

118TH CONGRESS
2D SESSION

S. 3909

To require the Federal Communications Commission to auction spectrum in the band between 1.3 gigahertz and 13.2 gigahertz, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2024

Mr. CRUZ (for himself, Mr. THUNE, and Mrs. BLACKBURN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require the Federal Communications Commission to auction spectrum in the band between 1.3 gigahertz and 13.2 gigahertz, 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 “Spectrum Pipeline Act
5 of 2024”.

6 **SEC. 2. IDENTIFICATION OF SPECTRUM FOR REALLOCA-**
7 **TION AND AUCTION.**

8 (a) DEFINITIONS.—In this section:

1 (1) APPROPRIATE COMMITTEES OF CON-
2 GRESS.—The term “appropriate committees of Con-
3 gress” means—

4 (A) the Committee on Commerce, Science,
5 and Transportation of the Senate; and

6 (B) the Committee on Energy and Com-
7 merce of the House of Representatives.

8 (2) ASSISTANT SECRETARY.—The term “Assist-
9 ant Secretary” means the Assistant Secretary of
10 Commerce for Communications and Information.

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

13 (4) COVERED BAND.—The term “covered
14 band” means the band of frequencies between 1.3
15 gigahertz and 13.2 gigahertz.

16 (5) FEDERAL ENTITY.—The term “Federal en-
17 tity” has the meaning given the term in section
18 113(l) of the National Telecommunications and In-
19 formation Administration Organization Act (47
20 U.S.C. 923(l)).

21 (6) FULL-POWER COMMERCIAL LICENSED USE
22 CASES.—The term “full-power commercial licensed
23 use cases” means flexible use wireless broadband
24 services with base station power levels sufficient for
25 high-power, high-density, and wide-area commercial

1 mobile services, consistent with the service rules
2 under part 27 of title 47, Code of Federal Regula-
3 tions, or any successor regulations, for wireless
4 broadband deployments throughout the covered
5 band.

6 (b) IDENTIFICATION FOR REALLOCATION.—

7 (1) IN GENERAL.—The Assistant Secretary, in
8 consultation with the Commission, shall identify not
9 less than 2500 megahertz of spectrum in the covered
10 band, that as of the date of enactment of this Act
11 is allocated for Federal use or for shared Federal
12 and non-Federal use, for reallocation for non-Fed-
13 eral use, shared Federal and non-Federal use, or a
14 combination thereof, including not less than 1250
15 megahertz for full-power commercial licensed use
16 cases.

17 (2) SCHEDULE.—The Assistant Secretary shall
18 identify the spectrum under paragraph (1) according
19 to the following schedule:

20 (A) Not later than 2 years after the date
21 of enactment of this Act, the Assistant Sec-
22 retary shall identify not less than 1250 mega-
23 hertz of spectrum.

24 (B) Not later than 5 years after the date
25 of enactment of this Act, the Assistant Sec-

1 retary shall identify any remaining spectrum re-
2 quired to be identified under paragraph (1)
3 after compliance with subparagraph (A) of this
4 paragraph.

5 (c) AUCTIONS.—

6 (1) IN GENERAL.—With respect to the spec-
7 trum identified for reallocation under subsection (b)
8 for commercial licensed use, the Commission shall
9 grant licenses through systems of competitive bid-
10 ding for not less than 1250 megahertz of the spec-
11 trum for full-power commercial licensed use cases.

12 (2) SCHEDULE.—The Commission shall auction
13 the spectrum under paragraph (1) according to the
14 following schedule:

15 (A) Not later than 3 years after the date
16 of enactment of this Act, the Commission shall
17 complete 1 or more systems of competitive bid-
18 ding for not less than 600 megahertz of the
19 spectrum.

20 (B) Not later than 6 years after the date
21 of enactment of this Act, the Commission shall
22 complete 1 or more systems of competitive bid-
23 ding for any remaining spectrum required to be
24 auctioned under paragraph (1) after compliance
25 with subparagraph (A) of this paragraph.

1 (d) UNLICENSED USE.—Not later than 2 years after
 2 the date of enactment of this Act, the Commission shall
 3 make available on an unlicensed basis not less than 125
 4 megahertz of the spectrum in the covered band.

