

## [COMMITTEE PRINT]

[SHOWING THE TEXT AND TITLE OF H.R. 451 AS FORWARDED BY THE  
SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY ON MARCH  
10, 2020]

116TH CONGRESS  
1ST SESSION

# H. R. 451

To repeal the section of the Middle Class Tax Relief and Job Creation Act of 2012 that requires the Federal Communications Commission to reallocate and auction the T-Band spectrum.

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### IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2019

Mr. ENGEL (for himself, Mr. ZELDIN, Mr. GREEN of Texas, and Mr. KING of New York) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To repeal the section of the Middle Class Tax Relief and Job Creation Act of 2012 that requires the Federal Communications Commission to reallocate and auction the T-Band spectrum.

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 “Don’t Break Up the  
5 T-Band Act of 2019”.

1 **SEC. 2. REPEAL OF REQUIREMENT TO REALLOCATE AND**  
2 **AUCTION T-BAND SPECTRUM.**

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5 is repealed.

6 (b) CLERICAL AMENDMENT.—The table of contents  
7 in section 1(b) of such Act is amended by striking the  
8 item relating to section 6103.

9 **SEC. 3. CLARIFYING ACCEPTABLE 9-1-1 OBLIGATIONS OR**  
10 **EXPENDITURES.**

11 Section 6 of the Wireless Communications and Public  
12 Safety Act of 1999 (47 U.S.C. 615a-1) is amended—

13 (1) in subsection (f)—

14 (A) in paragraph (1), by striking “as spec-  
15 ified in the provision of State or local law  
16 adopting the fee or charge” and inserting “con-  
17 sistent with the purposes and functions des-  
18 igned in the final rules issued under para-  
19 graph (3) as purposes and functions for which  
20 the obligation or expenditure of such a fee or  
21 charge is acceptable”;

22 (B) in paragraph (2), by striking “any  
23 purpose other than the purpose for which any  
24 such fees or charges are specified” and insert-  
25 ing “any purpose or function other than the  
26 purposes and functions designated in the final

1 rules issued under paragraph (3) as purposes  
2 and functions for which the obligation or ex-  
3 penditure of any such fees or charges is accept-  
4 able”; and

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

6 “(3) ACCEPTABLE OBLIGATIONS OR EXPENDI-  
7 TURES.—

8 “(A) RULES REQUIRED.—In order to pre-  
9 vent diversion of 9–1–1 fees or charges, the  
10 Commission shall, not later than 180 days after  
11 the date of the enactment of this paragraph,  
12 issue final rules designating purposes and func-  
13 tions for which the obligation or expenditure of  
14 9–1–1 fees or charges, by any State or taxing  
15 jurisdiction authorized to impose such a fee or  
16 charge, is acceptable.

17 “(B) PURPOSES AND FUNCTIONS.—The  
18 purposes and functions designated under sub-  
19 paragraph (A) shall be limited to the support  
20 and implementation of 9–1–1 services provided  
21 by or in the State or taxing jurisdiction impos-  
22 ing the fee or charge and operational expenses  
23 of public safety answering points within such  
24 State or taxing jurisdiction. In designating such  
25 purposes and functions, the Commission shall

1 consider the purposes and functions that States  
2 and taxing jurisdictions specify as the intended  
3 purposes and functions for the 9–1–1 fees or  
4 charges of such States and taxing jurisdictions,  
5 and determine whether such purposes and func-  
6 tions directly support providing 9–1–1 services.

7 “(C) CONSULTATION REQUIRED.—The  
8 Commission shall consult with public safety or-  
9 ganizations and States and taxing jurisdictions  
10 as part of any proceeding under this paragraph.

11 “(D) DEFINITIONS.—In this paragraph:

12 “(i) 9–1–1 FEE OR CHARGE.—The  
13 term ‘9–1–1 fee or charge’ means a fee or  
14 charge applicable to commercial mobile  
15 services or IP-enabled voice services spe-  
16 cifically designated by a State or taxing ju-  
17 risdiction for the support or implementa-  
18 tion of 9–1–1 services.

19 “(ii) 9–1–1 SERVICES.—The term ‘9–  
20 1–1 services’ has the meaning given such  
21 term in section 158(e) of the National  
22 Telecommunications and Information Ad-  
23 ministration Organization Act (47 U.S.C.  
24 942(e)).

1                   “(iii) STATE OR TAXING JURISDIC-  
2                   TION.—The term ‘State or taxing jurisdic-  
3                   tion’ means a State, political subdivision  
4                   thereof, Indian Tribe, or village or regional  
5                   corporation serving a region established  
6                   pursuant to the Alaska Native Claims Set-  
7                   tlement Act (43 U.S.C. 1601 et seq.).

