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ENHANCE 911 SERVICES

Public Law 108-494  
108th Congress

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. <<NOTE: Dec. 23, 2004 - [H.R. 5419]>>

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

TITLE I--E-911 <<NOTE: Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004.>>

SEC. 101. SHORT TITLE. <<NOTE: 47 USC 901 note.>>

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. FINDINGS. <<NOTE: 47 USC 942 note.>>

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. PURPOSES. <<NOTE: 47 USC 942 note.>>

The purposes of this title are--

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

(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.

SEC. 104. COORDINATION OF E-911 IMPLEMENTATION.

Part C of title I of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended by adding at the end the following:

SEC. 158. COORDINATION OF E-911 IMPLEMENTATION. <<NOTE: 47 USC 942.>>

(a) E-911 Implementation Coordination Office.--

(1) Establishment.--The Assistant Secretary and the Administrator of the National Highway Traffic Safety Administration shall--

(A) establish a joint program to facilitate coordination and communication between Federal, State, and local emergency communications systems, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved in the implementation of E-911 services; and

(B) create an E-911 Implementation Coordination Office to implement the provisions of this section.

(2) Management plan.--The Assistant Secretary and the Administrator shall jointly develop a management plan for the program established under this section. Such plan shall include the organizational structure and funding profiles for the 5-

year

duration of the program. <<NOTE: Deadline.>> The Assistant Secretary and the Administrator shall, within 90 days after the date of enactment of this Act, submit the management plan to

the

Committees on Energy and Commerce and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

(3) Purpose of office.--The Office shall--

(A) take actions, in concert with coordinators designated in accordance with subsection (b) (3) (A) (ii), to improve such coordination and communication;

(B) develop, collect, and disseminate information concerning practices, procedures, and technology used

in

the implementation of E-911 services;

(C) advise and assist eligible entities in the preparation of implementation plans required under

subsection (b) (3) (A) (iii);  
or                   ``(D) receive, review, and recommend the approval  
disapproval of applications for grants under subsection  
(b); and  
                  ``(E) oversee the use of funds provided by such  
grants in fulfilling such implementation plans.  
by                   ``(4) Reports.--The Assistant Secretary and the  
Administrator shall provide a joint annual report to Congress  
to                   the first day of October of each year on the activities of the  
Office to improve coordination and communication with respect  
to                   the implementation of E-911 services.

``(b) Phase II E-911 Implementation Grants.--  
                  ``(1) Matching grants.--The Assistant Secretary and the  
Homeland           Administrator, after consultation with the Secretary of  
Security and the Chairman of the Federal Communications  
Commission, and acting through the Office, shall provide grants  
to eligible entities for the implementation and operation of  
Phase II E-911 services.

                  ``(2) Matching requirement.--The Federal share of the cost  
of a project eligible for a grant under this section shall not  
exceed 50 percent. The non-Federal share of the cost shall be  
provided from non-Federal sources.

                  ``(3) Coordination required.--In providing grants under  
paragraph (1), the Assistant Secretary and the Administrator  
shall require an eligible entity to certify in its application  
that--

                  ``(A) in the case of an eligible entity that is a  
State government, the entity--

                  ``(i) has coordinated its application with  
the                   public safety answering points (as such term is  
Communications       defined in section 222(h) (4) of the

Act of 1934) located within the jurisdiction of  
such entity;

                  ``(ii) has designated a single officer or  
governmental body of the entity to serve as the  
coordinator of implementation of E-911 services,  
except that such designation need not vest such  
coordinator with direct legal authority to  
implement E-911 services or manage emergency  
communications operations;

                  ``(iii) has established a plan for the  
coordination and implementation of E-911

services;

and

                  ``(iv) has integrated telecommunications  
services involved in the implementation and  
delivery of phase II E-911 services; or

                  ``(B) in the case of an eligible entity that is not  
a State, the entity has complied with clauses (i),  
(iii), and (iv) of subparagraph (A), and the State in

which it is located has complied with clause (ii) of such subparagraph.

