

# FCC Spectrum Auction Authority: Background and Proposals for Extension

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## FCC Spectrum Auction Authority: Background and Proposals for Extension

Radio spectrum (“spectrum”) is the continuum of frequencies allocated for radio transmissions and is a finite and valuable resource. It is necessary for companies seeking to provide wireless services, such as radio broadcasting, mobile communications, and satellite services. In 1934, Congress created the Federal Communications Commission (FCC), an independent agency, to manage nonfederal use of spectrum. The FCC allocates segments of spectrum for various uses, such as radio broadcasting, mobile communications, satellite services, and land mobile radio communications. It grants licenses to nonfederal entities to use specific frequencies within those bands and sets terms and conditions on use to serve the public interest, avoid interference between users, and promote the most efficient use of spectrum.

In 1993, Congress authorized the FCC to use competitive bidding (i.e., auctions) to grant licenses for rights to use specific frequencies for commercial wireless communications. That authority was originally due to expire on September 30, 1998, but Congress has extended it several times. The most recent extension in 2012, which expires on September 30, 2022, was granted as part of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96). As the expiration of the FCC’s spectrum auction authority approaches, Congress is considering proposals to extend it. There is widespread sentiment among Members that Congress should extend the FCC’s auction authority. However, as of September 28, 2022, Congress has not agreed on the terms of the extension.

On July 27, 2022, the House of Representatives passed the Spectrum Innovation Act of 2022 (H.R. 7624), which would extend FCC auction authority through March 2024. Among its other provisions, the bill would require the auction of the 3.1-3.45 gigahertz (GHz) band, and allocate auction revenues to fund next-generation 911 improvements and the Secure and Trusted Communications Network Reimbursement Program—a program to “rip and replace” untrusted equipment from U.S. telecommunication networks. The bill is under consideration in the Senate. Members are reportedly debating the term of the extension, the accompanying spending provisions in H.R. 7624, and the legislative vehicle for the extension, whether it be a standalone bill (H.R. 7624), a continuing resolution (CR), annual appropriations, or some other vehicle.

Some Members assert that comprehensive spectrum legislation that includes extension of FCC auction authorities, identification of specific spectrum for auction, designation of spectrum auction revenues, and provisions to improve interagency coordination is integral to effective spectrum management. They maintain that decoupling FCC auction authority from such legislation, by passing stand-alone, short-term extensions, leaves the agency and industry without planning certainty and does not address persistent spectrum issues. Other Members favor decoupling the extension of FCC’s spectrum auction authority to avoid a lapse, and deferring negotiations on a more comprehensive bill until a later date.

If Congress does not reach agreement to extend the FCC’s spectrum auction authority by September 30, 2022, the FCC would no longer be able to auction spectrum licenses for particular bands. Of particular concern is the FCC’s ongoing auction of the 2.5 GHz band. Some Members and industry stakeholders are concerned that the lapse in auction authority would limit the FCC’s ability to complete the auction and issue licenses before its authority expired. In August 2022, FCC Commissioner Jessica Rosenworcel expressed confidence that the FCC could complete the auction before its auction authority expired, but also noted that a lapse could limit their ability to issue licenses, which occurs after the auction.

On September 27, 2022, Senate leadership released a draft CR that contains language to extend the FCC spectrum auction authority through December 16, 2022. If it passes, FCC authority would not lapse and it could continue to engage in spectrum planning and auction activities through December 16, 2022. This report provides a brief history of FCC spectrum auction authority, legislative activity in the 117th Congress, and a discussion of policy options.

## Contents

Introduction .....	1
History of the FCC’s Spectrum Auction Authority .....	2
Proposals in the 117 <sup>th</sup> Congress to Extend the FCC’s Spectrum Auction Authority .....	4
Extending America’s Spectrum Auction Leadership Act of 2022 (H.R. 7783) .....	5
The Spectrum Innovation Act of 2022 (H.R. 7624) .....	5
Spectrum Innovation Act of 2022 (S. 4117).....	5
Senate Hearing: “The Future of Spectrum”.....	6
What Happens If the FCC’s Spectrum Auction Authority Lapses? .....	6
Issues for Congress.....	7

## Figures

Figure 1. Timeline of Changes to the FCC’s Spectrum Auction Authority (1981-2022).....	4
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## Tables