5 (e) LICENSED OR UNLICENSED USE.—Not later than
 6 8 years after the date of enactment of this Act, the Com-
 7 mission shall make available for use on a licensed or unli-
 8 censed basis any remaining spectrum that is—

9 (1) identified under subsection (b); and

10 (2) not—

11 (A) auctioned under subsection (c); or

12 (B) made available on an unlicensed basis
 13 under subsection (d).

14 (f) AUCTION PROCEEDS TO COVER 110 PERCENT OF
 15 FEDERAL RELOCATION OR SHARING COSTS.—Nothing in
 16 this subsection shall be construed to relieve the Commis-
 17 sion from the requirements under section 309(j)(16)(B)
 18 of the Communications Act of 1934 (47 U.S.C.
 19 309(j)(16)(B)).

20 (g) AUCTION AUTHORITY.—Section 309(j)(11) of the
 21 Communications Act of 1934 (47 U.S.C. 309(j)(11)) is
 22 amended—

23 (1) by striking “grant a license or permit under
 24 this subsection shall expire March 9, 2023” and in-
 25 serting “complete a system of competitive bidding

1 under this subsection shall expire September 30,
2 2027”;

3 (2) by striking “and with respect to” and in-
4 serting “with respect to”; and

5 (3) by inserting before the period at the end the
6 following: “, and with respect to the electromagnetic
7 spectrum in the covered band (as defined in section
8 2(a) of the Spectrum Pipeline Act of 2024), such
9 authority shall expire on the date that is 8 years
10 after the date of enactment of that Act”.

11 (h) REPORTING REQUIREMENTS AND QUARTERLY
12 BRIEFINGS.—

13 (1) NTIA PROGRESS REPORT ON SPECTRUM
14 IDENTIFICATION.—

15 (A) IN GENERAL.—On each date as of
16 which the Assistant Secretary, in consultation
17 with the Commission, has identified the quan-
18 tity of spectrum required under subparagraph
19 (A) or (B), respectively, of subsection (b)(2),
20 the Assistant Secretary shall submit to the ap-
21 propriate committees of Congress a report de-
22 tailing the findings and conclusions that the As-
23 sistant Secretary used to support the identifica-
24 tion.

1 (B) CONTENTS.—The Assistant Secretary
2 shall include in each report submitted under
3 subparagraph (A)—

4 (i) an analysis of the spectrum identi-
5 fied; and

6 (ii) the Federal entities with which
7 the Assistant Secretary coordinated re-
8 garding the spectrum identified.

9 (C) FORM OF REPORT.—Each report re-
10 quired under subparagraph (A) shall be sub-
11 mitted in unclassified form, but may contain a
12 classified annex.

13 (2) NTIA AND FCC REPORTS ON REALLOCA-
14 TION OF SPECTRUM IDENTIFIED.—

15 (A) INITIAL PROGRESS REPORT.—Not
16 later than 1 year after the date of enactment of
17 this Act, the Assistant Secretary, in consulta-
18 tion with the Commission, shall submit to the
19 appropriate committees of Congress a report on
20 the progress of the Assistant Secretary in iden-
21 tifying spectrum in the covered band for re-
22 allocation under subsection (b) that includes—

23 (i) an assessment of the operations of
24 the Federal entities and non-Federal enti-

ties that operate in the spectrum in the covered band; and

(ii) a preliminary analysis of which portions of the covered band are being considered for reallocation in accordance with subsection (b)(1).

(B) REPORTS ON 2 TRANCHES OF IDENTIFIED SPECTRUM.—Not later than 60 days after each date as of which the Assistant Secretary, in consultation with the Commission, has identified the quantity of spectrum required under subparagraph (A) or (B), respectively, of subsection (b)(2), the Assistant Secretary, in consultation with the Commission, shall submit to the appropriate committees of Congress a report that includes—

(i) an assessment of the operations of the Federal entities and non-Federal entities that operate in the applicable spectrum, current as of the date of the submission of the report;

(ii) the steps the President has taken to begin the process of withdrawing or modifying the assignments of Federal entities in the covered band as necessary for

1 the Commission to begin and complete the
2 systems of competitive bidding under sub-
3 section (c);

4 (iii) an estimate of the funding re-
5 quired for the relocation or sharing costs
6 (as defined in section 923(g)(3) of the Na-
7 tional Telecommunications and Informa-
8 tion Administration Organization Act (47
9 U.S.C. 923(g)(3))) expected to be incurred
10 by the Federal entities described in clause
11 (ii) in connection with the reallocation of
12 the applicable spectrum; and

13 (iv) steps the Assistant Secretary is
14 taking to ensure global harmonization with
15 the spectrum to be reallocated.

