Incentive Auction Authority: The legislation gives the FCC incentive auction authority to compensate licensees for voluntary relinquishment of some or all of their spectrum usage rights in order to permit new licensed or unlicensed uses. To avoid unjust enrichment, the bill instructs the FCC to consider whether a licensee participating in an incentive auction is in good standing and whether such relinquishment would serve the public interest. To ensure competition, the bill instructs the FCC to ensure there are licenses made available to cover both large and small geographic areas. Proceeds from incentive auctions are to be deposited in the Public Safety Trust Fund.

Special Rules for Television Broadcast Spectrum: The legislation creates a set of special rules, to expire on June 30, 2016, that govern any incentive auction of the television broadcast spectrum. It grants the FCC general authority to reorganize the television broadcast spectrum and make spectrum available for auction through a mixture of incentive auction and realignment of broadcast station licensees. Key provisions include:

- Participation in an incentive auction must be truly voluntary.
- The FCC is limited to conducting only one incentive auction.
- Requires the FCC to treat as confidential the identity of broadcast licensees participating in an incentive auction.
- Allows the FCC to make spectrum available for unlicensed use once 84 megahertz of the television broadcast spectrum has been auctioned.
- The FCC may reassign and repack television broadcast station licensees, but must make reasonable efforts to ensure such licensees retain service that is substantially similar in service contour and amount of harmful interference.
- Prohibits the FCC from involuntarily moving television broadcast licensees from UHF to VHF and instructs the FCC to allow licensees located in VHF to relocate to UHF.
- Ensures that television broadcast licensees are compensated for costs associated with relocation as well as any modification of spectrum usage rights resulting from reorganization. Requires the FCC to make reasonable efforts to preserve the amount of population covered by the signal of licensees affected by any modification and to avoid any substantial increase in harmful interference as a result of the modification.

- Prohibits the FCC from involuntarily co-locating multiple television broadcast station licenses on the same channel. Specifies that any such licensee that voluntarily elects to be co-located shall retain the same carriage rights as before the co-location and receive payment for any costs of relocation and modification of spectrum usage rights.
- Creates a new Incentive Auction Relocation Fund to compensate broadcast licensees for costs associated with relocation and modification. \$2 billion is made available under the Fund for costs associated with relocation, including costs of new equipment, installation and construction (including the costs of tower, antenna, transmitter, and transmission line upgrades) as well as costs incurred by multi-channel video programming distributors. Broadcast licensees are prohibited from recovering lost revenues under the fund, however.

Title IV – Public Safety Trust Fund

The legislation establishes a Public Safety Trust Fund to disburse funds from the auctions specified in Title III. Using these revenues, the Fund finances:

- Disbursal to licensees that voluntarily participate in an incentive auction
- Costs associated with relocation and modification of broadcast spectrum usage rights identified under Title III of the bill
- \$250 million for the State, Local, and Tribal Planning and Implementation Fund
- \$11 billion for the Public Safety Broadband Corporation
- \$500 million for public safety research and development
- \$2 million for cost study on Next Generation 9-1-1 services

Any funds that remain must be deposited in the general fund of the Treasury for the sole purpose of deficit reduction.

Title V – Planning for the Future

The legislation establishes several ongoing reporting requirements to facilitate efficient use of the nation's spectral resources. Specifically, the legislation:

- Incorporates H.R. 3125 as passed by the House in the 111th Congress that directs the FCC and NTIA to conduct a comprehensive spectrum inventory (Sec. 501).
- Directs federal entities to review their spectrum allocation processes and to produce a strategic plan for federal spectrum use as well as a National Strategic Spectrum Plan (Sec. 502).
- Improves the process of repurposing federal spectrum for commercial services by allowing upfront payment to agencies incurring relocation or sharing costs as well as allowing agencies to upgrade their system capabilities as part of the relocation process (Sec. 503).
- Requires the GAO to conduct a study on spectrum efficiency through receiver standards (Sec. 504).
- Requires the FCC to allow unlicensed indoor devices to operate in the 5350-5470 MHz band and the 5850-5925 MHz band (Sec. 505).
- Requires the FCC to submit regular reports on the availability and feasibility of wireless equipment capable of operating over all commercial spectrum in the 700 MHz band as well as any broadcast television spectrum made available via incentive auction (Sec. 506).