Table 1. FCC Spectrum Authority: Congressional Options.....	9
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## Contacts

Author Information.....	9
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## Introduction

Radio spectrum (“spectrum”) is the continuum of frequencies allocated for radio transmissions and is a finite and valuable resource. It is necessary for companies seeking to provide wireless services, such as radio broadcasting, mobile communications, and satellite services. In 1934, Congress created the Federal Communications Commission (FCC), an independent agency, to manage nonfederal use of spectrum. The FCC allocates segments of usable and available spectrum for various uses, such as radio broadcasting, mobile communications, satellite services, and land mobile radio communications. It grants licenses to nonfederal entities to use specific frequencies within those bands and sets terms and conditions to serve the public interest, avoid interference between users, and promote the most efficient use of spectrum. According to the FCC, “Managing the airwaves is arguably the agency’s most important function. Nearly every commercial device that transmits a wireless signal on a radio frequency, from AM radios to satellites to 5G cell phones, must comply with our rules, from licensing to interference.”<sup>1</sup>

In 1993, Congress authorized the FCC to use competitive bidding (i.e., auctions) to grant licenses for rights to use specific frequencies for commercial wireless communications. That authority was originally due to expire on September 30, 1998, but Congress has extended it several times. The most recent extension in 2012—through September 30, 2022—was granted as part of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96). As the expiration of the FCC’s spectrum auction authority approaches, Congress is considering proposals to extend it. There is widespread sentiment among Members that Congress should extend this authority. Expiration could potentially delay decisions on spectrum, such as enhanced interagency coordination on spectrum planning and decisions on spectrum auction revenue, and possibly deferring those decisions to a future Congress. However, as of September 28, 2022, Congress has not come to an agreement on the terms of the extension.

On July 27, 2022, the House of Representatives passed the Spectrum Innovation Act of 2022 (H.R. 7624), which would extend FCC auction authority through March 2024. Among its other provisions, the bill would require the auction of the 3.1-3.45 gigahertz (GHz) band, and allocate auction revenues to fund next generation 911 improvements and the Secure and Trusted Communications Network Reimbursement Program—a program to “rip and replace” untrusted equipment from U.S. telecommunication networks. The bill is under consideration in the Senate. Members are reportedly debating the term of the extension, the accompanying spending provisions in H.R. 7624, and the legislative vehicle for the extension, whether it be a standalone bill (H.R. 7624), a continuing resolution (CR), annual appropriations, or some other vehicle.

On September 27, 2022, Senate leadership released a draft CR that contains language to extend the FCC spectrum auction authority through December 16, 2022. If it passes, the FCC could continue to engage in spectrum auction activities, however, only temporarily.

This report provides a brief history of FCC spectrum auction authority, legislative activity in the 117th Congress, and a discussion of policy options.

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<sup>1</sup> FCC Podcast, *More than Seven Dirty Words*, episode #18, “Going Once, Going Infinitely: How the FCC Went from ‘Beauty Contests’ to Spectrum Auctions,” January 19, 2021, at <https://www.fcc.gov/news-events/podcast>.

## History of the FCC's Spectrum Auction Authority

Congress added Section 309(i) to the Communications Act of 1934 in the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35),<sup>2</sup> granting the FCC authority to assign licenses to pre-qualified applicants by random selection (i.e., lottery). Under the lottery system, these applicants would apply for spectrum licenses and the FCC would randomly assign frequencies to them. However, as stated by the FCC in a 1997 report to Congress, the pre-qualification process itself often took many months (20 months in one case), and some license winners had “no intention of providing service to the public” and instead “were eager to trade their license rights for windfall profits.”<sup>3</sup>

Such profiteering led Congress to grant the FCC authority to conduct auctions to assign spectrum. Congress added §309(j) to the Communications Act of 1934 in the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66, §6002),<sup>4</sup> which allowed the FCC to use competitive bidding (i.e., auctions) to grant spectrum licenses.<sup>5</sup> The act required the FCC to protect the public interest and promote specific objectives, such as speeding deployment of new technology and services to rural regions, increasing competition and diversity among licensees, recovering some of the value of this federal resource for the public, and achieving the most efficient use of spectrum.<sup>6</sup> By awarding licenses to the highest bidders from a diverse pool and including build-out requirements as a condition of licensing, the FCC could ensure that spectrum-holders were ready and able to use the spectrum, to provide services to consumers in all areas, and to enhance competition. Under this act, the FCC's auction authority would have expired on September 30, 1998.

