

# Union Calendar No. 421

116TH CONGRESS  
2D SESSION

# H. R. 451

[Report No. 116–521]

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

SEPTEMBER 18, 2020

Additional sponsors: Mr. ROSE of New York, Mrs. LOWEY, Mr. SCHIFF, Mrs. TORRES of California, Mr. LYNCH, Mrs. NAPOLITANO, Mr. PASCRELL, Mr. MOULTON, Ms. VELÁZQUEZ, Mrs. CAROLYN B. MALONEY of New York, Ms. MENG, Miss RICE of New York, Ms. NORTON, Ms. JACKSON LEE, Mr. ESPAILLAT, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. SUOZZI, Mr. LAMB, Mr. VAN DREW, Mr. GOTTHEIMER, and Mr. NEGUSE

SEPTEMBER 18, 2020

Reported with amendments; committed to the Committee of the Whole House  
on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 10, 2019]

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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 2020”.*

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

8           *(a) REPEAL.—Section 6103 of the Middle Class Tax*  
 9       *Relief and Job Creation Act of 2012 (47 U.S.C. 1413) is*  
 10       *repealed.*

11          *(b) CLERICAL AMENDMENT.—The table of contents in*  
 12       *section 1(b) of such Act is amended by striking the item*  
 13       *relating to section 6103.*

14       **SEC. 3. CLARIFYING ACCEPTABLE 9–1–1 OBLIGATIONS OR**  
 15               **EXPENDITURES.**

16       *Section 6 of the Wireless Communications and Public*  
 17       *Safety Act of 1999 (47 U.S.C. 615a–1) is amended—*

18               *(1) in subsection (f)—*

19                       *(A) in paragraph (1), by striking “as speci-*  
 20               *fied in the provision of State or local law adopt-*  
 21               *ing the fee or charge” and inserting “consistent*  
 22               *with the purposes and functions designated in*  
 23               *the final rules issued under paragraph (3) as*  
 24               *purposes and functions for which the obligation*

1        *or expenditure of such a fee or charge is accept-*  
 2        *able”;*

3                *(B) in paragraph (2), by striking “any*  
 4        *purpose other than the purpose for which any*  
 5        *such fees or charges are specified” and inserting*  
 6        *“any purpose or function other than the pur-*  
 7        *poses and functions designated in the final rules*  
 8        *issued under paragraph (3) as purposes and*  
 9        *functions for which the obligation or expenditure*  
 10        *of any such fees or charges is acceptable”; and*

11                *(C) by adding at the end the following:*

12                *“(3) ACCEPTABLE OBLIGATIONS OR EXPENDI-*  
 13        *TURES.—*

14                *“(A) RULES REQUIRED.—In order to pre-*  
 15        *vent diversion of 9–1–1 fees or charges, the Com-*  
 16        *mission shall, not later than 180 days after the*  
 17        *date of the enactment of this paragraph, issue*  
 18        *final rules designating purposes and functions*  
 19        *for which the obligation or expenditure of 9–1–*  
 20        *1 fees or charges, by any State or taxing juris-*  
 21        *isdiction authorized to impose such a fee or*  
 22        *charge, is acceptable.*

23                *“(B) PURPOSES AND FUNCTIONS.—The pur-*  
 24        *poses and functions designated under subpara-*  
 25        *graph (A) shall be limited to the support and*

1        *implementation of 9–1–1 services provided by or*  
2        *in the State or taxing jurisdiction imposing the*  
3        *fee or charge and operational expenses of public*  
4        *safety answering points within such State or*  
5        *taxing jurisdiction. In designating such purposes*  
6        *and functions, the Commission shall consider the*  
7        *purposes and functions that States and taxing*  
8        *jurisdictions specify as the intended purposes*  
9        *and functions for the 9–1–1 fees or charges of*  
10       *such States and taxing jurisdictions, and deter-*  
11       *mine whether such purposes and functions di-*  
12       *rectly support providing 9–1–1 services.*

13            *“(C) CONSULTATION REQUIRED.—The Com-*  
14        *mission shall consult with public safety organi-*  
15        *zations and States and taxing jurisdictions as*  
16        *part of any proceeding under this paragraph.*

17            *“(D) DEFINITIONS.—In this paragraph:*

18                    *“(i) 9–1–1 FEE OR CHARGE.—The*  
19        *term ‘9–1–1 fee or charge’ means a fee or*  
20        *charge applicable to commercial mobile*  
21        *services or IP-enabled voice services specifi-*  
22        *cally designated by a State or taxing juris-*  
23        *isdiction for the support or implementation of*  
24        *9–1–1 services.*

“(ii) *9-1-1 SERVICES.*—The term ‘9-1-1 services’ has the meaning given such term in section 158(e) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(e)).