16 (C) FORM OF REPORT.—Each report re-
17 quired under this paragraph shall be submitted
18 in unclassified form, but may contain a classi-
19 fied annex.

20 (3) ANNUAL BRIEFINGS.—

21 (A) IN GENERAL.—Not later than 1 year
22 after the date of enactment of this Act, and an-
23 nually thereafter until the date that is 10 years
24 after such date of enactment, the Assistant Sec-
25 retary and the Chairman of the Commission

1 shall provide the appropriate committees of
2 Congress with a briefing on the progress of the
3 Assistant Secretary and the Chairman in com-
4 plying with the requirements of this section.

5 (B) CONTENTS.—The Assistant Secretary
6 and the Chairman of the Commission shall in-
7 clude in each briefing under subparagraph
8 (A)—

9 (i) an update on the specific fre-
10 quencies of spectrum under consideration
11 or that have been identified to meet the re-
12 quirements of subsection (b);

13 (ii) an explanation of the Federal en-
14 tities and non-Federal entities that operate
15 on the frequencies described in clause (i)
16 and the specific services or systems utilized
17 by those entities on those frequencies;

18 (iii) the extent to which Federal enti-
19 ties are cooperating with the efforts of the
20 Assistant Secretary and the Chairman of
21 the Commission to comply with the re-
22 quirements of this Act;

23 (iv) an update on the progress of the
24 systems of competitive bidding required by
25 subsection (c); and

1 (v) any additional information related
 2 to compliance with this Act by the Assist-
 3 ant Secretary and the Chairman.

4 (C) FORM OF BRIEFING.—Any classified
 5 information that would otherwise be provided in
 6 a briefing under subparagraph (A) shall be pro-
 7 vided in a separate classified briefing.

8 **SEC. 3. SPECTRUM RELOCATION FUND MODERNIZATION.**

9 (a) CONGRESSIONAL NOTIFICATION TIMELINES.—
 10 Section 118 of the National Telecommunications and In-
 11 formation Administration Organization Act (47 U.S.C.
 12 928) is amended—

13 (1) in subsection (d)(2)—

14 (A) in subparagraph (C), by striking “30
 15 days” and inserting “15 days”; and

16 (B) in the matter following subparagraph
 17 (C), by striking “30 days” and inserting “15
 18 days”;

19 (2) in subsection (f)(2)(B)(iv), by striking “30
 20 days” and inserting “15 days”; and

21 (3) in subsection (g)(2)(D)(ii), by striking “60
 22 days” and inserting “15 days”.

23 (b) COMPARABLE CAPABILITY.—Section 113(g)(3) of
 24 the National Telecommunications and Information Ad-

1 ministration Organization Act (47 U.S.C. 923(g)(3)) is
2 amended—

3 (1) in subparagraph (A)—

4 (A) in clause (iv), by striking “; and” and
5 inserting a semicolon;

6 (B) in clause (v), by striking the period at
7 the end and inserting “; and”; and

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

9 “(vi) the costs associated with replac-
10 ing systems and equipment with state-of-
11 the-art systems and equipment, including
12 systems and equipment with additional
13 functions, only if the state-of-the-art sys-
14 tems and equipment allow for the realloca-
15 tion of significantly more valuable spec-
16 trum frequencies from Federal use to ex-
17 clusive non-Federal use or to shared Fed-
18 eral and non-Federal use than would be re-
19 allocated if systems and equipment were
20 replaced with comparable systems and
21 equipment or systems and equipment with
22 incidental increases in functionality, pro-
23 vided the costs would not jeopardize the
24 ability of the Assistant Secretary, in con-
25 sultation with the Chair of the Commis-

1 sion, to reallocate eligible spectrum fre-
2 quencies from Federal use to exclusive
3 non-Federal use or to shared use.”; and
4 (2) in subparagraph (B)(ii), by striking “inci-
5 dental”.

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