

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 888

To extend the authority of the Federal Communications Commission to use auctions for the allocation of radio spectrum frequencies for commercial use, to provide for private sector reimbursement of Federal governmental user costs to vacate commercially valuable spectrum, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 7 (legislative day, JUNE 5), 1995

Mr. STEVENS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To extend the authority of the Federal Communications Commission to use auctions for the allocation of radio spectrum frequencies for commercial use, to provide for private sector reimbursement of Federal governmental user costs to vacate commercially valuable spectrum, 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 Auction Act  
5 of 1995”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) the National Telecommunications and Infor-  
4 mation Administration of the Department of Com-  
5 merce recently submitted to the Congress a report  
6 entitled “U.S. National Spectrum Requirements” as  
7 required by section 113 of the National Tele-  
8 communications and Information Administration Or-  
9 ganization Act (47 U.S.C. 923);

10 (2) based on the best available information the  
11 report concludes that an additional 179 megahertz  
12 of spectrum will be needed within the next ten years  
13 to meet the expected demand for land mobile and  
14 mobile satellite radio services such as cellular tele-  
15 phone service, paging services, personal communica-  
16 tion services, and low earth orbiting satellite commu-  
17 nications systems;

18 (3) a further 85 megahertz of additional spec-  
19 trum, for a total of 264 megahertz, is needed if the  
20 United States is to fully implement the Intelligent  
21 Transportation System currently under development  
22 by the Department of Transportation;

23 (4) as required by Part B of the National Tele-  
24 communications and Information Administration Or-  
25 ganization Act (47 U.S.C. 921 et seq.) the Federal  
26 Government will transfer 235 megahertz of spectrum

1 from exclusive government use to non-governmental  
2 or mixed governmental and non-governmental use  
3 between 1994 and 2004;

4 (5) the Spectrum Reallocation Final Report  
5 submitted to Congress by the National Tele-  
6 communications and Information Administration  
7 states that, of the 235 megahertz of spectrum iden-  
8 tified for reallocation from governmental to non-gov-  
9 ernmental or mixed use—

10 (A) 50 megahertz has already been reallo-  
11 cated for exclusive non-governmental use,

12 (B) 45 megahertz will be reallocated in  
13 1995 for both exclusive non-governmental and  
14 mixed governmental and non-governmental use,

15 (C) 25 megahertz will be reallocated in  
16 1997 for exclusive non-governmental use,

17 (D) 70 megahertz will be reallocated in  
18 1999 for both exclusive non-governmental and  
19 mixed governmental and non-governmental use,  
20 and

21 (E) the final 45 megahertz will be reallo-  
22 cated for mixed governmental and non-govern-  
23 mental use by 2004;

24 (6) the 165 megahertz of spectrum that are not  
25 yet reallocated, combined with 80 megahertz that

1 the Federal Communications Commission is cur-  
2 rently holding in reserve for emerging technologies,  
3 are less than the best estimates of projected spec-  
4 trum needs in the United States;

5 (7) the authority of the Federal Communica-  
6 tions Commission to assign radio spectrum fre-  
7 quencies using an auction process expires on Sep-  
8 tember 30, 1998;

9 (8) a significant portion of the reallocated spec-  
10 trum will not yet be assigned to non-governmental  
11 users before that authority expires;

12 (9) the transfer of Federal governmental users  
13 from certain valuable radio frequencies to other re-  
14 served frequencies could be expedited if Federal gov-  
15 ernmental users are permitted to accept reimburse-  
16 ment for relocation costs from non-governmental  
17 users; and

18 (10) extension of the authority to use auctions  
19 and non-governmental reimbursement of Federal  
20 governmental users relocation costs would allow the  
21 market to determine the most efficient use of the  
22 available spectrum.

1 **SEC. 3. EXTENSION AND EXPANSION OF AUCTION AUTHOR-**  
2 **ITY.**

3 Section 309(j) of the Communications Act of 1934  
4 (47 U.S.C. 309(j)) is amended—

5 (1) by striking paragraph (1) and inserting in  
6 lieu thereof the following:

7 “(1) GENERAL AUTHORITY.—If mutually exclu-  
8 sive applications or requests are accepted for any  
9 initial license or construction permit which will in-  
10 volve a use of the electromagnetic spectrum, then  
11 the Commission shall grant such license or permit to  
12 a qualified applicant through a system of competitive  
13 bidding that meets the requirements of this sub-  
14 section. The competitive bidding authority granted  
15 by this subsection shall not apply to licenses or con-  
16 struction permits issued by the Commission for pub-  
17 lic safety radio services or for licenses or construc-  
18 tion permits for new terrestrial digital television  
19 services assigned by the Commission to existing ter-  
20 restrial broadcast licensees to replace their current  
21 television licenses.”;

22 (2) by striking paragraph (2) and renumbering  
23 paragraphs (3) through (13) as (2) through (12), re-  
24 spectively; and

25 (3) by striking “1998” in paragraph (10), as  
26 renumbered, and inserting in lieu thereof “2002”.

