

Calendar No. 304

108TH CONGRESS }
1st Session }

SENATE

{ REPORT
108-161

**THE NATIONAL TELECOMMUNICATIONS
AND INFORMATION ADMINISTRATION
REAUTHORIZATION ACT**

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1478



OCTOBER 2, 2003.—Ordered to be printed

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WASHINGTON : 2003

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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(II)

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AUTHORIZATION OF NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

OCTOBER 2, 2003.—Ordered to be printed

Mr. MCCAIN, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 1478]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1478) to reauthorize the National Telecommunications and Information Administration, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 1478 is to authorize the National Telecommunications and Information Administration (NTIA) for fiscal years (FY) 2004 through 2008. The NTIA has been unauthorized since fiscal year 1993.

BACKGROUND AND NEEDS

The NTIA, created in 1978 as a result of a major Executive Branch reorganization, is an agency of the U.S. Department of Commerce. The Administrator of NTIA, who is also the Assistant Secretary of Commerce, serves as the President's principal adviser on telecommunications policies pertaining to the nation's economic and technological advancement and to regulation of the telecommunications industry. The NTIA works to develop and present the Administration's position on both domestic and international telecommunications issues, and frequently provides guidance to other Executive Branch agencies on these issues. Among its responsibilities, the NTIA establishes policies concerning the Federal government's use of electromagnetic spectrum, including assignment, allocation, and use, and administers grants to encourage the

growth and development of telecommunications and information technologies.

LEGISLATIVE HISTORY

On July 28, 2003, Senators McCain and Hollings introduced S. 1478, a bill to reauthorize the NTIA and its programs, and for other purposes. On July 31, 2003, the Senate Committee on Commerce, Science, and Transportation held an executive session at which S. 1478 was considered. The bill was ordered to be reported by voice vote.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 15, 2003.

Hon. JOHN MCCAIN,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1478, a bill to reauthorize the National Telecommunications and Information Administration, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Melissa Zimmerman.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 1478—A bill to reauthorize the National Telecommunications and Information Administration, and for other purposes

Summary: S. 1478 would authorize the appropriation of \$184 million for the National Telecommunications and Information Administration (NTIA) for the 2004–2008 period. This amount includes about \$100 million for NTIA salaries and expenses and \$84 million for grants under the NTIA Technology Opportunities Program but does not include an authorization for grants for public telecommunication projects (which received \$44 million for 2003).

Assuming appropriation of the specified amounts, CBO estimates that implementing S. 1478 would cost \$16 million in 2004 and \$144 million over the 2004–2008 period. Enacting this bill would not affect direct spending or revenues.

S. 1478 contains no intergovernmental or private-section mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would provide benefits to state, local, and tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1478 is shown in the following table. For this estimate, CBO assumes that the amounts authorized will be appropriated each year and that outlays will follow historical trends for

these programs. The costs of this legislation fall within budget functions 370 (commerce and housing credit) and 500 (education, training, employment, and social services).

	By fiscal year, in millions of dollars—					
	2003	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION						
NTIA Spending Under Current Law:						
Budget Authority ¹	75	0	0	0	0	0
Estimated Outlays	101	73	32	12	0	0
Proposed Changes:						
Authorization Level	0	35	35	37	38	39
Estimated Outlays	0	16	22	32	37	37
Spending Under S. 1478						
Authorization Level ¹	75	35	35	37	38	39
Estimated Outlays	101	89	54	44	37	37

¹ The 2003 level is the amount appropriated for that year.

Intergovernmental and private-sector impact: S. 1478 contains no intergovernmental or private-sector mandates as defined in UMRA and would provide benefits to state, local, and tribal governments. The bill would benefit state, local, and tribal governments by authorizing a total of \$84 million in matching grants for the Technology Opportunities Program over the period 2004–2008.

