

(j) RENTAL HOUSING PREFERENCES. Each State and local government receiving formula amounts shall establish procedures to create preferences for the development of affordable rental housing.

(k) JOB CREATION. If a grantee chooses to use funds to create jobs by establishing and operating a program to maintain eligible neighborhood properties, not more than 10 percent of any grant may be used for that purpose.

(l) PROGRAM SUPPORT AND CAPACITY BUILDING. The Secretary may use up to 0.75 percent of the funds appropriated for capacity building of and support for eligible entities and grantees undertaking neighborhood stabilization programs, staffing, training, technical assistance, technology, monitoring, travel, enforcement, research and evaluation activities.

(1) Funds set aside for the purposes of this subparagraph shall remain available until September 30, 2016;

(2) Any funds made available under this subparagraph and used by the Secretary for personnel expenses related to administering funding under this subparagraph shall be transferred to “Personnel Compensation and Benefits, Community Planning and Development”;

(3) Any funds made available under this subparagraph and used by the Secretary for training or other administrative expenses shall be transferred to “Administration, Operations, and Management, Community Planning and Development” for non-personnel expenses; and

(4) Any funds made available under this subparagraph and used by the Secretary for technology shall be transferred to “Working Capital Fund”.

(m) ENFORCEMENT AND PREVENTION OF FRAUD AND ABUSE. The Secretary shall establish and implement procedures to prevent fraud and abuse of funds under this section, and shall impose a requirement that grantees have an internal auditor to continuously monitor grantee performance to prevent fraud, waste, and abuse. Grantees shall provide the Secretary and citizens with quarterly progress reports. The Secretary shall recapture funds from formula and competitive grantees that do not expend 100 percent of allocated funds within 3 years of the date that funds become available, and from underperforming or mismanaged grantees, and shall re-allocate those funds by formula to target areas with the greatest need, as determined by the Secretary through notice. The Secretary may take an alternative sanctions action only upon determining that such action is necessary to achieve program goals in a timely manner.

(n) The Secretary of Housing and Urban Development shall to the extent feasible conform policies and procedures for grants made under this section to the policies and practices already in place for the grants made under Section 2301 of the Housing and Economic Recovery Act of 2008; Division A, Title XII of the American Recovery and Reinvestment Act of 2009; or Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

SUBTITLE H – NATIONAL WIRELESS INITIATIVE

SEC. 271. DEFINITIONS.

In this subtitle, the following definitions shall apply:

(1) 700 MHZ BAND.—The term “700 MHz band” means the portion of the electromagnetic spectrum between the frequencies from 698 megahertz to 806 megahertz.

(2) 700 MHZ D BLOCK SPECTRUM.—The term “700 MHz D block spectrum” means the portion of the electromagnetic spectrum frequencies from 758 megahertz to 763 megahertz and from 788 megahertz to 793 megahertz.

(3) APPROPRIATE COMMITTEES OF CONGRESS.—Except as otherwise specifically provided, the term “appropriate committees of Congress” means—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(4) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary of Commerce for Communications and Information.

(5) COMMISSION.—The term “Commission” means the Federal Communications Commission.

(6) CORPORATION.—The term “Corporation” means the Public Safety Broadband Corporation established in section 284.

(7) EXISTING PUBLIC SAFETY BROADBAND SPECTRUM.—The term “existing public safety broadband spectrum” means the portion of the electromagnetic spectrum between the frequencies—

(A) from 763 megahertz to 768 megahertz;

(B) from 793 megahertz to 798 megahertz;

(C) from 768 megahertz to 769 megahertz; and

(D) from 798 megahertz to 799 megahertz.

(8) FEDERAL ENTITY.—The term “Federal entity” has the same meaning as in section 113(i) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(i)).

(9) NARROWBAND SPECTRUM.—The term “narrowband spectrum” means the portion of the electromagnetic spectrum between the frequencies from 769 megahertz to 775 megahertz and between the frequencies from 799 megahertz to 805 megahertz.

(10) NIST.—The term “NIST” means the National Institute of Standards and Technology.

(11) NTIA.—The term “NTIA” means the National Telecommunications and Information Administration.

(12) PUBLIC SAFETY ENTITY.—The term “public safety entity” means an entity that provides public safety services.

(13) PUBLIC SAFETY SERVICES.—The term “public safety services”—

(A) has the meaning given the term in section 337(f) of the Communications Act of 1934 (47 U.S.C. 337(f)); and

(B) includes services provided by emergency response providers, as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

PART I – AUCTIONS OF SPECTRUM AND SPECTRUM MANAGEMENT

SEC. 272. CLARIFICATION OF AUTHORITIES TO REPURPOSE FEDERAL SPECTRUM FOR COMMERCIAL PURPOSES.

