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PUBLIC LAW 108–494

AN ACT To amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users; to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E–911 calls, and to support in the construction and operation of a ubiquitous and reliable citizen activated system; and to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act, for a period of time.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—E–911

SEC. 101. [47 U.S.C. 901 note] SHORT TITLE.

This title may be cited as the "Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004" or the "ENHANCE 911 Act of 2004".

SEC. 102. [47 U.S.C. 942 note] FINDINGS.

The Congress finds that—

(1) for the sake of our Nation's homeland security and public safety, a universal emergency telephone number (911) that is enhanced with the most modern and state-of-the-art telecommunications capabilities possible should be available to all citizens in all regions of the Nation;

(2) enhanced emergency communications require Federal, State, and local government resources and coordination;

(3) any funds that are collected from fees imposed on consumer bills for the purposes of funding 911 services or enhanced 911 should go only for the purposes for which the funds are collected; and

(4) enhanced 911 is a high national priority and it requires Federal leadership, working in cooperation with State and local governments and with the numerous organizations dedicated to delivering emergency communications services.

SEC. 103. [47 U.S.C. 942 note] PURPOSES.

The purposes of this title are—

(1) to coordinate 911 services and E–911 services, at the Federal, State, and local levels; and

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(2) to ensure that funds collected on telecommunications bills for enhancing emergency 911 services are used only for the purposes for which the funds are being collected.

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SEC. 105. GAO STUDY OF STATE AND LOCAL USE OF 911 SERVICE CHARGES.

(a) IN GENERAL.—Within 60 days after the date of enactment of this Act, the Comptroller General shall initiate a study of—

(1) the imposition of taxes, fees, or other charges imposed by States or political subdivisions of States that are designated or presented as dedicated to improve emergency communications services, including 911 services or enhanced 911 services, or related to emergency communications services operations or improvements; and

(2) the use of revenues derived from such taxes, fees, or charges.

(b) REPORT.—Within 18 months after initiating the study required by subsection (a), the Comptroller General shall transmit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce setting forth the findings, conclusions, and recommendations, if any, of the study, including—

(1) the identity of each State or political subdivision that imposes such taxes, fees, or other charges; and

(2) the amount of revenues obligated or expended by that State or political subdivision for any purpose other than the purposes for which such taxes, fees, or charges were designated or presented.

SEC. 106. REPORT ON THE DEPLOYMENT OF E-911 PHASE II SERVICES BY TIER III SERVICE PROVIDERS.

Within 90 days after the date of enactment of this Act, the Federal Communications Commission shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate detailing—

(1) the number of tier III commercial mobile service providers that are offering phase II E–911 services;

(2) the number of requests for waivers from compliance with the Commission's phase II E–911 service requirements received by the Commission from such tier III providers;

(3) the number of waivers granted or denied by the Commission to such tier III providers;

(4) how long each waiver request remained pending before it was granted or denied;

(5) how many waiver requests are pending at the time of the filing of the report;

(6) when the pending requests will be granted or denied;

(7) actions the Commission has taken to reduce the amount of time a waiver request remains pending; and

(8) the technologies that are the most effective in the deployment of phase II E–911 services by such tier III providers.

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SEC. 107. FCC REQUIREMENTS FOR CERTAIN TIER III CARRIERS.

(a) IN GENERAL.—The Federal Communications Commission shall act on any petition filed by a qualified Tier III carrier requesting a waiver of compliance with the requirements of section 20.18(g)(1)(v) of the Commission's rules (47 C.F.R. 20.18(g)(1)(v)) within 100 days after the Commission receives the petition. The Commission shall grant the waiver of compliance with the requirements of section 20.18(g)(1)(v) of the Commission's rules (47 C.F.R. 20.18(g)(1)(v)) requested by the petition if it determines that strict enforcement of the requirements of that section would result in consumers having decreased access to emergency services.

(b) QUALIFIED TIER III CARRIER DEFINED.—In this section, the term "qualified Tier III carrier" means a provider of commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)) that had 500,000 or fewer subscribers as of December 31, 2001.

TITLE II—SPECTRUM RELOCATION

SEC. 201. [47 U.S.C. 901 note] SHORT TITLE.

This title may be cited as the "Commercial Spectrum Enhancement Act".

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SEC. 206. [47 U.S.C. 921 note] CONSTRUCTION.

Nothing in this title is intended to modify section 1062(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65).

SEC. 207. [47 U.S.C. 928 note] ANNUAL REPORT.

