

114TH CONGRESS
1ST SESSION

S. _____

To reauthorize the Federal Communications Commission for fiscal years 2016 and 2017, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To reauthorize the Federal Communications Commission for
fiscal years 2016 and 2017, 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 “FCC Reauthorization
5 Act of 2015”.

6 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

7 Section 6 of the Communications Act of 1934 (47
8 U.S.C. 156) is amended to read as follows:

9 **“SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

10 “(a) **AUTHORIZATION.—**

1 “(1) IN GENERAL.—There are authorized to be
2 appropriated for the administration of this Act by
3 the Commission, other than the activities described
4 in subsection (b), **【\$_____】** for fiscal
5 year 2016 and **【\$_____】** for fiscal year
6 2017.

7 “(2) OFFICE OF INSPECTOR GENERAL.—Of the
8 amounts appropriated under paragraph (1), not less
9 than **【\$_____】** shall be for salaries
10 and expenses of the Office of Inspector General of
11 the Commission for each of fiscal years 2016 and
12 2017.

13 “(3) OFFSETTING COLLECTIONS.—The amount
14 appropriated for a fiscal year under paragraph (1)
15 shall be derived from fees authorized under
16 section**【s 8 and】** 9.

17 “(4) EXCESS COLLECTIONS.—Any fees collected
18 in excess of the total amount appropriated for a fis-
19 cal year shall be deposited in the general fund of the
20 Treasury for the sole purpose of deficit reduction.

21 “(b) COSTS OF ADMINISTERING AUCTIONS.—In addi-
22 tion to the amounts authorized to be appropriated under
23 subsection (a), the Commission, in accordance with para-
24 graph (8)(B) of section 309(j), may retain from the pro-
25 ceeds from the use of a competitive bidding system under

1 that section not more than [\$ _____] for fis-
2 cal year 2016 and not more than [\$ _____]
3 for fiscal year 2017 to carry out the program required
4 under that section (including to carry out section 6403
5 of the Middle Class Tax Relief and Job Creation Act of
6 2012 (47 U.S.C. 1452)).”.

7 **SEC. 3. DELEGATION OF FUNCTIONS.**

8 (a) IN GENERAL.—Section 5(c) of the Communica-
9 tions Act of 1934 (47 U.S.C. 155(c)) is amended—

10 (1) in paragraph (1), by striking “paragraphs
11 (4), (5), and (6)” and inserting “paragraphs (4),
12 (5), (6), and (10)”; and

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

14 “(10)(A) Upon notice to commissioners that
15 any [rule or order] is to be issued pursuant to a
16 delegation under paragraph (1), 2 or more commis-
17 sioners may request that the Chairman hold a vote
18 of the full Commission on adoption of the [rule or
19 order].

20 “(B) Not later than 48 hours after receiving a
21 request under subparagraph (A), the Chairman shall
22 hold a preliminary vote of the full Commission on
23 whether to hold a vote of the full Commission on
24 adoption of the [rule or order].

1 “(C) If a majority of commissioners votes under
2 subparagraph (B) to hold a vote on adoption, the
3 Chairman shall hold a vote of the full Commission
4 on whether to adopt the **【rule or order】**.”.

5 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
6 Section 409 of the Communications Act of 1934 (47
7 U.S.C. 409) is amended—

8 (1) in subsection (b), by striking “section
9 5(d)(1)” and inserting “section 5(c)(1)”;

10 (2) in subsection (c)(1), by striking “section
11 5(d)(1)” and inserting “section 5(c)(1)”;

12 (3) in subsection (d), by striking “section 5(d)”
13 each place that term appears and inserting “section
14 5(c)”.

15 **SEC. 4. ENFORCEMENT FUNCTIONS.**

16 Section 503(b)(4) of the Communications Act of
17 1934 (47 U.S.C. 503(b)(4)) is amended to read as follows:

18 “(4)(A) Except as provided in paragraph (3) of this
19 subsection, no forfeiture penalty shall be imposed under
20 this subsection against any person unless and until—

21 “(i) the Commission complies with the require-
22 ments under subparagraph (B) for determining
23 whether to issue a notice of apparent liability; and

24 “(ii) if the Commission determines under sub-
25 paragraph (B) to issue a notice of apparent liability,

1 the Commission ensures that the requirements under
2 subparagraph (C) are satisfied.

3 “(B) The Commission may not issue a notice of ap-
4 parent liability with respect to any person unless and until
5 the Commission—

6 “(i) submits to the person a non-public, written
7 communication that satisfies the requirements under
8 subparagraph (D);

9 “(ii) concurrently provides the communication
10 described in clause (i) to each Commissioner;

11 “(iii) provides the person the opportunity to
12 submit to the Commission a written response to the
13 communication within **【30 days】**;

14 “(iv) ensures that, upon receipt of the response
15 under clause (iii) by the Commission, each Commis-
16 sioner is notified thereof and has access to the re-
17 sponse for not less than **【15 days】**; and

18 “(v) considers the response under clause (iii) in
19 determining whether to issue a notice of apparent li-
20 ability to the person.