“(iii) *STATE OR TAXING JURISDICTION.*—The term ‘State or taxing jurisdiction’ means a State, political subdivision thereof, Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“(4) *PARTICIPATION.*—If a State or taxing jurisdiction (as defined in paragraph (3)(D)) receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after the date of the enactment of this paragraph, such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare the report required by paragraph (2).

“(5) *PETITION REGARDING ADDITIONAL PURPOSES AND FUNCTIONS.*—

1           “(A) *IN GENERAL.*—A State or taxing juris-  
 2           diction (as defined in paragraph (3)(D)) may  
 3           submit to the Commission a petition for a deter-  
 4           mination that an obligation or expenditure of a  
 5           9–1–1 fee or charge (as defined in such para-  
 6           graph) by such State or taxing jurisdiction for  
 7           a purpose or function other than a purpose or  
 8           function designated under paragraph (3)(A)  
 9           should be treated as such a purpose or function.  
 10          If the Commission finds that the State or taxing  
 11          jurisdiction has provided sufficient documenta-  
 12          tion to make the demonstration described in sub-  
 13          paragraph (B), the Commission shall grant such  
 14          petition.

15           “(B) *DEMONSTRATION DESCRIBED.*—The  
 16          demonstration described in this subparagraph is  
 17          a demonstration that the purpose or function—

18                   “(i) supports public safety answering  
 19                   point functions or operations; or

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

22                           “(I) receive or respond to 9–1–1  
 23                           calls; or

24                           “(II) dispatch emergency respond-  
 25                           ers.”; and

1           (2) *by adding at the end the following:*

2           “(j) *SEVERABILITY CLAUSE.—If any provision of this*  
 3 *section or the application thereof to any person or cir-*  
 4 *cumstance is held invalid, the remainder of this section and*  
 5 *the application of such provision to other persons or cir-*  
 6 *cumstances shall not be affected thereby.”.*

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

8           (a) *IN GENERAL.—If the Commission obtains evidence*  
 9 *that suggests the diversion by a State or taxing jurisdiction*  
 10 *of 9–1–1 fees or charges, the Commission shall submit such*  
 11 *information, including any information regarding the im-*  
 12 *pect of any underfunding of 9–1–1 services in the State*  
 13 *or taxing jurisdiction, to the interagency strike force estab-*  
 14 *lished under subsection (c).*

15          (b) *REPORT TO CONGRESS.—Beginning with the first*  
 16 *report under section 6(f)(2) of the Wireless Communications*  
 17 *and Public Safety Act of 1999 (47 U.S.C. 615a–1(f)(2))*  
 18 *that is required to be submitted after the date that is 1 year*  
 19 *after the date of the enactment of this Act, the Commission*  
 20 *shall include in each report required under such section all*  
 21 *evidence that suggests the diversion by a State or taxing*  
 22 *jurisdiction of 9–1–1 fees or charges, including any infor-*  
 23 *mation regarding the impact of any underfunding of 9–*  
 24 *1–1 services in the State or taxing jurisdiction.*



1       (c) *INTERAGENCY STRIKE FORCE TO END 9–1–1 FEE*  
2 *OR CHARGE DIVERSION.*—

3           (1) *ESTABLISHMENT.*—Not later than 180 days  
4 after the date of the enactment of this Act, the Com-  
5 mission shall establish an interagency strike force to  
6 study how the Federal Government can most expedi-  
7 tiously end diversion by a State or taxing jurisdiction  
8 of 9–1–1 fees or charges. Such interagency strike force  
9 shall be known as the “Ending 9–1–1 Fee Diversion  
10 Now Strike Force” (in this section referred to as the  
11 “Strike Force”).