Estimate prepared by: Federal Costs: Melissa E. Zimmerman; Impact on State, Local, and Tribal Governments: Sarah Puro; and Impact on the Private Sector: Jean Talarico.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 1478 would reauthorize the NTIA for FY 2004 through FY 2008 and authorize funding for the NTIA to provide grants as part of the Technology Opportunities Program (TOP). The TOP has never been authorized, but has been operated through appropriations bills since 1994. The number of persons covered by this legislation should be consistent with current levels of individuals affected.

ECONOMIC IMPACT

S. 1478 would authorize funds for the NTIA's programs. These programs are intended to spur innovation, encourage competition, help create jobs, and provide consumers with more choices and better quality telecommunications products and services. This legislation is expected to have a positive effect on the nation's economy.

PRIVACY

S. 1478 is not expected to have an adverse effect on the personal privacy of any individuals that will be impacted by this legislation.

PAPERWORK

There should be no change in paperwork requirements resulting from passage of S. 1478.

SECTION-BY-SECTION ANALYSIS

Section 1. Reauthorization of NTIA

This section would authorize funding for the NTIA for Fiscal Years 2004 through 2008. The President's FY 2004 budget requests \$18,869,000 for the NTIA. For FY 2005 through 2008, the bill would authorize funding for the NTIA at 3 percent increases annually.

This section also would authorize funding for the NTIA to provide grants as part of the TOP. The TOP has never been authorized. Instead, it has operated through appropriations bills since 1994. Through the program, the NTIA provides matching grants to State and local governments and non-profit organizations to demonstrate advanced and innovative applications of telecommunications and information technology. As described on the NTIA's web site, the TOP is "a merit-based grant program that brings the benefits of digital network technologies to communities throughout the United States." In 2002, the NTIA awarded \$12.4 million to 25 grantees, selected from 700 applicants. Awards were granted based on the ability of the applicant to serve as a model for similar organizations across the United States. The Administration has requested no funding for the TOP for FY 2004.

Section 2. Payment for spectrum management functions

This section would permit the NTIA to charge fees to other Federal agencies to cover its costs of managing Federal spectrum and making spectrum assignments. Historically, this authority has been granted to the NTIA in appropriations bills.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION ORGANIZATION ACT

[47 U.S.C. 901 et seq.]

SEC. 104. SPECTRUM MANAGEMENT ACTIVITIES.

[47 U.S.C. 903]

(a) REVISION OF REGULATIONS.—Within 180 days after the date of the enactment of this Act, the Secretary of Commerce and the NTIA shall amend the Department of Commerce spectrum management document entitled "Manual of Regulations and Procedures for Federal Radio Frequency Management" to improve Federal spec-

trum management activities and shall publish in the Federal Register any changes in the regulations in such document.

(b) REQUIREMENTS FOR REVISIONS.—The amendments required by subsection (a) shall—

(1) provide for a period at the beginning of each meeting of the Interdepartmental Radio Advisory Committee to be open to the public to make presentations and receive advice, and provide the public with other meaningful opportunities to make presentations and receive advice;

(2) include provisions that will require—

(A) publication in the Federal Register of major policy proposals that are not classified and that involve spectrum management, and

(B) adequate opportunity for public review and comment on those proposals;

(3) include provisions that will require publication in the Federal Register of major policy decisions that are not classified and that involve spectrum management;

(4) include provisions that will require that nonclassified spectrum management information be made available to the public, including access to electronic databases; and

(5) establish procedures that provide for the prompt and impartial consideration of requests for access to Government spectrum by the public, which procedures shall include provisions that will require the disclosure of the status and ultimate disposition of any such request.

(c) CERTIFICATION TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall certify to Congress that the Secretary has complied with this section.

(d) RADIO SERVICES.—

(1) ASSIGNMENTS FOR RADIO SERVICES.—In assigning frequencies for mobile radio services and other radio services, the Secretary of Commerce shall promote efficient and cost-effective use of the spectrum to the maximum extent feasible.