On August 5, 1997, Congress extended the FCC's auction authority for 10 years through the passage of the Balanced Budget Act of 1997 (P.L. 105-33, §3002), allowing the FCC to use competitive bidding for license applications through September 30, 2007.

The Deficit Reduction Act of 2005 (P.L. 109-171, §3003), enacted February 8, 2006, extended FCC auction authority for four years, through September 30, 2011. The act specified that \$7.363 billion of proceeds from the authorized auctions be applied to deficit reduction. It also set aside a portion of the proceeds for digital television transition and public safety communications, and created the Digital Television Transition and Public Safety Fund.<sup>7</sup>

The Digital Television Delay Act (P.L. 111-4, §5), enacted February 11, 2009, extended FCC auction authority for one year, through September 30, 2012, to manage the auctions mandated under P.L. 109-171.

The Middle-Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96, Title VI) included several spectrum-related provisions. It established a process for television broadcasters to release

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<sup>2</sup> See Communications Act of 1934, as amended (§309(i)), at <https://transition.fcc.gov/Reports/1934new.pdf>.

<sup>3</sup> Federal Communications Commission, *Report to Congress on Spectrum Auctions*, FCC 97-353, adopted September 30, 1997, released October 9, 1997, p. 7, at <https://wireless.fcc.gov/auctions/data/papersAndStudies/fc970353.pdf>.

<sup>4</sup> The Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, §6002, 107 Stat. 312, 387-392.

<sup>5</sup> Sections 309(j)(7) and (8) discuss treatment of revenue from spectrum auctions, and state that the FCC may not base a finding of public interest, convenience, and necessity solely or predominantly on the expectation of federal revenue.

<sup>6</sup> FCC, *In the Matter of Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases* (Gen. Docket No. 90-264), Notice of Proposed Rulemaking, May 10, 1990, p. 4050, at <https://www.fcc.gov/document/amendment-proposals-reform-comparative-hearing-process-expedite>.