21 “(C) If the Commission determines under subpara-
22 graph (B) to issue a notice of apparent liability with re-
23 spect to a person, the Commission may not impose a for-
24 feiture penalty under this subsection against the person
25 unless and until—

1 “(i) the Commission issues a written notice of
2 apparent liability, with respect to the person, that
3 satisfies the requirements under subparagraph (D);

4 “(ii) the person has received the notice, or the
5 Commission has sent the notice to the last known
6 address of the person, by registered or certified mail;
7 and

8 “(iii) the person is granted an opportunity to
9 show, in writing, within such reasonable period of
10 time as the Commission prescribes by rule or regula-
11 tion, why the forfeiture penalty should not be im-
12 posed.

13 “(D) A communication required under subparagraph
14 (B)(i) or a notice required under subparagraph (C)(i)
15 shall, with respect to the person to whom the communica-
16 tion or notice applies—

17 “(i) identify each specific provision, term, and
18 condition of any Act, rule, regulation, order, treaty,
19 convention, or other agreement, license, permit, cer-
20 tificate, instrument, or authorization that the person
21 apparently violated or with which the person appar-
22 ently failed to comply;

23 “(ii) set forth the nature of the act or omission
24 charged against the person and the facts upon which
25 the charge is based; and

1 “(iii) state the date on which the conduct oc-
2 curred.

3 “(E) Any forfeiture penalty determined under this
4 paragraph shall be recoverable pursuant to section 504(a).

5 【“(F) Any person against whom a forfeiture penalty
6 is determined under this paragraph may obtain review
7 thereof pursuant to section 402(a).”】

8 **SEC. 5. TERMS OF OFFICE AND VACANCIES.**

9 Section 4(c) of the Communications Act of 1934 (47
10 U.S.C. 154(c)) is amended to read as follows:

11 “(c)(1) A commissioner—

12 “(A) shall be appointed for a term of 5 years;

13 “(B) except as provided in subparagraph (C),
14 may continue to serve after the expiration of the
15 fixed term of office of the commissioner until a suc-
16 cessor is appointed and has been confirmed and
17 taken the oath of office; and

18 “(C) may not continue to serve after the expira-
19 tion of the session of Congress that begins after the
20 expiration of the fixed term of office of the commis-
21 sioner.

22 “(2) Any person chosen to fill a vacancy in the Com-
23 mission—

24 “(A) shall be appointed for the unexpired term
25 of the commissioner that the person succeeds;

1 “(B) except as provided in subparagraph (C),
2 may continue to serve after the expiration of the
3 fixed term of office of the commissioner that the
4 person succeeds until a successor is appointed and
5 has been confirmed and taken the oath of office; and

6 “(C) may not continue to serve after the expira-
7 tion of the session of Congress that begins after the
8 expiration of the fixed term of office of the commis-
9 sioner that the person succeeds.

10 “(3) No vacancy in the Commission shall impair the
11 right of the remaining commissioners to exercise all the
12 powers of the Commission.”.

13 **SEC. 6. TRANSPARENCY OF AGENCY FUNCTIONS.**

14 Title I of the Communications Act of 1934 (47
15 U.S.C. 151 et seq.) is amended by adding at the end the
16 following:

17 **“SEC. 13. TRANSPARENCY OF AGENCY FUNCTIONS.**

18 “(a) PENDING ITEM DATABASE.—

19 “(1) IN GENERAL.—Not later than 180 days
20 after the date of enactment of the FCC Reauthoriza-
21 tion Act of 2015, the Commission shall develop and
22 post on its website a searchable public database that
23 tracks the status of major pending items, includ-
24 ing—

25 “(A) petitions for declaratory ruling;

1 “(B) petitions for rulemaking;
2 “(C) petitions for reconsideration;
3 “(D) applications for review; and
4 “(E) appeals to be disposed of by a Bu-
5 reau or Office acting on delegated authority.

6 “(2) CONTENTS.—The database posted under
7 paragraph (1) shall include, with respect to each
8 item tracked—

9 “(A) the filing date of the petition, applica-
10 tion, or appeal;

11 “(B) the responsible Bureau or Office;

12 “(C) the date of circulation of any item re-
13 sponding to the petition, application, or appeal;
14 and

15 “(D) the dates of adoption and release of
16 any item responding to the petition, application,
17 or appeal.

18 “(b) ENFORCEMENT DATABASE.—

19 “(1) IN GENERAL.—Not later than 180 days
20 after the date of enactment of the FCC Reauthoriza-
21 tion Act of 2015, the Commission shall develop and
22 post on its website a public database that tracks the
23 status of all enforcement items adopted by the Com-
24 mission, disposed of and pending, including notices

1 of apparent liability, forfeiture orders, and consent
2 decrees.

3 “(2) CONTENTS.—The Commission shall dis-
4 close on the database posted under paragraph (1)
5 the fine or forfeiture amount imposed for each en-
6 forcement item tracked on the database.”.

