

116TH CONGRESS
1ST SESSION

S. 2956

To amend the Communications Act of 1934 to direct the Federal Communications Commission to conduct a public auction of the C-band, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2019

Mr. SCHATZ (for himself, Mr. MARKEY, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to direct the Federal Communications Commission to conduct a public auction of the C-band, 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 “Investing in America’s
5 Digital Infrastructure Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) C-BAND REIMBURSEMENT FUND.—The
 2 term “C-Band Reimbursement Fund” means the
 3 fund established under section 5(a).

4 (2) COMMISSION.—The term “Commission”
 5 means the Federal Communications Commission.

6 (3) DIGITAL DIVIDE TRUST FUND.—The term
 7 “Digital Divide Trust Fund” means the trust fund
 8 established under section 4(a).

9 **SEC. 3. PUBLIC AUCTION OF C-BAND SPECTRUM.**

10 (a) IN GENERAL.—Not earlier than June 1, 2021,
 11 and not later than December 31, 2021, the Commission
 12 shall—

13 (1) identify not less than 200 megahertz of the
 14 electromagnetic spectrum described in subsection (b)
 15 for reallocation consistent with this section;

16 (2) clear the spectrum identified under para-
 17 graph (1) consistent with subsection (f);

18 (3) reallocate the spectrum identified under
 19 paragraph (1) for terrestrial broadband use, reserv-
 20 ing 20 megahertz of the spectrum as a guard band;
 21 and

22 (4) notwithstanding paragraph (15)(A) of sec-
 23 tion 309(j) of the Communications Act of 1934 (47
 24 U.S.C. 309(j)), begin a system of competitive bid-
 25 ding under that section to grant new initial licenses

1 for the use of the spectrum identified under para-
 2 graph (1) of this subsection, subject to—

3 (A) flexible-use service rules; and

4 (B) the requirement to protect incumbent
 5 uses of the spectrum not otherwise cleared
 6 under paragraph (2) of this subsection from
 7 harmful interference.

8 (b) ELECTROMAGNETIC SPECTRUM DESCRIBED.—

9 The electromagnetic spectrum described in this subsection
 10 is the spectrum between 3700 megahertz and 4200 mega-
 11 hertz, inclusive.

12 (c) AUCTION PROCEEDS.—Section 309(j)(8) of the
 13 Communications Act of 1934 (47 U.S.C. 309(j)(8)) is
 14 amended—

15 (1) in subparagraph (A), by striking “and (G)”
 16 and inserting “(G), and (H)”;

17 (2) in subparagraph (C)(i), by striking “and
 18 (G)” and inserting “(G), and (H)”;

19 (3) by adding at the end the following:

20 “(H) CERTAIN PROCEEDS DESIGNATED
 21 FOR DIGITAL DIVIDE TRUST FUND.—Notwith-
 22 standing subparagraph (A) and except as pro-
 23 vided in subparagraph (B), the proceeds (in-
 24 cluding deposits and upfront payments from
 25 successful bidders) from the use of a system of

competitive bidding under this subsection pursuant to section 3 of the Investing in America's Digital Infrastructure Act shall be deposited in the Digital Divide Trust Fund established under section 4 of the Investing in America's Digital Infrastructure Act.”.

(d) CLEARING OF C-BAND SPECTRUM FOR AUCTION.—

(1) LICENSES.—

(A) ISSUANCE.—The Commission shall issue any new licenses or license modifications required to clear electromagnetic spectrum under subsection (a)(2) as expeditiously as possible after the date of enactment of this Act.

(B) PROTESTS.—The right of a licensee to protest a proposed order of modification of its license under section 316 of the Communications Act of 1934 (47 U.S.C. 316) shall not apply in the case of a modification made under subparagraph (A) of this paragraph.

(2) PROTECTION OF C-BAND USERS.—The Commission shall clear electromagnetic spectrum under subsection (a)(2) in a manner that ensures that persons or entities that used the spectrum before the clearing of the spectrum receive—

1 (A) service that is equivalent to or better
 2 than the service received before the clearing of
 3 the spectrum; and

4 (B) service at a level described in subpara-
 5 graph (A) continuously throughout the clearing
 6 of the spectrum.

7 **SEC. 4. DIGITAL DIVIDE TRUST FUND.**

8 (a) ESTABLISHMENT.—

9 (1) IN GENERAL.—There is established in the
 10 Treasury of the United States a trust fund to be
 11 known as the “Digital Divide Trust Fund”.

12 (2) AVAILABILITY.—Amounts deposited in the
 13 Digital Divide Trust Fund shall remain available
 14 until expended.

15 (b) INVESTMENT.—Amounts in the Digital Divide
 16 Trust Fund shall be invested in accordance with section
 17 9702 of title 31, United States Code, and any interest on,
 18 and proceeds from, any such investment shall be credited
 19 to, and become part of, the Fund.