The National Telecommunications and Information Administration shall submit an annual report to the Committees on Appropriations and Energy and Commerce of the House of Representatives, the Committees on Appropriations and Commerce, Science, and Transportation of the Senate, and the Comptroller General on—

(1) the progress made in adhering to the timelines applicable to relocation from eligible frequencies required under section 118(d)(2)(A) of the National Telecommunications and Information Administration Organization Act, separately stated on a communication system-by-system basis and on an auction-by-auction basis; and

(2) with respect to each relocated communication system and auction, a statement of the estimate of relocation costs required under section 113(g)(4) of such Act, the actual relocations costs incurred, and the amount of such costs paid from the Spectrum Relocation Fund.

SEC. 208. [47 U.S.C. 923 note] PRESERVATION OF AUTHORITY; NTIA REPORT REQUIRED.

(a) SPECTRUM MANAGEMENT AUTHORITY RETAINED.—Except as provided with respect to the bands of frequencies identified in section 113(g)(2)(A) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)(A)) as amended by this title, nothing in this title or the amendments

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made by this title shall be construed as limiting the Federal Communications Commission's authority to allocate bands of frequencies that are reallocated from Federal use to non-Federal use for unlicensed, public safety, shared, or non-commercial use.

(b) NTIA REPORT REQUIRED.—Within 1 year after the date of enactment of this Act, the Administrator of the National Telecommunications and Information Administration shall submit to the Energy and Commerce Committee of the House of Representatives and the Commerce, Science, and Transportation Committee of the Senate a report on various policy options to compensate Federal entities for relocation costs when such entities' frequencies are allocated by the Commission for unlicensed, public safety, shared, or non-commercial use.

SEC. 209. COMMERCIAL SPECTRUM LICENSE POLICY REVIEW.

(a) EXAMINATION.—The Comptroller General shall examine national commercial spectrum license policy as implemented by the Federal Communications Commission, and shall report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce within 270 days.

(b) CONTENT.—The report shall address each of the following:

(1) An estimate of the respective proportions of electromagnetic spectrum capacity that have been assigned by the Federal Communications Commission—

(A) prior to enactment of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) providing to the Commission's competitive bidding authority,

(B) after enactment of that section using the Commission's competitive bidding authority, and

(C) by means other than competitive bidding,

and a description of the classes of licensees assigned under each method.

(2) The extent to which requiring entities to obtain licenses through competitive bidding places those entities at a competitive or financial disadvantage to offer services similar to entities that did not acquire licenses through competitive bidding.

(3) The effect, if any, of the use of competitive bidding and the resulting diversion of licensees' financial resources on the introduction of new services including the quality, pace, and scope of the offering of such services to the public.

(4) The effect, if any, of participation in competitive bidding by incumbent spectrum license holders as applicants or investors in an applicant, including a discussion of any additional effect if such applicant qualified for bidding credits as a designated entity.

(5) The effect on existing license holders and consumers of services offered by these providers of the Administration's Spectrum License User Fee proposal contained in the President's Budget of the United States Government for Fiscal Year 2004 (Budget, page 299; Appendix, page 1046), and an evaluation of whether the enactment of this proposal could address, either in part or in whole, any possible competitive disadvantages described in paragraph (2).

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(c) FCC ASSISTANCE.—The Federal Communications Commission shall provide information and assistance, as necessary, to facilitate the completion of the examination required by subsection (a).

TITLE III—UNIVERSAL SERVICE

SEC. 301. SHORT TITLE.

This title may be cited as the "Universal Service Antideficiency Temporary Suspension Act".

SEC. 302. APPLICATION OF CERTAIN TITLE 31 PROVISIONS TO UNIVERSAL SERVICE FUND.

(a) IN GENERAL.—During the period beginning on the date of enactment of this Act and ending on December 31, 2005, section 1341 and subchapter II of chapter 15 of title 31, United States Code, do not apply—

(1) to any amount collected or received as Federal universal service contributions required by section 254 of the Communications Act of 1934 (47 U.S.C. 254), including any interest earned on such contributions; nor

(2) to the expenditure or obligation of amounts attributable to such contributions for universal service support programs established pursuant to that section.

(b) POST-2005 FULFILLMENT OF PROTECTED OBLIGATIONS.—Section 1341 and subchapter II of chapter 15 of title 31, United States Code, do not apply after December 31, 2005, to an expenditure or obligation described in subsection (a)(2) made or authorized during the period described in subsection (a).

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ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT (ESIGN COMMERCE ACT)

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