8                   “(4) PARTICIPATION.—If a State or taxing ju-  
9                   risdiction (as defined in paragraph (3)(D)) receives  
10                  a grant under section 158 of the National Tele-  
11                  communications and Information Administration Or-  
12                  ganization Act (47 U.S.C. 942) after the date of the  
13                  enactment of this paragraph, such State or taxing  
14                  jurisdiction shall, as a condition of receiving such  
15                  grant, provide the information requested by the  
16                  Commission to prepare the report required by para-  
17                  graph (2).

18                  “(5) PETITION REGARDING ADDITIONAL PUR-  
19                  POSES AND FUNCTIONS.—

20                  “(A) IN GENERAL.—A State or taxing ju-  
21                  risdiction (as defined in paragraph (3)(D)) may  
22                  submit to the Commission a petition for a de-  
23                  termination that an obligation or expenditure of  
24                  a 9–1–1 fee or charge (as defined in such para-  
25                  graph) by such State or taxing jurisdiction for

1 a purpose or function other than a purpose or  
2 function designated under paragraph (3)(A)  
3 should be treated as such a purpose or function.  
4 If the Commission finds that the State or tax-  
5 ing jurisdiction has provided sufficient docu-  
6 mentation to make the demonstration described  
7 in subparagraph (B), the Commission shall  
8 grant such petition.

9 “(B) DEMONSTRATION DESCRIBED.—The  
10 demonstration described in this subparagraph is  
11 a demonstration that the purpose or function—

12 “(i) supports public safety answering  
13 point functions or operations; or

14 “(ii) has a direct impact on the ability  
15 of a public safety answering point to—

16 “(I) receive or respond to 9-1-1  
17 calls; or

18 “(II) dispatch emergency re-  
19 sponders.”; and

20 (2) by adding at the end the following:

21 “(j) SEVERABILITY CLAUSE.—If any provision of this  
22 section or the application thereof to any person or cir-  
23 cumstance is held invalid, the remainder of this section  
24 and the application of such provision to other persons or  
25 circumstances shall not be affected thereby.”.

1 **SEC. 4. PROHIBITION ON 9-1-1 FEE OR CHARGE DIVERSION.**

2 (a) IN GENERAL.—If the Commission obtains evi-  
3 dence that suggests the diversion by a State or taxing ju-  
4 risdiction of 9-1-1 fees or charges, the Commission shall  
5 submit such information, including any information re-  
6 garding the impact of any underfunding of 9-1-1 services  
7 in the State or taxing jurisdiction, to the interagency  
8 strike force established under subsection (c).

9 (b) REPORT TO CONGRESS.—Beginning with the first  
10 report under section 6(f)(2) of the Wireless Communica-  
11 tions and Public Safety Act of 1999 (47 U.S.C. 615a-  
12 1(f)(2)) that is required to be submitted after the date  
13 that is 1 year after the date of the enactment of this Act,  
14 the Commission shall include in each report required  
15 under such section all evidence that suggests the diversion  
16 by a State or taxing jurisdiction of 9-1-1 fees or charges,  
17 including any information regarding the impact of any  
18 underfunding of 9-1-1 services in the State or taxing ju-  
19 risdiction.

20 (c) INTERAGENCY STRIKE FORCE TO END 9-1-1  
21 FEE OR CHARGE DIVERSION.—

22 (1) ESTABLISHMENT.—Not later than 180 days  
23 after the date of the enactment of this Act, the  
24 Commission shall establish an interagency strike  
25 force to study how the Federal Government can  
26 most expeditiously end diversion by a State or taxing

1 jurisdiction of 9–1–1 fees or charges. Such inter-  
2 agency strike force shall be known as the “Ending  
3 9–1–1 Fee Diversion Now Strike Force” (in this  
4 section referred to as the “Strike Force”).

5 (2) DUTIES.—In carrying out the study under  
6 paragraph (1), the Strike Force shall—

7 (A) determine the effectiveness of any Fed-  
8 eral laws, including regulations, policies, and  
9 practices, or budgetary or jurisdictional con-  
10 straints regarding how the Federal Government  
11 can most expeditiously end diversion by a State  
12 or taxing jurisdiction of 9–1–1 fees or charges;

13 (B) consider whether criminal penalties  
14 would further prevent diversion by a State or  
15 taxing jurisdiction of 9–1–1 fees or charges;  
16 and

17 (C) determine the impacts of diversion by  
18 a State or taxing jurisdiction of 9–1–1 fees or  
19 charges.

