

116TH CONGRESS
1ST SESSION

S. 1968

To amend the National Telecommunications and Information Administration Organization Act to provide for necessary payments from the Spectrum Relocation Fund for costs of spectrum research and development and planning activities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2019

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

A BILL

To amend the National Telecommunications and Information Administration Organization Act to provide for necessary payments from the Spectrum Relocation Fund for costs of spectrum research and development and planning activities, 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 “Supplementing the
5 Pipeline for Efficient Control of The Resources for Users
6 Making New Opportunities for Wireless Act” or the
7 “SPECTRUM NOW Act”.

1 **SEC. 2. COSTS OF SPECTRUM RESEARCH AND DEVELOP-**
2 **MENT AND PLANNING ACTIVITIES.**

3 Section 118(g) of the National Telecommunications
4 and Information Administration Organization Act (47
5 U.S.C. 928(g)) is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (A), by striking “;
8 and” and inserting a semicolon;

9 (B) in subparagraph (B), by striking the
10 period at the end and inserting “; and”; and

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

12 “(C) the Director of OMB may make a
13 payment described in paragraph (2) from
14 amounts in the Fund other than amounts made
15 available under subparagraphs (A) and (B) if,
16 before making the payment, the Director of
17 OMB, in consultation with the NTIA, deter-
18 mines and submits to the congressional commit-
19 tees described in subsection (d)(2)(C) a certifi-
20 cation that—

21 “(i) the conditions described in sub-
22 clauses (I) and (II) of paragraph (2)(D)(i)
23 have been met;

24 “(ii) as of the date of the certification,
25 amounts made available under subpara-
26 graphs (A) and (B) are insufficient to

1 make the payment requested by the Fed-
2 eral entity in the plan approved under
3 paragraph (2)(E) by the Technical Panel
4 established under section 113(h)(3); and

5 “(iii) the payment will leave sufficient
6 amounts in the Fund to pay the relocation
7 or sharing costs that will be incurred by el-
8 igible Federal entities to complete the im-
9 plementation of all transition plans that,
10 as of the date of the certification, have
11 been found sufficient by the Technical
12 Panel under section 113(h)(4).”; and

13 (2) in paragraph (2)—

14 (A) in subparagraph (D)(ii), by inserting
15 after “60 days” the following: “(or, in the case
16 of a payment under paragraph (1)(C), 30
17 days)”; and

18 (B) by adding at the end the following:

19 “(F) CONSULTATION REGARDING SHARING
20 FREQUENCIES ON UNLICENSED BASIS.—If a
21 Federal entity that receives a payment under
22 subparagraph (A) determines, in carrying out
23 activities under a plan approved by the Tech-
24 nical Panel under subparagraph (E), that it is
25 not feasible for such Federal entity to make

1 available frequencies described in such plan for
 2 reallocation for non-Federal use or shared Fed-
 3 eral and non-Federal use, or a combination
 4 thereof, and for auction in accordance with
 5 such reallocation—

6 “(i) such Federal entity shall submit
 7 to the NTIA a certification stating the de-
 8 termination; and

9 “(ii) the NTIA shall consult with the
 10 Commission and such Federal entity re-
 11 garding whether such frequencies may be
 12 shared with non-Federal entities on an un-
 13 licensed basis.”.

14 **SEC. 3. INCLUSION OF SPECTRUM SHARING IN ANNUAL**
 15 **NTIA REPORT ON RELOCATION.**

16 Section 207 of the Commercial Spectrum Enhance-
 17 ment Act (47 U.S.C. 928 note) is amended—

18 (1) in paragraph (1)—

19 (A) by inserting “or sharing of” after “re-
 20 location from”; and

21 (B) by striking “section 118(d)(2)(A)” and
 22 inserting “section 118(d)(2)(B)”; and

23 (2) in paragraph (2)—

1 (A) by striking “relocated communication
2 system” and inserting “such communication
3 system”;

4 (B) by striking “relocation costs” and in-
5 serting “relocation or sharing costs”; and

6 (C) by striking “relocations costs” and in-
7 serting “relocation or sharing costs”.

8 **SEC. 4. STUDIES ON REALLOCATION OF CERTAIN FEDERAL**
9 **SPECTRUM.**

10 (a) IN GENERAL.—Not later than 6 months after the
11 date of the enactment of this Act, each Federal entity
12 that, as of such date of enactment, is operating on spec-
13 trum between the frequencies of 3450 megahertz to 3550
14 megahertz, inclusive, shall—

15 (1) request a payment under section 118(g)(2)
16 of the National Telecommunications and Informa-
17 tion Administration Organization Act (47 U.S.C.
18 928(g)(2)) for the purpose of conducting a study of
19 any such frequencies on which such entity operates
20 in order to determine the feasibility of the realloca-
21 tion of such frequencies, or a portion thereof, for
22 non-Federal use or shared Federal and non-Federal
23 use, or a combination thereof, and auction in accord-
24 ance with such reallocation; and

1 (2) if such Federal entity receives such pay-
2 ment—

3 (A) conduct such study; and

4 (B) submit to the appropriate committees
5 of Congress and the Secretary a report on the
6 results of such study.

