

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3430
OFFERED BY MS. MATSUI OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Spectrum Relocation
3 Enhancement Act”.

4 SEC. 2. FEDERAL SPECTRUM RELOCATION AND SHARING.

5 (a) RELOCATION OR SHARING COSTS TO SATISFY
6 COMPARABLE OR ENHANCED CAPABILITIES OF FEDERAL
7 ENTITIES.—

8 (1) IN GENERAL.—The National Telecommuni-
9 cations and Information Administration Administra-
10 tion Act (47 U.S.C. 901 et seq.) is amended—

11 (A) in section 113(g)—

12 (i) in paragraph (3)—

13 (I) in the first sentence of sub-
14 paragraph (A), by inserting “or en-
15 hanced” after “comparable”; and

16 (II) by amending subparagraph

17 (B) to read as follows:

1 “(B) COMPARABLE OR ENHANCED CAPA-
2 BILITY.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (ii), for purposes of sub-
5 paragraph (A), paragraph (6), and section
6 118(f)(2)(B)(ii), comparable or enhanced
7 capability of a Federal entity means—

8 “(I) the functions performed by
9 the entity using eligible frequencies
10 being reallocated from Federal use to
11 non-Federal use, from Federal use to
12 shared Federal and non-Federal use,
13 or a combination thereof; and

14 “(II) evolving technological
15 functionality, as considered appro-
16 priate by the Technical Panel estab-
17 lished under subsection (h)(3), includ-
18 ing state-of-the-art systems that may
19 reflect advances in wireless technology
20 or incidental increases in functionality
21 that improve the efficiency of spec-
22 trum use of Federal entities.

23 “(ii) EXCEPTION.—The comparable or
24 enhanced capability described in clause (i)
25 does not include—

1 “(I) any equipment or infrastruc-
2 ture into which devices using eligible
3 frequencies are incorporated;

4 “(II) any ancillary equipment
5 otherwise related to the activities of
6 the Federal entity; or

7 “(III) with respect to evolving
8 technological functionality described
9 in clause (i)(II), any comparable or
10 enhanced capability the relocation or
11 sharing costs of which jeopardize the
12 opportunity for a successful realloca-
13 tion of eligible frequencies for non-
14 Federal use, shared Federal or non-
15 Federal use, or a combination there-
16 of.”; and

17 (ii) in paragraph (6), by inserting “or
18 enhanced” after “comparable” each place
19 it appears; and

20 (B) in section 118(f)(2)(B)(ii), by inserting
21 “or enhanced” after “comparable”.

22 (2) APPLICABILITY.—The amendments made
23 by paragraph (1) shall apply with respect to reloca-
24 tion or sharing costs, or payments under section
25 118(f) of the National Telecommunications and In-

1 formation Administration Organization Act (47
2 U.S.C. 928(f)), as the case may be, with respect to
3 a transition plan that is found to be sufficient under
4 section 113(h)(4) of such Act (47 U.S.C. 923(h)(4))
5 after the date of the enactment of this Act.

6 (b) PAYMENTS FROM SPECTRUM RELOCATION FUND
7 FOR RESEARCH AND DEVELOPMENT AND PLANNING AC-
8 TIVITIES.—

9 (1) IN GENERAL.—Section 118(g)(2) of the Na-
10 tional Telecommunications and Information Admin-
11 istration Organization Act (47 U.S.C. 928(g)(2)) is
12 amended to read as follows:

13 “(2) USE OF AMOUNTS.—

14 “(A) IN GENERAL.—The Director of OMB
15 may use amounts made available under para-
16 graph (1) to make payments intended to im-
17 prove the efficiency and effectiveness of the
18 spectrum use of Federal entities in order to
19 make available frequencies described in sub-
20 paragraph (C) for reallocation for non-Federal
21 use or shared Federal and non-Federal use, or
22 a combination thereof, and for auction in ac-
23 cordance with such reallocation—

24 “(i) to Federal entities for research
25 and development, engineering studies, eco-

1 nomic analyses, activities with respect to
2 systems, preparing transition plans re-
3 quired by section 113(h)(1), or other plan-
4 ning activities; and

5 “(ii) to the NTIA for research and de-
6 velopment, engineering studies, economic
7 analyses, or other planning activities or to
8 conduct activities required by subpara-
9 graph (H).