20 (3) MEMBERS.—The Strike Force shall be com-  
21 posed of such representatives of Federal depart-  
22 ments and agencies as the Commission considers ap-  
23 propriate, in addition to—

24 (A) State attorneys general;



1 (B) States or taxing jurisdictions found  
2 not to be engaging in diversion of 9–1–1 fees  
3 or charges;

4 (C) States or taxing jurisdictions trying to  
5 stop the diversion of 9–1–1 fees or charges;

6 (D) State 9–1–1 administrators;

7 (E) public safety organizations;

8 (F) groups representing the public and  
9 consumers; and

10 (G) groups representing public safety an-  
11 swering point professionals.

12 (4) REPORT TO CONGRESS.—Not later than  
13 270 days after the date of the enactment of this Act,  
14 the Strike Force shall publish on the website of the  
15 Commission and submit to the Committee on En-  
16 ergy and Commerce of the House of Representatives  
17 and the Committee on Commerce, Science, and  
18 Transportation of the Senate a report on the find-  
19 ings of the study under this subsection, including—

20 (A) any recommendations regarding how to  
21 most expeditiously end the diversion by a State  
22 or taxing jurisdiction of 9–1–1 fees or charges,  
23 including actions that can be taken by Federal  
24 departments and agencies and appropriate  
25 changes to law or regulations; and

1 (B) a description of what progress, if any,  
2 relevant Federal departments and agencies have  
3 made in implementing the recommendations  
4 under subparagraph (A).

5 (d) FAILURE TO COMPLY.—Notwithstanding any  
6 other provision of law, any State or taxing jurisdiction  
7 identified by the Commission in the report required under  
8 section 6(f)(2) of the Wireless Communications and Public  
9 Safety Act of 1999 (47 U.S.C. 615a–1(f)(2)) as engaging  
10 in diversion of 9–1–1 fees or charges shall be ineligible  
11 to participate or send a representative to serve on any  
12 committee, panel, or council established under section  
13 6205(a) of the Middle Class Tax Relief and Job Creation  
14 Act of 2012 (47 U.S.C. 1425(a)) or any advisory com-  
15 mittee established by the Commission.

16 **SEC. 5. RULE OF CONSTRUCTION.**

17 Nothing in this Act, the Wireless Communications  
18 and Public Safety Act of 1999 (Public Law 106–81), or  
19 the Communications Act of 1934 (47 U.S.C. 151 et seq.)  
20 shall be construed to prevent a State or taxing jurisdiction  
21 from requiring an annual audit of the books and records  
22 of a provider of 9–1–1 services concerning the collection  
23 and remittance of a 9–1–1 fee or charge.

24 **SEC. 6. DEFINITIONS.**

25 In this Act:

1           (1) 9-1-1 FEE OR CHARGE.—The term “9-1-  
2           1 fee or charge” has the meaning given such term  
3           in subparagraph (D) of paragraph (3) of section 6(f)  
4           of the Wireless Communications and Public Safety  
5           Act of 1999, as added by this Act.

6           (2) 9-1-1 SERVICES.—The term “9-1-1 serv-  
7           ices” has the meaning given such term in section  
8           158(e) of the National Telecommunications and In-  
9           formation Administration Organization Act (47  
10          U.S.C. 942(e)).

11          (3) COMMISSION.—The term “Commission”  
12          means the Federal Communications Commission.

13          (4) DIVERSION.—The term “diversion” means,  
14          with respect to a 9-1-1 fee or charge, the obligation  
15          or expenditure of such fee or charge for a purpose  
16          or function other than the purposes and functions  
17          designated in the final rules issued under paragraph  
18          (3) of section 6(f) of the Wireless Communications  
19          and Public Safety Act of 1999, as added by this Act,  
20          as purposes and functions for which the obligation  
21          or expenditure of such a fee or charge is acceptable.

22          (5) STATE OR TAXING JURISDICTION.—The  
23          term “State or taxing jurisdiction” has the meaning  
24          given such term in subparagraph (D) of paragraph

1       (3) of section 6(f) of the Wireless Communications  
2       and Public Safety Act of 1999, as added by this Act.

Amend the title so as to read: “A bill to repeal the requirement to reallocate and auction the T-Band spectrum, to amend the Wireless Communications and Public Safety Act of 1999 to clarify acceptable 9–1–1 obligations or expenditures, and for other purposes.”.