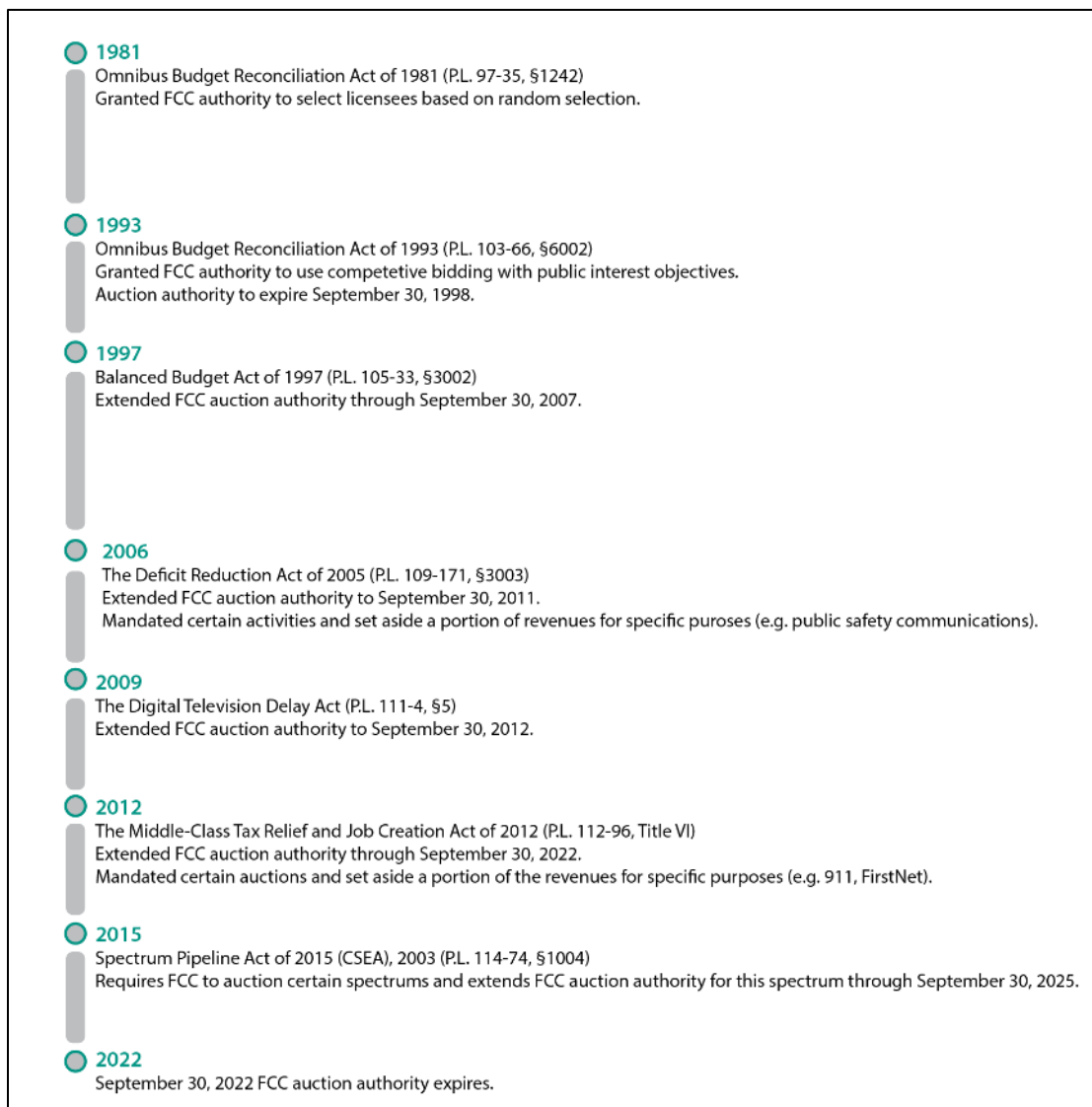
<sup>7</sup> For more information, see CRS Report R40674, *Spectrum Policy in the Age of Broadband: Issues for Congress*, by Linda K. Moore. For further information, congressional readers may contact Jill C. Gallagher or Patricia Moloney Figliola.

spectrum licensed to them and for the FCC to auction that spectrum for commercial use. It included provisions to auction certain spectrum and apply revenues from those auctions toward deficit reduction. It also required revenues be used to establish a new agency to manage the public safety broadband network (First Responder Network Authority), to build out that network, and to fund several new public safety programs and initiatives. The act (§6405) also extended the FCC's auction authority for 10 years, through September 30, 2022.

The Spectrum Pipeline Act of 2015, which was included as Title X in the Bipartisan Budget Act of 2015 (P.L. 114-74), requires the FCC to auction certain spectrum as specified in Section 1004(a) of the act. The act extends FCC auction authority for this spectrum through September 30, 2025.

**Figure 1** illustrates the timeline of changes to the FCC's spectrum auction authority, which is due to expire on September 30, 2022, except for certain spectrum auctioned under the authority of the Spectrum Pipeline Act of 2015.

**Figure 1. Timeline of Changes to the FCC's Spectrum Auction Authority (1981-2022)**



Source: CRS.

## Proposals in the 117<sup>th</sup> Congress to Extend the FCC's Spectrum Auction Authority

With the FCC's spectrum auction authority set to expire on September 30, 2022, there are several legislative proposals in the 117<sup>th</sup> Congress to extend this authority, described below. As of mid-September 2022, media reports indicate that Congress had not come to agreement on the terms of the extension.<sup>8</sup>

<sup>8</sup> Jimm Phillips, "Strong Chance CR Includes Short FCC Spectrum Authority Renewal Amid Talks," *Communications Daily*, September 12, 2022.

## **Extending America's Spectrum Auction Leadership Act of 2022 (H.R. 7783)**

The Extending America's Spectrum Auction Leadership Act of 2022 (H.R. 7783), introduced on May 16, 2022, would extend FCC auction authority through March 31, 2024 (i.e., 18 months from its September 30, 2022, expiration). The House Energy and Commerce, Subcommittee on Communications and Technology approved the bill on June 15, 2022, with bipartisan support.