10 “(B) ACTIVITIES WITH RESPECT TO SYS-
11 TEMS.—For purposes of a payment under sub-
12 paragraph (A)(i) for activities with respect to
13 systems, such systems include the following:

14 “(i) Systems that have increased
15 functionality or that increase the ability of
16 a Federal entity to accommodate spectrum
17 sharing with non-Federal entities.

18 “(ii) Systems that consolidate func-
19 tions or services that have been provided
20 using separate systems.

21 “(iii) Systems that utilize services or
22 technologies that do not require the use of
23 electromagnetic spectrum frequencies.

24 “(C) FREQUENCIES DESCRIBED.—The fre-
25 quencies described in this subparagraph are,

1 with respect to a payment under subparagraph
2 (A), frequencies—

3 “(i) that are assigned to a Federal en-
4 tity; and

5 “(ii) at the time of the activities con-
6 ducted with such payment, with respect to
7 which no relocation or sharing costs have
8 been transferred to the Federal entity
9 under subsection (d)(3) or (e).

10 “(D) CONDITIONS.—The Director of OMB
11 may not make a payment to a Federal entity
12 under subparagraph (A)(i)—

13 “(i) unless—

14 “(I) the Federal entity has sub-
15 mitted to the Technical Panel estab-
16 lished under section 113(h)(3) a plan
17 describing the activities that the Fed-
18 eral entity will conduct with such pay-
19 ment;

20 “(II) the NTIA has reviewed the
21 plan, determined that the activities
22 described in the plan and the costs as-
23 sociated with such activities are ap-
24 propriate, and advised the Director of

1 OMB as to the appropriateness of
2 such costs;

3 “(III) the Technical Panel has
4 approved such plan under subpara-
5 graph (F); and

6 “(IV) the Director of OMB has
7 submitted the plan approved under
8 subparagraph (F) to the congressional
9 committees described in subsection
10 (d)(2)(C); and

11 “(ii) until 30 days have elapsed after
12 submission of the plan under clause
13 (i)(IV).

14 “(E) REQUIREMENTS FOR PLAN OF FED-
15 ERAL ENTITY.—

16 “(i) REQUIRED CONTENTS.—A plan
17 submitted by a Federal entity under sub-
18 paragraph (D)(i)(I) with respect to a pay-
19 ment under this subsection shall, con-
20 sistent with the timeline required by sec-
21 tion 113(h)(1), include the following:

22 “(I) A plan and timeline for the
23 activities to be conducted with such
24 payment, including a description and

1 the estimated cost of each effort in-
2 cluded as part of each such activity.

3 “(II) A schedule for such activi-
4 ties, with incremental deliverables and
5 that includes time for review by the
6 NTIA of interim results and for the
7 NTIA to advise the Director of OMB
8 regarding subsequent payments.

9 “(III) Requirements for status
10 reporting to the Director of OMB and
11 the NTIA.

12 “(IV) Requirements for partici-
13 pation in any NTIA-led activities as-
14 sociated with the plan.

15 “(ii) ESTABLISHMENT OF ADDITIONAL
16 REQUIREMENTS FOR CONTENTS.—The
17 Technical Panel established under section
18 113(h)(3) may establish additional require-
19 ments for the contents of the plan to be
20 submitted under subparagraph (D)(i)(I) to
21 facilitate review and approval or dis-
22 approval of the plan under subparagraph
23 (F).

24 “(iii) COORDINATION BY FEDERAL
25 ENTITY WITH NTIA.—A Federal entity that

1 is developing a plan to be submitted under
2 subparagraph (D)(i)(I) shall coordinate
3 with the NTIA during the development of
4 the plan, including any research, engineer-
5 ing, or analysis activities included in the
6 plan.

7 “(iv) REVISED ACTIVITIES AND UP-
8 DATED PLAN.—

9 “(I) REVISED ACTIVITIES.—If
10 the NTIA, in consultation with the
11 Director of OMB, determines that re-
12 visions to the activities that a Federal
13 entity is conducting with a payment
14 under this subsection are required to
15 achieve the most efficient and effec-
16 tive use of spectrum by Federal enti-
17 ties in order to make frequencies
18 available for reallocation for non-Fed-
19 eral use or shared Federal and non-
20 Federal use, or a combination thereof,
21 and for auction in accordance with
22 such reallocation—

23 “(aa) the NTIA, in consulta-
24 tion with the Director of OMB,
25 shall direct the Federal entity to

1 revise such activities in accord-
2 ance with the determination; and

3 “(bb) not later than 45 days
4 after receiving the direction
5 under item (aa), the Federal en-
6 tity shall revise such activities as
7 directed.