``(4) <<NOTE: Regulations. Deadlines.>> Criteria.--The Assistant Secretary and the Administrator shall jointly issue regulations within 180 days after the date of enactment of the ENHANCE 911 Act of 2004, after a public comment period of not less than 60 days, prescribing the criteria for selection for grants under this section, and shall update such regulations as necessary. The criteria shall include performance requirements and a timeline for completion of any project to be financed by

a

grant under this section.

``(c) Diversion of E-911 Charges.--

taxes, ``(1) Designated e-911 charges.--For the purposes of this subsection, the term `designated E-911 charges' means any

fees, or other charges imposed by a State or other taxing jurisdiction that are designated or presented as dedicated to deliver or improve E-911 services.

applicant ``(2) Certification.--Each applicant for a matching grant under this section shall certify to the Assistant Secretary and the Administrator at the time of application, and each

that receives such a grant shall certify to the Assistant Secretary and the Administrator annually thereafter during any period of time during which the funds from the grant are available to the applicant, that no portion of any designated

E-

911 charges imposed by a State or other taxing jurisdiction within which the applicant is located are being obligated or expended for any purpose other than the purposes for which such charges are designated or presented during the period beginning 180 days immediately preceding the date of the application and continuing through the period of time during which the funds from the grant are available to the applicant.

during ``(3) Condition of grant.--Each applicant for a grant under this section shall agree, as a condition of receipt of the grant, that if the State or other taxing jurisdiction within which the applicant is located, during any period of time

which the funds from the grant are available to the applicant, obligates or expends designated E-911 charges for any purpose other than the purposes for which such charges are designated

or

presented, all of the funds from such grant shall be returned to the Office.

to

``(4) Penalty for providing false information.--Any applicant that provides a certification under paragraph (1) knowing that the information provided in the certification was false shall--

``(A) not be eligible to receive the grant under subsection (b);

``(B) return any grant awarded under subsection (b) during the time that the certification was not valid; and

``(C) not be eligible to receive any subsequent grants under subsection (b).

``(d) Authorization; Termination.--

``(1) Authorization.--There are authorized to be appropriated to the Department of Transportation, for the purposes of grants under the joint program operated under this section with the Department of Commerce, not more than \$250,000,000 for each of the fiscal years 2005 through 2009,

not

more than 5 percent of which for any fiscal year may be obligated or expended for administrative costs.

``(2) Termination.--The provisions of this section shall cease to be effective on October 1, 2009.

``(e) Definitions.--As used in this section:

``(1) Office.--The term 'Office' means the E-911 Implementation Coordination Office.

``(2) Administrator.--The term 'Administrator' means the Administrator of the National Highway Traffic Safety Administration.

``(3) Eligible entity.--

``(A) In general.--The term 'eligible entity' means a State or local government or a tribal organization

(as

defined in section 4(1) of the Indian Self-

Determination

and Education Assistance Act (25 U.S.C. 450b(1))).

``(B) Instrumentalities.--Such term includes public authorities, boards, commissions, and similar bodies created by one or more eligible entities described in subparagraph (A) to provide E-911 services.

``(C) Exception.--Such term does not include any entity that has failed to submit the most recently required certification under subsection (c) within 30 days after the date on which such certification is due.

``(4) E-911 services.--The term 'E-911 services' means both phase I and phase II enhanced 911 services, as described in section 20.18 of the Commission's regulations (47 C.F.R.

20.18),

as in effect on the date of enactment of the ENHANCE 911 Act of 2004, or as subsequently revised by the Federal Communications Commission.

``(5) Phase ii e-911 services.--The term 'phase II E-911 services' means only phase II enhanced 911 services, as described in such section 20.18 (47 C.F.R. 20.18), as in effect on such date, or as subsequently revised by the Federal Communications Commission.

``(6) State.--The term 'State' means any State of the

United

States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.''.

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

(a) <<NOTE: Deadline.>> 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.

#### 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 <<NOTE: Commercial Spectrum Enhancement Act.>>

SEC. 201. SHORT TITLE. <<NOTE: 47 USC 901 note.>>

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

SEC. 202. RELOCATION OF ELIGIBLE FEDERAL ENTITIES FOR THE REALLOCATION OF SPECTRUM FOR COMMERCIAL PURPOSES.