## **The Spectrum Innovation Act of 2022 (H.R. 7624)**

The Spectrum Innovation Act of 2022 (H.R. 7624), introduced on April 28, 2022, was passed by the House on July 27, 2022 (H.Rept. 117-429), and referred to the Senate Committee on Commerce, Science, and Transportation. The bill, as passed by the House, would extend the FCC's spectrum auction authority through March 31, 2024 (the same timeline proposed and approved by the House Energy and Commerce, Subcommittee on Communications and Technology in H.R. 7783).

This bill would also specify a process for auctioning a segment of spectrum between 3100 megahertz (MHz) and 3450 MHz for nonfederal use, shared federal and nonfederal use, or a combination of uses. Specifically, the bill would allow federal entities operating in the band (i.e., Department of Defense (DOD)) to use funding from the Spectrum Relocation Fund<sup>9</sup> for the purpose of research and development, engineering studies, economic analyses, activities with respect to reconfiguring systems,<sup>10</sup> or other planning activities to make spectrum available for nonfederal or shared federal and nonfederal use. Among other things, the bill would establish the Public Safety and Secure Networks Fund and direct a portion of spectrum auction proceeds for specific purposes. The bill would provide \$3.08 billion in spectrum auction revenues to supplement the Secure and Trusted Communications Networks Reimbursement Program—a program that reimburses telecommunications providers for replacing equipment that poses risks to national security and safety.<sup>11</sup> Additionally, the bill would also make available \$10 billion from such revenues to improve 911 systems and services.

Some in the House and Senate are reportedly discussing this bill, but as of late September 2022, they have not come to agreement on the details.<sup>12</sup>

## **Spectrum Innovation Act of 2022 (S. 4117)**

The Spectrum Innovation Act of 2022 (S. 4117), introduced on April 28, 2022, would auction the 3.1-3.45 GHz band of spectrum and would extend the FCC's auction authority to auction this segment for seven years from the enactment of the bill. The bill directs the Office of Management and Budget to transfer funding from the Spectrum Relocation Fund to federal entities to plan and conduct studies to facilitate the reallocation, with oversight from the National

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<sup>9</sup> As authorized by the Commercial Spectrum Enhancement Act, Title II of P.L. 108-494, the Spectrum Relocation Fund provides a centralized and streamlined funding mechanism through which federal agencies can recover the costs associated with relocating their radio communications systems or sharing the reallocated spectrum.

<sup>10</sup> The auction of the 3.1-3.45 GHz band was authorized in the Infrastructure Investment and Jobs Act (P.L. 117-58, §90008(b)); H.R. 7624 proposes to repeal §90008.

<sup>11</sup> For more information on the program, see CRS Insight IN11663, *Secure and Trusted Communications Networks Reimbursement Program: Frequently Asked Questions*, by Jill C. Gallagher.

<sup>12</sup> Jimm Phillips, "Strong Chance CR Includes Short FCC Spectrum Authority Renewal Amid Talks," *Communications Daily*, September 12, 2022.



Telecommunications and Information Administration (NTIA) and the Executive Office of the President. It requires the Department of Commerce (DOC) to identify 200 MHz for reallocation and to work with DOD, FCC, and the White House Office of Science and Technology Policy to make spectrum available for new uses, while also protecting incumbent users. The bill was referred to the Committee on Commerce, Science, and Transportation.

## Senate Hearing: “The Future of Spectrum”

On August 2, 2022, the Senate Committee on Commerce, Science, and Transportation’s Subcommittee on Communications, Media, and Broadband held a hearing, “The Future of Spectrum.”<sup>13</sup> Senator Ben Ray Lujan, Chair of the Subcommittee, Senator Roger Wicker, ranking member of the full committee, and Senator John Thune, ranking member of the subcommittee noted the importance of renewing the FCC’s spectrum authority in their opening statements. Many members expressed support for a short-term extension of FCC authority, continued work on a long-term spectrum strategy, and enhanced coordination between the FCC and NTIA to balance commercial and federal agency needs.<sup>14</sup>