20 (c) USE OF FUNDS.—

21 (1) REIMBURSEMENT OF BORROWED
 22 AMOUNTS.—As amounts are deposited in the Digital
 23 Divide Trust Fund, the Commission shall first use
 24 those amounts to reimburse the general fund of the

1 Treasury for any amounts borrowed under section
2 5(b).

3 (2) OTHER USES.—

4 (A) IN GENERAL.—The Commission shall
5 use the amounts remaining in the Digital Di-
6 vide Trust Fund after compliance with para-
7 graph (1)—

8 (i) for the deployment of—

9 (I) wireless broadband infrastruc-
10 ture in areas that the Commission has
11 determined are underserved or
12 unserved with respect to wireless
13 broadband internet access service;

14 (II) wired broadband infrastruc-
15 ture in areas that the Commission has
16 determined are underserved or
17 unserved with respect to wired
18 broadband internet access service; and

19 (III) broadband infrastructure to
20 support other technologies, including
21 telehealth, telemedicine, e-government,
22 and educational opportunities at
23 home; and

24 (ii) in conjunction with the National
25 911 Program overseen by the National

1 Telecommunications and Information Ad-
2 ministration and the National Highway
3 Traffic Safety Administration, for the de-
4 ployment of Next Generation 9–1–1 serv-
5 ices.

6 (B) LIMITATIONS.—

7 (i) RULEMAKING REQUIRED.—

8 (I) TIMING.—Not earlier than
9 January 1, 2023, the Commission
10 shall conduct a rulemaking to deter-
11 mine how to implement subparagraph
12 (A).

13 (II) OBLIGATION OF AMOUNTS.—

14 The Commission may not obligate any
15 amounts from the Digital Divide
16 Trust Fund under subparagraph (A)
17 until the Commission has conducted
18 the rulemaking under subclause (I) of
19 this clause.

20 (ii) RELATION TO UNIVERSAL SERV-
21 ICE PROGRAMS.—The amounts provided
22 under subparagraph (A) are not intended
23 to supplant any program established under
24 section 254 of the Communications Act of
25 1934 (47 U.S.C. 254).

1 **SEC. 5. C-BAND REIMBURSEMENT FUND.**

2 (a) ESTABLISHMENT.—There is established in the
3 Treasury of the United States a fund to be known as the
4 “C-Band Reimbursement Fund”.

5 (b) BORROWING AUTHORITY.—The Commission may
6 borrow from the Treasury of the United States an amount
7 not to exceed \$2,500,000,000 to use for payments re-
8 quired under subsection (d).

9 (c) DEPOSIT OF FUNDS.—Any amounts borrowed
10 under subsection (b) shall be deposited in the C-Band Re-
11 imbursement Fund.

12 (d) PAYMENT OF COSTS.—The Commission shall use
13 amounts in the C-Band Reimbursement Fund to reim-
14 burse costs reasonably incurred by—

15 (1) incumbent holders of licenses or market ac-
16 cess rights for use of the electromagnetic spectrum
17 identified under paragraph (1) of section 3(a), to re-
18 duce the usage of that spectrum by those entities in
19 accordance with that section;

20 (2) licensees or registrants of an earth station
21 receiving signals over the spectrum identified under
22 section 3(a)(1); and

23 (3) the relocation of other incumbent uses of
24 the spectrum identified under section 3(a)(1).

25 (e) TRANSFER OF UNUSED FUNDS.—If any amounts
26 remain in the C-Band Reimbursement Fund after the date

1 that is 3 years after the completion of the system of com-
 2 petitive bidding conducted under section 3, the Secretary
 3 of the Treasury shall transfer those amounts to the Digital
 4 Divide Trust Fund.

5 **SEC. 6. SPECTRUM AUCTION PARTICIPATION.**

6 (a) IN GENERAL.—Section 309(j) of the Communica-
 7 tions Act of 1934 (47 U.S.C. 309(j)) is amended—

8 (1) in paragraph (17)(A), in the matter pre-
 9 ceding clause (i), by striking “Notwithstanding” and
 10 inserting “Subject to paragraph (19) and notwith-
 11 standing”; and

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

13 “(19) PROHIBITION ON AUCTION PARTICIPA-
 14 TION BY ENTITIES POSING A NATIONAL SECURITY
 15 RISK.—

16 “(A) IN GENERAL.—An entity posing a na-
 17 tional security risk may not participate in any
 18 system of competitive bidding under this sub-
 19 section.

20 “(B) DEFINITION.—

21 “(i) IN GENERAL.—For purposes of
 22 this paragraph, the term ‘entity posing a
 23 national security risk’ means an entity that
 24 the Commission determines poses a na-
 25 tional security risk.

1 “(ii) DETERMINATION.—In deter-
2 mining which entities qualify as entities
3 posing a national security risk under this
4 paragraph, the Commission may rely solely
5 upon a determination by—

6 “(I) an appropriate national se-
7 curity agency;

8 “(II) an interagency body that
9 includes appropriate national security
10 expertise, including the Federal Ac-
11 quisition Security Council established
12 under section 1322 of title 41, United
13 States Code;

14 “(III) Congress; or

15 “(IV) the Secretary of Commerce
16 under the program established under
17 Executive Order 13873 (84 Fed. Reg.
18 22689; relating to securing informa-
19 tion and communications technology
20 and services supply chain) or by an
21 agency under any successor pro-
22 gram.”.

23 (b) IMPLEMENTATION.—Not later than 1 year after
24 the date of enactment of this Act, the Commission shall

- 1 take all steps necessary to implement the amendments
- 2 made by subsection (a).