7 **SEC. 7. GAO REPORT ON FCC REGULATORY FEE STRUC-**
8 **TURE.**

9 (a) IN GENERAL.—Not later than 180 days after the
10 date of enactment of this Act, the Comptroller General
11 of the United States shall submit to the Committee on
12 Commerce, Science, and Transportation of the Senate and
13 the Committee on Energy and Commerce of the House
14 of Representatives a report on the current regulatory fee
15 assessments and adjustment process of the Federal Com-
16 munications Commission.

17 (b) CONTENTS.—The Comptroller General shall in-
18 clude in the report submitted under subsection (a)—

19 (1) a determination as to whether the current
20 regulatory fee structure correlates to the actual
21 workload of the Federal Communications Commis-
22 sion;

23 (2) a determination as to whether the current
24 regulatory fees are reasonably related to the benefits
25 provided to the payor of the fees; and

1 (3) recommendations as to how the current reg-
2 ulatory fee structure should be adjusted.

3 **SEC. 8. NONPUBLIC COLLABORATIVE DISCUSSIONS OF THE**
4 **FEDERAL COMMUNICATIONS COMMISSION.**

5 Section 4 of the Communications Act of 1934 (47
6 U.S.C. 154) is amended by adding at the end the fol-
7 lowing:

8 “(p) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

9 “(1) DEFINITIONS.—In this subsection—

10 “(A) the term ‘agency action’ has the
11 meaning given the term in section 551 of title
12 5, United States Code; and

13 “(B) the term ‘bipartisan majority of com-
14 missioners’ means a group of 3 or more com-
15 missioners [other than the Chairman], of
16 which not more than 2 commissioners have the
17 same party affiliation.

18 “(2) AUTHORITY TO HOLD MEETINGS.—Not
19 withstanding section 552b of title 5, United States
20 Code, a bipartisan majority of commissioners may
21 hold a meeting that is closed to the public to discuss
22 official business if—

23 “(A) a vote or any other agency action is
24 not taken at the meeting;

1 “(B) each person present at the meeting is
2 a commissioner, an employee of the Commis-
3 sion, a member of a joint board or conference
4 established under section 410, or a person on
5 the staff of such a joint board or conference or
6 of a member of such a joint board or con-
7 ference; and

8 “(C) an attorney from the Office of Gen-
9 eral Counsel of the Commission is present at
10 the meeting.

11 “(3) DISCLOSURE OF NONPUBLIC COLLABO-
12 RATIVE DISCUSSIONS.—Not later than 2 business
13 days after the conclusion of a meeting held under
14 paragraph (2), the Commission shall publish a dis-
15 closure of the meeting, including—

16 “(A) a list of the persons who attended the
17 meeting; and

18 “(B) a summary of the matters discussed
19 at the meeting, except for any matters that the
20 Commission determines may be withheld under
21 section 552b(c) of title 5, United States Code.

22 “(4) PRESERVATION OF OPEN MEETINGS RE-
23 QUIREMENTS FOR AGENCY ACTION.—Nothing in this
24 subsection shall limit the applicability of section
25 552b of title 5, United States Code, with respect to

1 a meeting of Commissioners other than that de-
2 scribed in paragraph (2).”.

3 **SEC. 9. ECONOMICALLY SIGNIFICANT RULEMAKINGS.**

4 (a) IN GENERAL.—Title I of the Communications Act
5 of 1934 (47 U.S.C. 151 et seq.), as amended by section
6 6, is amended by adding at the end the following:

7 **“SEC. 14. ECONOMICALLY SIGNIFICANT RULEMAKINGS.**

8 “(a) DEFINITION.—In this section, the term ‘eco-
9 nomically significant impact’ means—

10 “(1) an effect on the economy of not less than
11 \$100,000,000 annually; or

12 “(2) a material adverse effect on the economy,
13 a sector of the economy, productivity, competition,
14 jobs, the environment, public health or safety, or
15 State, local, or tribal governments or communities.

16 “(b) REQUIREMENT.—The Commission shall include
17 in each notice of proposed rulemaking or order adopting
18 a rule or amending an existing rule that may have an eco-
19 nomically significant impact—

20 “(1) an identification and analysis of the spe-
21 cific market failure, actual consumer harm, burden
22 of existing regulation, or failure of public institu-
23 tions that warrants the proposed or adopted rule or
24 amendment; and

1 “(2) a reasoned determination that the benefits
2 of the proposed or adopted rule or amendment jus-
3 tify the costs (recognizing that some benefits and
4 costs are difficult to quantify), taking into account
5 alternative forms of regulation and the need to tailor
6 regulation to impose the least burden on society,
7 consistent with obtaining regulatory objectives.”.

8 (b) **EFFECTIVE DATE.**—The amendment made by
9 subsection (a) shall apply to each notice of proposed rule-
10 making issued, or order adopted, by the Federal Commu-
11 nications Commission on or after the date that is 1 year
12 after the date of enactment of this Act.