Industry witnesses supported approval of a short-term extension to ensure FCC authority does not lapse, especially as the FCC was (at the time of the hearing), conducting the auction of 2.5 GHz spectrum. They also asserted that a short-term extension would allow Congress and agency stakeholders time to develop comprehensive spectrum legislation that would, among other things,<sup>15</sup> identify a spectrum pipeline (i.e., specific frequencies for auction) and determine how to spend spectrum auction revenues.<sup>16</sup> A witness from Public Knowledge, a public interest group, argued that a longer-term extension or permanent extension could facilitate long-term planning to make spectrum available for a variety of users, protect the public interest in spectrum decisions, and to ensure spectrum auction revenues benefit public interest objectives.<sup>17</sup>

## What Happens If the FCC’s Spectrum Auction Authority Lapses?

If Congress does not reach agreement to extend the FCC’s spectrum auction authority by September 30, 2022, the FCC would no longer be able to auction spectrum licenses for particular bands. Of particular concern is the FCC’s ongoing auction of the 2.5 GHz band. Some Members and industry stakeholders are concerned that the lapse in auction authority would limit the FCC’s ability to complete the auction and issue licenses before its authority expired.<sup>18</sup> In August 2022,

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<sup>13</sup> U.S. Congress, Senate Committee on Commerce, Science, and Transportation, Subcommittee on Communication, Media, and Broadband, *Future of Spectrum*, 117th Cong., 2nd sess., August 2, 2022, at <https://www.commerce.senate.gov/2022/8/future-of-spectrum>.

<sup>14</sup> See opening statements of Senators Lujan, Wicker, and Thune, “Senate Hearing on Wireless Spectrum,” C-SPAN.org, August 2, 2022, at <https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum>. This link allows for full text searching of the video, as well as filtering by speaker.

<sup>15</sup> A “spectrum pipeline plan” refers to the federal government selecting specific frequencies for auction and setting the timeline for conducting these auctions.

<sup>16</sup> “Senate Hearing on Wireless Spectrum,” C-SPAN.org, August 2, 2022, at <https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum>. (See opening statements of Meredith Atwell Baker, President and chief executive officer of CTIA, a wireless industry organization (00:23:58)).

<sup>17</sup> Ibid. (See statement of Christopher Lewis, President, Public Knowledge (00:21:49)).

<sup>18</sup> Ibid. (See statement of Senator Ben Ray Lujan (02:10:07)).

FCC Commissioner Jessica Rosenworcel expressed confidence that the FCC could complete the auction before its auction authority expired, but also noted that a lapse could limit their ability to issue licenses,<sup>19</sup> which occurs after the auction. The FCC announced on September 1, 2022, that the auction was closed, but as of September 27, 2022, had not publicly stated that it had granted the licenses.<sup>20</sup> The concern remains that if Congress does not extend the FCC's auction authority, it may affect the FCC's ability to grant licenses to the 2.5 GHz auction winners.

## Issues for Congress

The House passed H.R. 7624 on July 28, 2022. The bill would extend the FCC's spectrum auction authority through March 31, 2024 (18 months), authorize the auction of the 3.1-3.45 GHz segment of spectrum, and designate \$3.08 billion in spectrum auction revenues to supplement the Secure and Trusted Communications Networks Reimbursement Program, and \$10 billion to improve 911 systems and services. The House requested concurrence from the Senate on July 28, 2022; the Senate referred it to the Senate Committee on Commerce, Science, and Transportation.

Some Members assert that a long-term extension of the FCC's auction authority is integral to comprehensive spectrum legislation that includes approaches to auction revenue allocation, a spectrum pipeline (e.g., designation of specific spectrum to auction), interagency coordination requirements, and funding provisions and that decoupling FCC auction authority from other spectrum provisions by passing stand-alone, short-term extensions leaves the agency and industry without planning certainty.<sup>21</sup>

The Chair of the Senate Committee on Commerce, Science and Transportation, Senator Maria Cantwell, opposed the 18-month extension in H.R. 7624, and expressed interest in developing a spectrum package that includes a long-term extension, addresses interagency coordination on spectrum, and includes Senate Commerce input on policy and funding priorities.<sup>22</sup> Senator Cantwell has also stressed the need for an assessment of spectrum needs to aid long-term planning,<sup>23</sup> interagency coordination,<sup>24</sup> and consensus on funding initiatives.<sup>25</sup> In the past, Senator

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<sup>19</sup> John Eggerton, "FCC's Jessica Rosenworcel: No Worries About Authority Sunset, 2.5 GHz Auction," *Multichannel News*, August 5, 2022, at <https://www.nexttv.com/news/fccs-jessica-rosenworcel-no-worries-about-authority-sunset-25-ghz-auction>.