(a) Paragraph (1) of subsection 113(g) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(1)) is amended by striking paragraph (1) and inserting the following:

“(1) ELIGIBLE FEDERAL ENTITIES.—Any Federal entity that operates a Federal Government station authorized to use a band of frequencies specified in paragraph (2) and that incurs relocation costs because of planning for a potential auction of spectrum frequencies, a planned auction of spectrum frequencies or the reallocation of spectrum frequencies from Federal use to exclusive non-Federal use, or shared Federal and non-Federal use may 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.”

(b) Eligible Frequencies. – Section 113(g)(2)(B) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) is amended by deleting and replacing subsection (B) with the following:

“(B) any other band of frequencies reallocated from Federal use to non-Federal or shared 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)) or is assigned as a result of later legislation or other administrative direction.”

(c) Paragraph (3) of subsection 113(g) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(3)) is amended by striking it in its entirety and replacing it with the following:

“(3) DEFINITION OF RELOCATION AND SHARING COSTS.--For purposes of this subsection, the terms “relocation costs” and “sharing costs” mean the costs incurred by a Federal entity to plan for a potential or planned auction or sharing of spectrum frequencies and to achieve comparable capability of systems, regardless of whether that capability is achieved by relocating to a new frequency assignment, relocating a Federal Government station to a different geographic location, modifying Federal government equipment to mitigate interference or use less spectrum, in terms of bandwidth, geography or time, and thereby permitting spectrum sharing (including sharing among relocated Federal entities and incumbents to make spectrum available for non-Federal use) or relocation, or by utilizing an alternative technology. Comparable capability of systems includes the acquisition of state-of-the art replacement systems intended to meet comparable operational scope, which may include incidental increases in functionality. Such costs include--

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

“(B) the costs of all engineering, equipment, software, site acquisition and construction costs, as well as any legitimate and prudent transaction expense, including term-limited Federal civil servant and contractor staff necessary, which may be renewed, to carry out the relocation activities of an eligible Federal entity, and reasonable additional costs incurred by the Federal entity that are attributable to relocation or sharing, including increased recurring costs above recurring costs

of the system before relocation for the remaining estimated life of the system being relocated;

“(C) the costs of research, engineering studies, economic analyses, or other expenses reasonably incurred in connection with (i) calculating the estimated relocation costs that are provided to the Commission pursuant to paragraph (4) of this subsection, or in calculating the estimated sharing costs; (ii) determining the technical or operational feasibility of relocation to one or more potential relocation bands; or (iii) planning for or managing a relocation or sharing project (including spectrum coordination with auction winners) or potential relocation or sharing project;

“(D) the one-time costs of any modification of equipment reasonably necessary to accommodate commercial use of shared frequencies or, in the case of frequencies reallocated to exclusive commercial use, 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;

“(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 or the timely accommodation of sharing of Federal frequencies; and

“(F) the costs of the use of commercial systems and services (including systems not utilizing spectrum) to replace Federal systems discontinued or relocated pursuant to this Act, including lease, subscription, and equipment costs over an appropriate period, such as the anticipated life of an equivalent Federal system or other period determined by the Director of the Office of Management and Budget.”.

(d) A new subsection (7) is added to Section 113(g) as follows:

“(7) SPECTRUM SHARING.--Federal entities are permitted to allow access to their frequency assignments by non-Federal entities upon approval of the terms of such access by NTIA, in consultation with the Office of Management and Budget. Such non-Federal entities must comply with all applicable rules of the Commission and NTIA, including any regulations promulgated pursuant to this section. Remuneration associated with such access shall be deposited into the Spectrum Relocation Fund. Federal entities that incur costs as a result of such access are eligible for payment from the Fund for the purposes specified in subsection (3) of this section. The revenue associated with such access must be at least 110 percent of the estimated Federal costs.”.

(e) Section 118 of such Act (47 U.S.C. 928) is amended by:

(1) In subsection (b), adding at the end, “and any payments made by non-Federal entities for access to Federal spectrum pursuant to 47 U.S.C. 113(g)(7)”;

(2) replacing subsection (c) with the following:

“The amounts in the Fund from auctions of eligible frequencies are authorized to be used to pay relocation costs, as defined in section (g)(3) of this title, of an eligible Federal entity incurring such costs with respect to relocation from any eligible frequency. In addition, the amounts in the Fund from payments

by non-Federal entities for access to Federal spectrum are authorized to be used to pay Federal costs associated with such sharing, as defined in section (g)(3) of this title. The Director of the Office of Management and Budget (OMB) may transfer at any time (including prior to any auction or contemplated auction, or sharing initiative) such sums as may be available in the Fund to an eligible federal entity to pay eligible relocation or sharing costs related to pre-auction estimates or research as defined in subparagraph (C) of section 923(g)(3) of this title. However, the Director may not transfer more than \$100,000,000 associated with authorized pre-auction activities before an auction is completed and proceeds are deposited in the Spectrum Relocation Fund. Within the \$100,000,000 that may be transferred before an auction, the Director of OMB may transfer up to \$10,000,000 in total to eligible federal entities for eligible relocation or sharing costs related to pre-auction estimates or research as defined in subparagraph (C) of section 923(g)(3) of this title for costs incurred prior to the enactment of this legislation, but after June 28th, 2010. These amounts transferred pursuant to the previous proviso are in addition to amounts that the Director of OMB may transfer after the enactment of this legislation ”;