(2) AUTHORITY TO WITHHOLD ASSIGNMENTS.—The Secretary of Commerce shall have the authority to withhold or refuse to assign frequencies for mobile radio service or other radio service in order to further the goal of making efficient and cost-effective use of the spectrum.

(3) SPECTRUM PLAN.—By October 1, 1993, the Secretary of Commerce shall adopt and commence implementation of a plan for Federal agencies with existing mobile radio systems to use more spectrum-efficient technologies that are at least as spectrum-efficient and cost-effective as readily available commercial mobile radio systems. The plan shall include a time schedule for implementation.

(4) REPORT TO CONGRESS.—By October 1, 1993, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report summarizing the plan adopted under paragraph (3), including the implementation schedule for the plan.

(e) PROOF OF COMPLIANCE WITH FCC LICENSING REQUIREMENTS.—

(1) AMENDMENT TO MANUAL REQUIRED.—Within 90 days after the date of enactment of this subsection, the Secretary and the NTIA shall amend the spectrum management document described in subsection (a) to require that—

(A) no person or entity (other than an agency or instrumentality of the United States) shall be permitted, after 1 year after such date of enactment, to operate a radio station utilizing a frequency that is authorized for the use of government stations pursuant to section 103(b)(2)(A) of this Act for any non-government application unless such person or entity has submitted to the NTIA proof, in a form prescribed by such manual, that such person or entity has obtained a license from the Commission; and

(B) no person or entity (other than an agency or instrumentality of the United States) shall be permitted, after 1 year after such date of enactment, to utilize a radio station belonging to the United States for any non-government application unless such person or entity has submitted to the NTIA proof, in a form prescribed by such manual, that such person or entity has obtained a license from the Commission.

(2) RETENTION OF FORMS.—The NTIA shall maintain on file the proofs submitted under paragraph (1), or facsimiles thereof.

(3) CERTIFICATION.—Within 1 year after the date of enactment of this subsection, the Secretary and the NTIA shall certify to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that—

(A) the amendments required by paragraph (1) have been accomplished; and

(B) the requirements of subparagraphs (A) and (B) of such paragraph are being enforced.

(f) REIMBURSEMENT FROM FEDERAL AGENCIES.—

(1) FEES FOR COSTS.—*Notwithstanding section 1535(d) of title 31, United States Code, the NTIA shall assess against, and collect from, each Federal agency for which the NTIA assigns spectrum or provides any spectrum management functions a charge to cover the costs thereof.*

(2) ASSIGNMENT AND MANAGEMENT FUNCTION CHARGES.—*The NTIA may not assign any spectrum for use for, or provide any spectrum management functions with respect to, any Federal agency, except to the extent that the NTIA obtains reimbursement for the costs thereof.*

* * * * *

[SEC. 151. AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATION.]

[There are authorized to be appropriated for the administration of the NTIA \$17,600,000 for fiscal year 1992 and \$17,900,000 for fiscal year 1993, and such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.]

SEC. 151. AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATION.

(a) IN GENERAL.—There are authorized to be appropriated for the administration of the NTIA—

- (1) \$18,869,000 for fiscal year 2004;*
- (2) \$19,435,000 for fiscal year 2005;*
- (3) \$20,018,000 for fiscal year 2006;*
- (4) \$20,619,000 for fiscal year 2007; and*
- (5) \$21,237,000 for fiscal year 2008.*

(b) TOP PROGRAM.—There are authorized to be appropriated to the NTIA for grants under the NTIA Technology Opportunities Program (described in the NTIA notice of availability of funds published on March 17, 2003, in the Federal Register (68 Fed. Reg. 12678)), including administrative costs—

- (1) \$15,862,000 for fiscal year 2004;*
- (2) \$16,338,000 for fiscal year 2005;*
- (3) \$16,828,000 for fiscal year 2006;*
- (4) \$17,333,000 for fiscal year 2007; and*
- (5) \$17,852,000 for fiscal year 2008.*