1 **SEC. 4. REIMBURSEMENT OF FEDERAL RELOCATION**  
2 **COSTS.**

3 Section 113 of the National Telecommunications and  
4 Information Administration Act (47 U.S.C. 923) is  
5 amended by adding at the end the following new sub-  
6 sections:

7 “(f) RELOCATION OF FEDERAL GOVERNMENT STA-  
8 TIONS.—

9 “(1) IN GENERAL.—In order to expedite the ef-  
10 ficient use of the electromagnetic spectrum and not-  
11 withstanding section 3302(b) of title 31, United  
12 States Code, any Federal entity which operates a  
13 Federal Government station may accept reimburse-  
14 ment from any person for the costs incurred by such  
15 Federal entity for any modification, replacement, or  
16 reissuance of equipment, facilities, operating manu-  
17 als, regulations, or other expenses incurred by that  
18 entity in relocating the operations of its Federal  
19 Government station or stations from one or more  
20 radio spectrum frequencies to any other frequency or  
21 frequencies. Any such reimbursement shall be depos-  
22 ited in the account of such Federal entity in the  
23 Treasury of the United States. Funds deposited ac-  
24 cording to this section shall be available, without ap-  
25 propriation or fiscal year limitation, only for the op-

1 erations of the Federal entity for which such funds  
2 were deposited under this section.

3 “(2) PROCESS FOR RELOCATION.—Any person  
4 seeking to relocate a Federal Government station  
5 that has been assigned a frequency within a band al-  
6 located for mixed Federal and non-Federal use may  
7 submit a petition for such relocation to NTIA. The  
8 NTIA shall limit the Federal Government station’s  
9 operating license to secondary status when the fol-  
10 lowing requirements are met—

11 “(A) the person seeking relocation of the  
12 Federal Government station has guaranteed re-  
13 imbursement through money or in-kind pay-  
14 ment of all relocation costs incurred by the  
15 Federal entity, including all engineering, equip-  
16 ment, site acquisition and construction, and  
17 regulatory fee costs;

18 “(B) the person seeking relocation com-  
19 pletes all activities necessary for implementing  
20 the relocation, including construction of replace-  
21 ment facilities (if necessary and appropriate)  
22 and identifying and obtaining on the Federal  
23 entity’s behalf new frequencies for use by the  
24 relocated Federal Government station (where

1 such station is not relocating to spectrum re-  
2 served exclusively for Federal use); and

3 “(C) any necessary replacement facilities,  
4 equipment modifications, or other changes have  
5 been implemented and tested to ensure that the  
6 Federal Government station is able to success-  
7 fully accomplish its purposes.

8 “(3) RIGHT TO RECLAIM.—If within one year  
9 after the relocation the Federal Government station  
10 demonstrates to the Commission that the new facili-  
11 ties or spectrum are not comparable to the facilities  
12 or spectrum from which the Federal Government  
13 station was relocated, the person seeking such relo-  
14 cation must take reasonable steps to remedy any de-  
15 fects or reimburse the Federal entity for the costs  
16 of returning the Federal Government station to the  
17 spectrum from which such station was relocated.

18 “(g) FEDERAL ACTION TO EXPEDITE SPECTRUM  
19 TRANSFER.—Any Federal Government station which op-  
20 erates on electromagnetic spectrum that has been identi-  
21 fied for reallocation for mixed Federal and non-Federal  
22 use in the Spectrum Reallocation Final Report shall, to  
23 the maximum extent practicable through the use of the  
24 authority granted under subsection (f) and any other ap-  
25 plicable provision of law, take action to relocate its spec-

1 trum use to other frequencies that are reserved for Fed-  
2 eral use or to consolidate its spectrum use with other Fed-  
3 eral Government stations in a manner that maximizes the  
4 spectrum available for non-Federal use. Notwithstanding  
5 the timetable contained in the Spectrum Reallocation  
6 Final Report, the President shall seek to implement the  
7 reallocation of the 1710 to 1755 megahertz frequency  
8 band by January 1, 2000. Subsection (c)(4) of this section  
9 shall not apply to the extent that a non-Federal user seeks  
10 to relocate or relocates a Federal power agency under sub-  
11 section (f).

12 “(h) DEFINITIONS.—For purposes of this section—

13 “(1) FEDERAL ENTITY.—The term ‘Federal en-  
14 tity’ means any Department, agency, or other ele-  
15 ment of the Federal Government that utilizes radio  
16 frequency spectrum in the conduct of its authorized  
17 activities, including a Federal power agency.

18 “(2) SPECTRUM REALLOCATION FINAL RE-  
19 PORT.—The term ‘Spectrum Reallocation Final Re-  
20 port’ means the report submitted by the Secretary to  
21 the President and Congress in compliance with the  
22 requirements of subsection (a).”.

23 **SEC. 5. REALLOCATION OF ADDITIONAL SPECTRUM.**

24 The Secretary of Commerce shall, within 9 months  
25 after the date of enactment of this Act, prepare and sub-

1 mit to the President and the Congress a report and time-  
2 table recommending the reallocation of the three frequency  
3 bands (225–400 megahertz, 3625–3650 megahertz, and  
4 5850–5925 megahertz) that were discussed but not rec-  
5 ommended for reallocation in the Spectrum Reallocation  
6 Final Report. The Secretary shall consult with the Federal  
7 Communications Commission and other Federal agencies  
8 in the preparation of the report, and shall provide notice  
9 and an opportunity for public comment before submitting  
10 the report and timetable required by this section.

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