<sup>20</sup> As of September 27, 2022, the FCC has not issued a public notice that it granted licenses. Per the FCC's 2.5 GHz auction website (<https://www.fcc.gov/auction/108/releases>), the 2.5 GHz auction (Auction 108) closed on September 1, 2022. Down payments and FCC forms were due September 16, 2022, and the final payment due date is September 30, 2022. On September 20, 2022, the FCC extended certain deadlines (e.g., final payments) for those affected by Hurricane Fiona.

<sup>21</sup> "Senate Hearing on Wireless Spectrum," C-SPAN.org, August 2, 2022, at <https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum>. (See statement of Senator John Thune (0:14:38)).

<sup>22</sup> Jimm Phillips and Howard Buskirk, "Dueling House, Senate Spectrum Bill Approaches to Clash Before August Recess," *Communications Daily*, July 19, 2022, at [https://communicationsdaily.com/article/view?search\\_id=595110&p=1&id=1310457&BC=bc\\_633421f8b5575](https://communicationsdaily.com/article/view?search_id=595110&p=1&id=1310457&BC=bc_633421f8b5575).

<sup>23</sup> "Senate Hearing on Wireless Spectrum," C-SPAN.org, August 2, 2022, <https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum>. (See statements of Senators Maria Cantwell (01:42:32)).

<sup>24</sup> Senator Maria Cantwell, "Cantwell Demands Stringent Protections for Weather Data, Limits on Spectrum Use," press release, December 5, 2019, at <https://www.commerce.senate.gov/2019/12/cantwell-demands-stringent-protections-for-weather-data-limits-on-spectrum-use>; see also Letter from Senator Maria Cantwell to FCC Chairman Ajit Pai on the 5.9 GHz band, November 17, 2020 and Letter from multiple U.S. Senators (including Senator Cantwell) to FCC Chairman Pai on the FCC Order granting Ligado Networks authority to deploy a terrestrial network, May 15, 2020, at <https://www.fcc.gov/chairman-letters-congress>.

<sup>25</sup> Jimm Phillips and Howard Buskirk, "Spectrum Bill Talks Continue; Cantwell Balks at 18-Month FCC Auction Law

Cantwell has supported using spectrum auction revenues for rural broadband and 911 improvements.<sup>26</sup>

Senator Ben Ray Luján, Chair of the Subcommittee on Communications, Media, and Broadband, also favors a longer-term extension of FCC auction authority, and a spectrum package that includes development of a spectrum pipeline, enhanced interagency coordination on spectrum, and funding for 911 improvements and projects to close the digital divide.<sup>27</sup>

Other Members favor decoupling the extension of FCC's spectrum auction authority from other measures being considered for comprehensive spectrum legislation. Senator Roger Wicker, ranking member of the committee, expressed support for a short-term auction authorization, followed by more comprehensive legislation in the future that would include a spectrum pipeline (e.g., specific frequencies for auction), timelines for auction, and provisions to improve interagency coordination.<sup>28</sup> In the past, Senator Wicker has supported proposals to use spectrum auction revenues to fund shortfalls in the Secure and Trusted Communications Network Reimbursement Program.<sup>29</sup> Senator John Thune, ranking member of the subcommittee supports a short-term authorization, with continued work on a larger spectrum package that includes a spectrum pipeline, interagency coordination, and funding for the Secure and Trusted Communications Network Reimbursement Program.<sup>30</sup>

While many Members support a comprehensive legislative package, they acknowledge that it may not be possible to reach an agreement on such a package by September 30, 2022.<sup>31</sup> Thus, some support a short-term, stopgap measure to extend FCC auction authority while deferring negotiation of a more comprehensive bill.<sup>32</sup>

On September 27, 2022, Senate leadership released a draft CR that contains language to extend the FCC spectrum auction authority through December 16, 2022.<sup>33</sup> This extension is temporary and would expire December 16, potentially delaying decisions on spectrum and spectrum auction revenue, to be decided by future congressional action.

**Table 1** presents five policy options for Congress to extend the FCC's spectrum auction authority, including possible benefits and challenges of each.