8 “(II) UPDATED PLAN.—If the
9 Director of OMB, in consultation with
10 the NTIA, determines that the revi-
11 sions the NTIA has directed a Fed-
12 eral entity to make under subclause
13 (I) to the activities the Federal entity
14 is conducting with a payment under
15 this subsection are outside the scope
16 of the original plan or the most recent
17 updated plan (as the case may be) of
18 the Federal entity with respect to
19 such payment that was approved
20 under subparagraph (F)—

21 “(aa) the Director of OMB
22 shall direct the Federal entity to
23 submit an updated plan under
24 subparagraph (D)(i)(I) to reflect
25 such revisions; and

1 “(bb) not later than 45 days
2 after receiving the direction
3 under item (aa), the Federal en-
4 tity shall submit such updated
5 plan under subparagraph
6 (D)(i)(I), which shall be approved
7 or disapproved under subpara-
8 graph (F) in the same manner as
9 the original plan.

10 “(F) REVIEW OF PLAN BY TECHNICAL
11 PANEL.—

12 “(i) IN GENERAL.—Not later than
13 120 days after a Federal entity submits a
14 plan under subparagraph (D)(i)(I) to the
15 Technical Panel established under section
16 113(h)(3), the Technical Panel shall ap-
17 prove or disapprove such plan.

18 “(ii) CRITERIA FOR REVIEW.—In con-
19 sidering whether to approve or disapprove
20 a plan under this subparagraph, the Tech-
21 nical Panel shall consider whether—

22 “(I) the activities that the Fed-
23 eral entity will conduct with the pay-
24 ment will—

1 “(aa) meet the requirements
2 of section 113(g)(3)(B);

3 “(bb) increase the prob-
4 ability of relocation from or shar-
5 ing of Federal spectrum;

6 “(cc) facilitate an auction
7 intended to occur not later than
8 8 years after the payment; and

9 “(dd) increase the net ex-
10 pected auction proceeds in an
11 amount not less than the time
12 value of the amount of the pay-
13 ment; and

14 “(II) the transfer will leave suffi-
15 cient amounts in the Fund for the
16 other purposes of the Fund.

17 “(G) REQUIRED USE OF PAYMENT.—

18 “(i) IN GENERAL.—Except as pro-
19 vided in clause (ii), a Federal entity that
20 receives a payment under this subsection
21 may only use the payment in accordance
22 with the original plan or the most recent
23 updated plan (as the case may be) of the
24 Federal entity with respect to such pay-

1 ment that was approved under subpara-
2 graph (F).

3 “(ii) INTERIM AUTHORITY TO CON-
4 DUCT REVISED ACTIVITIES.—In the case of
5 a Federal entity that has received a direc-
6 tion from the Director of OMB under sub-
7 paragraph (E)(iv)(II)(aa) to submit an up-
8 dated plan under subparagraph (D)(i)(I)
9 to reflect revisions that the NTIA has di-
10 rected the Federal entity to make under
11 subparagraph (E)(iv)(I)(aa) to the activi-
12 ties that the Federal entity is conducting
13 with a payment under this subsection, the
14 Federal entity may use the payment to
15 conduct activities that reflect such revi-
16 sions notwithstanding clause (i) until—

17 “(I) if the Federal entity fails to
18 submit the updated plan by the dead-
19 line under subparagraph
20 (E)(iv)(II)(bb), such deadline; or

21 “(II) if the Federal entity sub-
22 mits the updated plan by the deadline
23 under subparagraph (E)(iv)(II)(bb),
24 the date on which the updated plan is

1 approved or disapproved under sub-
2 paragraph (F).