Section 113(g) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)) is amended by striking paragraphs (1) through (3) and inserting the following:

``(1) Eligible federal entities.--Any Federal entity that operates a Federal Government station assigned to a band of frequencies specified in paragraph (2) and that incurs relocation costs because of the reallocation of frequencies

from

Federal use to non-Federal use shall receive payment for such costs from the Spectrum Relocation Fund, in accordance with section 118 of this Act. For purposes of this paragraph,

Federal

power agencies exempted under subsection (c)(4) that choose to relocate from the frequencies identified for reallocation pursuant to subsection (a), are eligible to receive payment under this paragraph.

``(2) Eligible frequencies.--The bands of eligible frequencies for purposes of this section are as follows:

``(A) the 216-220 megahertz band, the 1432-1435 megahertz band, the 1710-1755 megahertz band, and the 2385-2390 megahertz band of frequencies; and

``(B) any other band of frequencies reallocated

from

Federal use to non-Federal use after January 1, 2003, that is assigned by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), except for bands of frequencies previously identified by the National

Telecommunications

and Information Administration in the Spectrum

Reallocation Final Report, NTIA Special Publication 95-32 (1995).

``(3) Definition of relocation costs.--For purposes of this subsection, the term `relocation costs' means the costs incurred by a Federal entity to achieve comparable capability of systems, regardless of whether that capability is achieved by relocating to a new frequency assignment or by utilizing an alternative technology. Such costs include--

``(A) the costs of any modification or replacement of equipment, software, facilities, operating manuals, training costs, or regulations that are attributable to relocation;

``(B) the costs of all engineering, equipment, software, site acquisition and construction costs, as well as any legitimate and prudent transaction expense, including outside consultants, and reasonable

additional

costs incurred by the Federal entity that are attributable to relocation, including increased recurring costs associated with the replacement facilities;

``(C) the costs of engineering studies, economic analyses, or other expenses reasonably incurred in calculating the estimated relocation costs that are provided to the Commission pursuant to paragraph (4) of this subsection;

``(D) the one-time costs of any modification of equipment reasonably necessary to accommodate

commercial

use of such frequencies prior to the termination of the Federal entity's primary allocation or protected

status,

when the eligible frequencies as defined in paragraph (2) of this subsection are made available for private sector uses by competitive bidding and a Federal entity retains primary allocation or protected status in those frequencies for a period of time after the completion

of

the competitive bidding process; and

``(E) the costs associated with the accelerated replacement of systems and equipment if such acceleration is necessary to ensure the timely relocation of systems to a new frequency assignment.

``(4) Notice to commission of estimated relocation costs.--

``(A) The Commission shall notify the NTIA at least 18 months prior to the commencement of any auction of eligible frequencies defined in paragraph (2). At least 6 months prior to the commencement of any such auction, the NTIA, on behalf of the Federal entities and after review by the Office of Management and Budget, shall notify the Commission of estimated relocation costs and timelines for such relocation.

``(B) Upon timely request of a Federal entity, the NTIA shall provide such entity with information regarding an alternative frequency assignment or



assignments to which their radiocommunications operations could be relocated for purposes of calculating the estimated relocation costs and timelines

to be submitted to the Commission pursuant to subparagraph (A).

``(C) To the extent practicable and consistent with national security considerations, the NTIA shall provide

the information required by subparagraphs (A) and (B) by

the geographic location of the Federal entities' facilities or systems and the frequency bands used by such facilities or systems.

``(5) Notice to congressional committees and gao.--The NTIA shall, at the time of providing an initial estimate of relocation costs to the Commission under paragraph (4) (A), submit to Committees on Appropriations and Energy and Commerce of the House of Representatives for approval, to the Committees on Appropriations and Commerce, Science, and Transportation of the Senate for approval, and to the Comptroller General a copy of such estimate and the timelines for relocation. <<NOTE: Deadline.>> Unless disapproved within 30 days, the estimate shall be approved. If disapproved, the NTIA may resubmit a revised initial estimate.

