

116TH CONGRESS
1ST SESSION

S. 2223

To facilitate a national pipeline of spectrum for commercial use, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2019

Mr. GARDNER (for himself, Ms. HASSAN, Mr. RUBIO, Ms. CORTEZ MASTO, Mrs. CAPITO, Ms. BALDWIN, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To facilitate a national pipeline of spectrum for commercial use, 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 “Advancing Innovation
5 and Reinvigorating Widespread Access to Viable Electro-
6 magnetic Spectrum Act” or the “AIRWAVES Act”.

7 **SEC. 2. SENSE OF CONGRESS.**

8 It is the sense of Congress that the United States
9 should strive to—

1 (1) advance innovation with respect to, and in-
2 vestment in, wireless broadband internet access;

3 (2) promote the benefits of connecting all indi-
4 viduals in the United States to quality wireless
5 broadband internet access, including those individ-
6 uals in rural communities; and

7 (3) support comprehensive, technology-neutral
8 spectrum policy that includes licensed, unlicensed,
9 and shared use of spectrum bands.

10 **SEC. 3. DEFINITIONS.**

11 In this Act—

12 (1) the term “Commission” means the Federal
13 Communications Commission;

14 (2) the term “Federal entity” has the meaning
15 given the term in section 113(l) of the National
16 Telecommunications and Information Administration
17 Organization Act (47 U.S.C. 923(l));

18 (3) the term “relocation or sharing costs” has
19 the meaning given the term in section 113(g)(3) of
20 the National Telecommunications and Information
21 Administration Organization Act (47 U.S.C.
22 923(g)(3));

23 (4) the term “Spectrum Relocation Fund”
24 means the fund established under section 118 of the

1 National Telecommunications and Information Ad-
2 ministration Organization Act (47 U.S.C. 928); and

3 (5) the term “system of competitive bidding”
4 means a system of competitive bidding conducted
5 under section 309(j) of the Communications Act of
6 1934 (47 U.S.C. 309(j)).

7 **SEC. 4. EXPANDING ACCESS TO SPECTRUM.**

8 (a) IN GENERAL.—Not later than December 31,
9 2022, the Commission shall—

10 (1) complete a system of competitive bidding
11 for the use of at least 500 megahertz of commer-
12 cially licensed spectrum in frequency bands below 6
13 gigahertz; and

14 (2) make available at least 500 megahertz of
15 additional unlicensed spectrum in frequency bands
16 above 5 gigahertz.

17 (b) INCUMBENT PROTECTIONS.—With respect to any
18 frequency band with respect to which the Commission con-
19 ducts a system of competitive bidding under subsection
20 (a)(1) (referred to in this subsection as the “covered
21 band”), the Commission—

22 (1) may not proceed with any action (including
23 relocating incumbents or registrants that are, as of
24 the date of enactment of this Act, operational in the
25 covered band from the covered band, or permitting

1 new entrants into the covered band) if that action
2 may result in the dislodging or harming of any such
3 incumbent or registrant in the covered band until
4 the Commission determines, including by requiring
5 testing and technical studies, if appropriate, that
6 any such action will neither cause harmful inter-
7 ference with nor unreasonably constrain any such in-
8 cumbent or registrant in the covered band; and

9 (2) if the Commission determines that the relo-
10 cation of an incumbent or registrant from the cov-
11 ered band to another equivalent frequency band as
12 a result of carrying out subsection (a)(1) is not pos-
13 sible, and if the Commission determines that no
14 mitigation technology, alternative sharing approach,
15 or incentives-based approach would reliably prevent
16 harmful interference to incumbents or registrants in
17 the covered band, shall provide a notification to the
18 Committee on Commerce, Science, and Transpor-
19 tation of the Senate and the Committee on Energy
20 and Commerce of the House of Representatives re-
21 garding those determinations.

22 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
23 tion may be construed as preventing the Commission
24 from—

- 1 (1) completing a system of competitive bidding
2 for the use of more than 500 megahertz of commer-
3 cially licensed spectrum under subsection (a)(1); or
4 (2) making available more than 500 megahertz
5 of additional unlicensed spectrum under subsection
6 (a)(2).

7 **SEC. 5. RURAL SET-ASIDE.**

8 (a) **IN GENERAL.**—Notwithstanding section
9 309(j)(8) of the Communications Act of 1934 (47 U.S.C.
10 309(j)(8)), the Commission shall allocate 10 percent of the
11 proceeds attributable to each system of competitive bid-
12 ding conducted under this Act for the deployment of wire-
13 less infrastructure in areas that the Commission has de-
14 termined are underserved or unserved with respect to
15 wireless broadband internet access service, except that, be-
16 fore making such an allocation, the Commission shall
17 cover the relocation or sharing costs of any Federal entity
18 that is relocated from the frequency to which that system
19 of competitive bidding relates.

20 (b) **LIMITATIONS.**—No amounts allocated under sub-
21 section (a) may be combined with amounts that are used
22 to fund any other program that is in existence on the date
23 on which the allocation is made, including any program
24 established under section 254 of the Communications Act
25 of 1934 (47 U.S.C. 254).

1 (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-
2 tion may be construed to affect the amounts with which
3 the Spectrum Relocation Fund is credited under section
4 118(b) of the National Telecommunications and Informa-
5 tion Administration Organization Act (47 U.S.C. 928(b)).

6 **SEC. 6. RULES OF CONSTRUCTION.**

7 (a) **FREQUENCY RANGES.**—Any frequency range de-
8 scribed in this Act shall be construed as including the
9 upper and lower frequency in the frequency range.

10 (b) **ASSESSMENT OF ELECTROMAGNETIC SPECTRUM**
11 **REALLOCATION.**—Nothing in this Act may be construed
12 as affecting any requirement under section 156 of the Na-
13 tional Telecommunications and Information Administra-
14 tion Organization Act (47 U.S.C. 921 note).

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