7 (b) CONDITIONS AND LIMITATIONS.—

8 (1) RECEIPT OF PAYMENT.—A Federal entity is
9 not required to conduct a study under subsection (a)
10 if such entity requests such payment in accordance
11 with section 118(g)(2) of the National Telecommuni-
12 cations and Information Administration Organiza-
13 tion Act (47 U.S.C. 928(g)(2)) but does not receive
14 such payment.

15 (2) INABILITY TO ACHIEVE COMPARABLE CAPA-
16 BILITY OF SYSTEMS.—If it is found in a study con-
17 ducted under subsection (a) that any Federal entity
18 operating on spectrum with respect to which the
19 study is conducted would not be able to achieve com-
20 parable capability of systems in the case of the re-
21 allocation of such spectrum or a portion thereof for
22 non-Federal use or shared Federal and non-Federal
23 use, or a combination thereof, and auction in accord-
24 ance with such reallocation, the Federal entity that
25 conducted the study shall submit to the National

1 Telecommunications and Information Administration
2 and the Director of the Office of Management and
3 Budget a certification stating such finding.

4 **SEC. 5. IDENTIFICATION, REALLOCATION, AND AUCTION OF**
5 **CERTAIN FEDERAL SPECTRUM.**

6 (a) IDENTIFICATION OF SPECTRUM.—Not later than
7 January 1, 2025, the Secretary shall—

8 (1) for the frequencies with respect to which a
9 Federal entity makes an affirmative feasibility deter-
10 mination under section 4(a), determine whether the
11 Secretary concurs with the determination of the
12 Federal entity; and

13 (2) if the Secretary concurs with the determina-
14 tion of the Federal entity, submit to the President
15 and the Commission a report identifying for re-
16 allocation the frequencies with respect to which the
17 Federal entity made the determination.

18 (b) CLEARING OF SPECTRUM.—The President
19 shall—

20 (1) not later than 180 days after the Secretary
21 submits a report under subsection (a)(2), begin the
22 process of withdrawing or modifying the assignment
23 to a Federal Government station of the frequencies
24 identified in such report; and

1 (2) not later than 30 days after completing the
2 withdrawal or modification, notify the Commission
3 that the withdrawal or modification is complete.

4 (c) REALLOCATION AND AUCTION.—

5 (1) IN GENERAL.—The Commission shall—

6 (A) reallocate the frequencies identified in
7 a report under subsection (a)(2) for non-Fed-
8 eral use or shared Federal and non-Federal use,
9 or a combination thereof; and

10 (B) notwithstanding paragraph (15)(A) of
11 section 309(j) of the Communications Act of
12 1934 (47 U.S.C. 309(j)), not later than Janu-
13 ary 1, 2026, begin a system of competitive bid-
14 ding under such section to grant new initial li-
15 censes for the use of such frequencies, subject
16 to flexible-use service rules.

17 (2) PROCEEDS TO COVER 110 PERCENT OF FED-
18 ERAL RELOCATION OR SHARING COSTS.—Nothing in
19 this section shall be construed to relieve the Com-
20 mission from the requirements of section
21 309(j)(16)(B) of the Communications Act of 1934
22 (47 U.S.C. 309(j)(16)(B)).

23 (d) AUCTION AUTHORITY.—Section 309(j)(11) of the
24 Communications Act of 1934 (47 U.S.C. 309(j)(11)) is
25 amended—

1 (1) by striking the period at the end and insert-
2 ing “; and”;

3 (2) by striking “except that, with respect to”
4 and inserting “except that—

5 “(A) with respect to”; and

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

7 “(B) with respect to the frequencies identi-
8 fied under section 5(a)(2) of the SPECTRUM
9 NOW Act, such authority shall expire on Sep-
10 tember 30, 2027.”.

11 (e) RELATIONSHIP TO SPECTRUM PIPELINE IDENTI-
12 FICATION REQUIREMENT.—The identification of fre-
13 quencies under subsection (a)(2), withdrawal or modifica-
14 tion of the assignment to a Federal Government station
15 of such frequencies under subsection (b), or reallocation
16 or auction of such frequencies under subsection (c) does
17 not preclude such frequencies from being identified under
18 section 1006(e) of the Spectrum Pipeline Act of 2015
19 (Public Law 114–74; 129 Stat. 624).

20 **SEC. 6. DEFINITIONS.**

21 In this Act:

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

1 (A) the Committee on Appropriations of
2 the House of Representatives;

3 (B) the Committee on Appropriations of
4 the Senate;

5 (C) the Committee on Energy and Com-
6 merce of the House of Representatives; and

7 (D) the Committee on Commerce, Science,
8 and Transportation of the Senate.

9 (2) COMMISSION.—The term “Commission”
10 means the Federal Communications Commission.

11 (3) COMPARABLE CAPABILITY OF SYSTEMS.—
12 The term “comparable capability of systems” has
13 the meaning described in section 113(g)(3)(B) of the
14 National Telecommunications and Information Ad-
15 ministration Organization Act (47 U.S.C.
16 923(g)(3)(B)).

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

22 (5) SECRETARY.—The term “Secretary” means
23 the Secretary of Commerce.

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