``(6) Implementation of procedures.--The NTIA shall take such actions as necessary to ensure the timely relocation of Federal entities' spectrum-related operations from frequencies defined in paragraph (2) to frequencies or facilities of comparable capability. <<NOTE: Notification.>> Upon a finding by

the NTIA that a Federal entity has achieved comparable capability of systems by relocating to a new frequency assignment or by utilizing an alternative technology, the NTIA shall terminate the entity's authorization and notify the Commission that the entity's relocation has been completed. The NTIA shall also terminate such entity's authorization if the NTIA determines that the entity has unreasonably failed to comply with the timeline for relocation submitted by the Director of the Office of Management and Budget under section 118(d) (2) (B).''.

#### SEC. 203. MINIMUM AUCTION RECEIPTS AND DISPOSITION OF PROCEEDS.

(a) Auction Design.--Section 309(j) (3) of the Communications Act of 1934 (47 U.S.C. 309(j) (3)) is amended--

- (1) by striking ``and'' at the end of subparagraph (D);
- (2) by striking the period at the end of subparagraph (E) and inserting ``; and''; and
- (3) by adding at the end the following new subparagraph:

``(F) for any auction of eligible frequencies described in section 113(g) (2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g) (2)), the recovery of 110 percent of estimated relocation costs as provided

to the Commission pursuant to section 113(g) (4) of such

Act.''.

(b) Special Auction Provisions for Eligible Frequencies.--Section 309(j) of such Act is further amended by adding at the end the following new paragraph:

``(15) Special auction provisions for eligible frequencies.--

(4) (F) `` (A) Special regulations.--The Commission shall revise the regulations prescribed under paragraph

of this subsection to prescribe methods by which the total cash proceeds from any auction of eligible frequencies described in section 113(g) (2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g) (2)) shall at least equal 110 percent of the total estimated relocation costs provided to the Commission pursuant to section 113(g) (4) of such Act.

`` (B) Conclusion of auctions contingent on minimum proceeds.--The Commission shall not conclude any auction

of eligible frequencies described in section 113(g) (2) of such Act if the total cash proceeds attributable to such spectrum are less than 110 percent of the total estimated relocation costs provided to the Commission pursuant to section 113(g) (4) of such Act. <<NOTE: Deadline.>> If the Commission is unable to conclude an auction for the foregoing reason, the Commission shall cancel the auction, return within 45 days after the auction cancellation date any deposits from participating bidders held in escrow, and absolve such bidders from any obligation to the United States

to bid in any subsequent reauction of such spectrum.

`` (C) Authority to issue prior to deauthorization.--

- In any auction conducted under the regulations required by subparagraph (A), the Commission may grant a license assigned for the use of eligible frequencies prior to the termination of an eligible Federal entity's authorization. However, the Commission shall condition such license by requiring that the licensee cannot

cause harmful interference to such Federal entity until such entity's authorization has been terminated by the National Telecommunications and Information Administration.''.

(c) Deposit of Proceeds.--Paragraph (8) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended--

(1) in subparagraph (A), by inserting ``or subparagraph (D)'' after ``subparagraph (B)''; and

(2) by adding at the end the following new subparagraph:

`` (D) Disposition of cash proceeds.--Cash proceeds attributable to the auction of any eligible frequencies described in section 113(g) (2) of the National

Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall be deposited in the Spectrum Relocation Fund established under section 118 of such Act, and shall be available in accordance with that section.''.

SEC. 204. ESTABLISHMENT OF FUND AND PROCEDURES.

Part B of the National Telecommunications and Information Administration Organization Act is amended by adding after section 117 (47 U.S.C. 927) the following new section:

``SEC. 118. SPECTRUM RELOCATION FUND. <<NOTE: 47 USC 928.>>

``(a) Establishment of Spectrum Relocation Fund.--There is established on the books of the Treasury a separate fund to be known as the 'Spectrum Relocation Fund' (in this section referred to as the 'Fund'), which shall be administered by the Office of Management and Budget (in this section referred to as 'OMB'), in consultation with the NTIA.

``(b) Crediting of Receipts.--The Fund shall be credited with the amounts specified in section 309(j)(8)(D) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)).

``(c) Used To Pay Relocation Costs.--The amounts in the Fund from auctions of eligible frequencies are authorized to be used to pay relocation costs, as defined in section 113(g)(3) of this Act, of an eligible Federal entity incurring such costs with respect to relocation from those frequencies.