12          (2) *DUTIES.*—In carrying out the study under  
13 paragraph (1), the Strike Force shall—

14           (A) determine the effectiveness of any Fed-  
15 eral laws, including regulations, policies, and  
16 practices, or budgetary or jurisdictional con-  
17 straints regarding how the Federal Government  
18 can most expeditiously end diversion by a State  
19 or taxing jurisdiction of 9–1–1 fees or charges;

20           (B) consider whether criminal penalties  
21 would further prevent diversion by a State or  
22 taxing jurisdiction of 9–1–1 fees or charges; and

23           (C) determine the impacts of diversion by a  
24 State or taxing jurisdiction of 9–1–1 fees or  
25 charges.

1           (3) *MEMBERS.—The Strike Force shall be com-*  
2           *posed of such representatives of Federal departments*  
3           *and agencies as the Commission considers appro-*  
4           *priate, in addition to—*

5                     (A) *State attorneys general;*

6                     (B) *States or taxing jurisdictions found not*  
7           *to be engaging in diversion of 9–1–1 fees or*  
8           *charges;*

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

11                    (D) *State 9–1–1 administrators;*

12                    (E) *public safety organizations;*

13                    (F) *groups representing the public and con-*  
14          *sumers; and*

15                    (G) *groups representing public safety an-*  
16          *swering point professionals.*

17           (4) *REPORT TO CONGRESS.—Not later than 270*  
18          *days after the date of the enactment of this Act, the*  
19          *Strike Force shall publish on the website of the Com-*  
20          *mission and submit to the Committee on Energy and*  
21          *Commerce of the House of Representatives and the*  
22          *Committee on Commerce, Science, and Transpor-*  
23          *tation of the Senate a report on the findings of the*  
24          *study under this subsection, including—*

1           (A) any recommendations regarding how to  
2           most expeditiously end the diversion by a State  
3           or taxing jurisdiction of 9–1–1 fees or charges,  
4           including actions that can be taken by Federal  
5           departments and agencies and appropriate  
6           changes to law or regulations; and

7           (B) a description of what progress, if any,  
8           relevant Federal departments and agencies have  
9           made in implementing the recommendations  
10          under subparagraph (A).

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

22       **SEC. 5. RULE OF CONSTRUCTION.**

23       Nothing in this Act, the Wireless Communications and  
24       Public Safety Act of 1999 (Public Law 106–81), or the  
25       Communications Act of 1934 (47 U.S.C. 151 et seq.) shall

1 *be construed to prevent a State or taxing jurisdiction from*  
 2 *requiring an annual audit of the books and records of a*  
 3 *provider of 9–1–1 services concerning the collection and re-*  
 4 *mittance of a 9–1–1 fee or charge.*

5 **SEC. 6. DEFINITIONS.**

6 *In this Act:*

7 (1) 9–1–1 FEE OR CHARGE.—*The term “9–1–1*  
 8 *fee or charge” has the meaning given such term in*  
 9 *subparagraph (D) of paragraph (3) of section 6(f) of*  
 10 *the Wireless Communications and Public Safety Act*  
 11 *of 1999, as added by this Act.*

12 (2) 9–1–1 SERVICES.—*The term “9–1–1 serv-*  
 13 *ices” has the meaning given such term in section*  
 14 *158(e) of the National Telecommunications and Infor-*  
 15 *mation Administration Organization Act (47 U.S.C.*  
 16 *942(e)).*

17 (3) COMMISSION.—*The term “Commission”*  
 18 *means the Federal Communications Commission.*

19 (4) DIVERSION.—*The term “diversion” means,*  
 20 *with respect to a 9–1–1 fee or charge, the obligation*  
 21 *or expenditure of such fee or charge for a purpose or*  
 22 *function other than the purposes and functions des-*  
 23 *ignated in the final rules issued under paragraph (3)*  
 24 *of section 6(f) of the Wireless Communications and*  
 25 *Public Safety Act of 1999, as added by this Act, as*

1        *purposes and functions for which the obligation or ex-*  
2        *penditure of such a fee or charge is acceptable.*

3                (5) *STATE OR TAXING JURISDICTION.—The term*  
4        *“State or taxing jurisdiction” has the meaning given*  
5        *such term in subparagraph (D) of paragraph (3) of*  
6        *section 6(f) of the Wireless Communications and Pub-*  
7        *lic 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.”.

Union Calendar No. 421

116TH CONGRESS  
2D Session

H. R. 451

[Report No. 116-521]

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 re-allocate and auction the T-Band spectrum.

SEPTEMBER 18, 2020

Reported with amendments; committed to the Committee of the Whole House on the State of the Union and ordered to be printed