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Extension,” *Communications Daily*, June 29, 2022, at <https://communicationsdaily.com/news/2022/06/29/Spectrum-Bill-Talks-Continue-Cantwell-Balks-at-18Month-FCC-Auction-Law-Extension-2206280070>. (Discusses Senator Cantwell stating that she would like Senate Commerce to weigh in on House legislation, “instead of automatically backing the House proposals”).

<sup>26</sup> See for example, S. 2956.

<sup>27</sup> “Senate Hearing on Wireless Spectrum,” C-SPAN.org, August 2, 2022, at <https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum>. (See statement of Senator Ben Ray Lujan (02:10:07)).

<sup>28</sup> “Senate Hearing on Wireless Spectrum,” C-SPAN.org, August 2, 2022, at <https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum>. (See opening statements of Senator Roger Wicker (00:07:27)).

<sup>29</sup> Letter from 34 U.S. Senators, to Senator Schumer and Senator McConnell, September 8, 2022, at <https://www.hickenlooper.senate.gov/wp-content/uploads/2022/09/Secure-Networks-Act-Reimbursement-Program-Shortfall-Signed.pdf>.

<sup>30</sup> Ibid. (See statement of Senator John Thune (0:12:54), Senator Luján (00:40:39)).

<sup>31</sup> Jimm Phillips and Howard Buskirk, “Lawmakers Seen Nearing Deal to Extend FCC Spectrum Auction Authority Though Dec.,” *Communications Daily*, September 22, 2022, at [https://communicationsdaily.com/article/view?search\\_id=565285&p=1&id=1368613&BC=bc\\_6334365f49151](https://communicationsdaily.com/article/view?search_id=565285&p=1&id=1368613&BC=bc_6334365f49151).

<sup>32</sup> Jimm Phillips, “Senators Eye FCC Auctions Stopgap, Rip and Replace Funding Alternative Ahead of Hearing,” *Communications Daily*, August 2, 2022, at [https://communicationsdaily.com/article/view?search\\_id=595133&p=1&id=1324091&BC=bc\\_63343373db16b](https://communicationsdaily.com/article/view?search_id=595133&p=1&id=1324091&BC=bc_63343373db16b).

<sup>33</sup> See Amendment to H.R. 6833, Division C, Title I, Sec. 101, at <https://www.appropriations.senate.gov/imo/media/doc/H6833AM07.PDF>.

**Table 1. FCC Spectrum Authority: Congressional Options**

<b>Option for Congress</b>	<b>Possible Benefit</b>	<b>Possible Challenge</b>
Approve language in draft CR extending FCC auction authority for the term of the CR.	May extend the FCC spectrum auction authority, potentially for a very short term, allowing Members to negotiate a broader spectrum package.	Delays decision-making on many issues could interfere with spectrum planning, and may force Members to debate the issue again in a few months.
Approve stand-alone bill to extend FCC auction authority, such as H.R. 7783.	FCC spectrum auction authority would not lapse.	Many Members have expressed interest in a comprehensive package (e.g., long-term spectrum authority, pipeline, spectrum planning, coordination, programs) similar to the provisions in P.L. 112-96, and may not support the stand-alone bill.
Reach agreement on H.R. 7624 through concurrence or negotiation.  While House leadership has urged Senate concurrence on the bill, Senate lawmakers have expressed interest in negotiating certain elements.	H.R. 7624 is a comprehensive spectrum package.	May not include Senate priorities and negotiations to accommodate amendments could stretch beyond the date that the FCC's spectrum auction authority expires.
Grant the FCC permanent auction authority in legislation.  The FCC, Public Knowledge, and others have expressed support for congressional initiatives giving the FCC permanent spectrum auction authority.	Would give the FCC and industry certainty in knowing the FCC has permanent auction authority. It may also enable long-term planning at the FCC, and help to ensure the auction process is serving the public interest.	No opportunity to maintain oversight of FCC spectrum auction activity.
Extend FCC auction authority in the agency's FY2023 appropriations.	Provides continuity for a finite period of time to continue the 2.5 GHz spectrum auction.	Auction authority lapse on September 30, 2022. Since Congress has not yet agreed on appropriations, FCC spectrum auction authority would remain unauthorized until such appropriations had been made.

**Source:** CRS.

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