``(d) Fund Availability.--

the ``(1) Appropriation.--There are hereby appropriated from Fund such sums as are required to pay the relocation costs specified in subsection (c).

under ``(2) Transfer conditions.--None of the funds provided this subsection may be transferred to any eligible Federal entity--

``(A) unless the Director of OMB has determined, in consultation with the NTIA, the appropriateness of such costs and the timeline for relocation; and

``(B) until 30 days after the Director of OMB has submitted to the Committees on Appropriations and

Energy

and Commerce of the House of Representatives for approval, to the Committees on Appropriations and Commerce, Science, and Transportation of the Senate for approval, and to the Comptroller General a detailed

plan

describing specifically how the sums transferred from the Fund will be used to pay relocation costs in accordance with such subsection and the timeline for such relocation.

Unless <<NOTE: Deadline.>> disapproved within 30 days, the amounts in the Fund shall be available immediately. If the plan is disapproved, the Director may resubmit a revised plan.

``(3) <<NOTE: Deadline.>> Reversion of unused funds.--Any

auction proceeds in the Fund that are remaining after the payment of the relocation costs that are payable from the Fund shall revert to and be deposited in the general fund of the Treasury not later than 8 years after the date of the deposit

of

such proceeds to the Fund.

((e) Transfer to Eligible Federal Entities.--

((1) Transfer.--

((A) Amounts made available pursuant to subsection (d) shall be transferred to eligible Federal entities, as defined in section 113(g) (1) of this Act.

((B) An eligible Federal entity may receive more than one such transfer, but if the sum of the

subsequent

transfer or transfers exceeds 10 percent of the

original

transfer--

to

((i) such subsequent transfers are subject

prior approval by the Director of OMB as required by subsection (d) (2) (A);

((ii) <<NOTE: Deadline.>> the notice to the committees containing the plan required by subsection (d) (2) (B) shall be not less than 45 days prior to the date of the transfer that

causes

such excess above 10 percent;

addition

((iii) such notice shall include, in

to such plan, an explanation of need for such subsequent transfer or transfers; and

such

((iv) <<NOTE: Deadline.>> the Comptroller General shall, within 30 days after receiving

plan, review such plan and submit to such committees an assessment of the explanation for the subsequent transfer or transfers.

((C) Such transferred amounts shall be credited to the appropriations account of the eligible Federal entity which has incurred, or will incur, such costs, and shall, subject to paragraph (2), remain available until expended.

((2) <<NOTE: Reports.>> Retransfer to fund.--An eligible Federal entity that has received such amounts shall report its expenditures to OMB and shall transfer any amounts in excess of actual relocation costs back to the Fund immediately after the NTIA has notified the Commission that the entity's relocation

is

complete, or has determined that such entity has unreasonably failed to complete such relocation in accordance with the timeline required by subsection (d) (2) (A).''.

#### SEC. 205. TELECOMMUNICATIONS DEVELOPMENT FUND.

Section 714(f) of the Communications Act of 1934 (47 U.S.C. 614(f)) is amended to read as follows:

((f) Lending and Credit Operations.--Loans or other extensions of credit from the Fund shall be made available to an eligible small business on the basis of--

((1) the analysis of the business plan of the eligible small business;

((2) the reasonable availability of collateral to secure the loan or credit extension;

((3) the extent to which the loan or credit extension promotes the purposes of this section; and

((4) other lending policies as defined by the Board.'').

SEC. 206. CONSTRUCTION. <<NOTE: 47 USC 921 note.>>

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. ANNUAL REPORT. <<NOTE: 47 USC 928 note.>>

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. PRESERVATION OF AUTHORITY; NTIA REPORT REQUIRED.

(a) <<NOTE: 47 USC 923 note.>> 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 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) <<NOTE: Reports. Deadline.>> 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).

(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 <<NOTE: Universal Service Antideficiency Temporary Suspension Act.>>

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) <<NOTE: Effective date. Termination date.>> 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).

Approved December 23, 2004.

LEGISLATIVE HISTORY--H.R. 5419 (S. 1250):

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SENATE REPORTS: No. 108-130 accompanying S. 1250 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 150 (2004):

Nov. 20, considered and passed House.

Dec. 8, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 40 (2004):

Dec. 23, Presidential statement.

<all>