3 “(iii) TERMINATION OF AUTHORITY
4 TO USE PAYMENT.—If a Federal entity de-
5 scribed in clause (ii) fails to submit the up-
6 dated plan by the deadline under subpara-
7 graph (E)(iv)(II)(bb), or if the updated
8 plan is disapproved under subparagraph
9 (F), the Federal entity may not, after such
10 deadline or the date on which the updated
11 plan is disapproved (as the case may be),
12 conduct any activities using such payment,
13 until such time as the updated plan is sub-
14 mitted or resubmitted (as the case may be)
15 and approved under subparagraph (F).

16 “(H) ROLE OF NTLA.—

17 “(i) OVERSIGHT BY NTLA.—The NTLA
18 shall—

19 “(I) establish and carry out a
20 process to conduct oversight of the
21 execution of plans approved under
22 subparagraph (F);

23 “(II) in accordance with subpara-
24 graph (D)(i)(II), review plans sub-
25 mitted under subparagraph (D)(i)(I),

1 determine whether the activities de-
2 scribed in such plans and the costs as-
3 sociated with such activities are ap-
4 propriate, and advise the Director of
5 OMB as to the appropriateness of
6 such costs;

7 “(III) in accordance with sub-
8 paragraph (E)(i)(II), review the in-
9 terim results of the activities con-
10 ducted by Federal entities using pay-
11 ments under this subsection and ad-
12 vise the Director of OMB regarding
13 subsequent payments to such entities;

14 “(IV) in accordance with sub-
15 paragraph (E)(iv)(I), determine
16 whether revisions to the activities that
17 a Federal entity is conducting with a
18 payment under this subsection are re-
19 quired and, if so, direct the Federal
20 entity to revise such activities;

21 “(V) in accordance with subpara-
22 graph (E)(iv)(II), consult with the Di-
23 rector of OMB on the need for the
24 Federal entity to submit an updated

1 plan under subparagraph (D)(i)(I) to
2 reflect any such revised activities; and
3 “(VI) conduct activities required
4 to aggregate the results of activities
5 conducted by individual Federal enti-
6 ties with payments under this sub-
7 section into a comprehensive assess-
8 ment to ensure any recommendation
9 to the Commission for reallocation of
10 a band of frequencies has properly ac-
11 counted for, addressed, and protected
12 all Federal interests in and adjacent
13 to the band.

14 “(ii) SPECTRUM STUDIES.—

15 “(I) ACTIVITIES NOT IDENTIFIED
16 IN PLANS OF FEDERAL ENTITIES.—
17 The NTIA, in coordination with Fed-
18 eral entities and in consultation with
19 the Technical Panel established under
20 section 113(h)(3), shall, as needed,
21 conduct spectrum studies (including
22 studies relating to advances in spec-
23 trum engineering, science, and tech-
24 nology) that evaluate the technical
25 feasibility for future relocation from

1 or sharing of proposed frequencies
2 that are not associated with the activi-
3 ties identified in the plans of Federal
4 entities approved under subparagraph
5 (F).

6 “(II) PARTICIPATION AND INFOR-
7 MATION FROM FEDERAL AGENCIES.—
8 A Federal agency shall participate in
9 the spectrum studies described in sub-
10 clause (I) and provide information to
11 the NTIA, as necessary for the NTIA
12 to carry out such subclause.

13 “(III) PROPOSED FREQUENCIES
14 DEFINED.—In this clause, the term
15 ‘proposed frequencies’ means fre-
16 quencies—

17 “(aa) that are assigned to a
18 Federal entity;

19 “(bb) that, at the time of
20 the spectrum studies conducted,
21 have not been identified as reallo-
22 cable frequencies; and

23 “(cc) that the Assistant Sec-
24 retary, in consultation with the
25 Technical Panel established

1 under section 113(h)(3), deter-
2 mines have a high probability of
3 being identified as reallocable fre-
4 quencies and resulting in an auc-
5 tion.”.

6 (2) CONFORMING AMENDMENT.—Section
7 113(h)(3)(C) of the National Telecommunications
8 and Information Administration Organization Act
9 (47 U.S.C. 923(h)(3)(C)) is amended by striking
10 “section 118(g)(2)(E)” and inserting “section
11 118(g)(2)(F)”.

12 (3) APPLICABILITY.—The amendments made
13 by this subsection shall apply with respect to pay-
14 ments requested under section 118(g)(2) of the Na-
15 tional Telecommunications and Information Admin-
16 istration Organization Act (47 U.S.C. 928(g)(2))
17 after the date of the enactment of this Act.