(3) amending subsection (d)(1) to add, “and sharing” before “costs”;

(4) amending subsection (d)(2)(B) to add, “and sharing” before “costs”, and adding at the end, “and sharing”;

(5) replacing subsection (d)(3) with the following:

“Any amounts in the Fund that are remaining after the payment of the relocation and sharing costs that are payable from the Fund shall revert to and be deposited in the general fund of the Treasury not later than 15 years after the date of the deposit of such proceeds to the Fund, unless the Director of OMB, in consultation with the Assistant Secretary for Communications and Information, notifies the Committees on Appropriations and Energy and Commerce of the House of Representative and the Committees on Appropriations and Commerce, Science, and Transportation of the Senate at least 60 days in advance of the reversion of the funds to the general fund of the Treasury that such funds are needed to complete or to implement current or future relocations or sharing initiatives.”;

(6) amending subsection (e)(2) by adding “and sharing” before “costs”; by adding “or sharing” before “is complete”; and by adding “or sharing” before “in accordance”; and

(7) adding a new subsection at the end thereof:

“(f) Notwithstanding subsections (c) through (e) of this section and after the amount specified in subsection (b), up to twenty percent of the amounts deposited in the Spectrum Relocation Fund from the auction of licenses following the date of enactment of this section for frequencies vacated by Federal entities, or up to twenty percent of the amounts paid by non-Federal entities for sharing of Federal spectrum, after the date of enactment are hereby appropriated and available at the discretion of the Director of the Office of Management and Budget, in consultation with the Assistant Secretary for Communications and Information, for payment to the eligible Federal entities, in addition to the

relocation and sharing costs defined in paragraph (3) of subsection 923(g), for the purpose of encouraging timely access to those frequencies, provided that:

“(1) Such payments may be based on the market value of the spectrum, timeliness of clearing, and needs for agencies’ essential missions;

“(2) Such payments are authorized for:

“(A) the purposes of achieving enhanced capabilities of systems that are affected by the activities specified in subparagraphs (A) through (F) of paragraph (3) of subsection 923(g) of this title; and

“(B) other communications, radar and spectrum-using investments not directly affected by such reallocation or sharing but essential for the missions of the Federal entity that is relocating its systems or sharing frequencies;

“(3) The increase to the Fund due to any one auction after any payment is not less than 10 percent of the winning bids in the relevant auction, or is not less than 10 percent of the payments from non-Federal entities in the relevant sharing agreement;

“(4) Payments to eligible entities must be based on the proceeds generated in the auction that an eligible entity participates in; and

”(5) Such payments will not be made until 30 days after the Director of OMB has notified the Committees on Appropriations and Commerce, Science, and Transportation of the Senate, and the Committees on Appropriations and Energy and Commerce of the House of Representatives.”.

(f) Subparagraph D of section 309 (j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)) is amended by adding “, after the retention of revenue described in subparagraph (B),” before “attributable” and “and frequencies identified by the Federal Communications Commission to be auctioned in conjunction with eligible frequencies described in 47 U.S.C. 923(g)(2)” before the first “shall” in the subparagraph.

(g) If the head of an executive agency of the Federal Government determines that public disclosure of any information contained in notifications and reports required by sections 923 or 928 of Title 47 of the United States Code would reveal classified national security information or other information for which there is a legal basis for nondisclosure and such public disclosure would be detrimental to national security, homeland security, public safety, or jeopardize law enforcement investigations the head of the executive agency shall notify the NTIA of that determination prior to release of such information. In that event, such information shall be included in a separate annex, as needed and to the extent the agency head determines is consistent with national security or law enforcement purposes. These annexes shall be provided to the appropriate subcommittee in accordance with applicable stipulations, but shall not be disclosed to the public or provided to any unauthorized person through any other means.

SECTION 273. INCENTIVE AUCTION AUTHORITY.

(a) 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 deleting “and (E)” and inserting “(E) and (F)” after “subparagraphs (B), (D),”; and

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

“(F) Notwithstanding any other provision of law, if the Commission determines that it is consistent with the public interest in utilization of the spectrum for a licensee to voluntarily relinquish some or all of its licensed spectrum usage rights in order to permit the assignment of new initial licenses through a competitive bidding process subject to new service rules, or the designation of spectrum for unlicensed use, the Commission may pay to such licensee a portion of any auction proceeds that the Commission determines, in its discretion, are attributable to the spectrum usage rights voluntarily relinquished by such licensee. If the Commission also determines that it is in the public interest to modify the spectrum usage rights of any incumbent licensee in order to facilitate the assignment of such new initial licenses subject to new service rules, or the designation of spectrum for unlicensed use, the Commission may pay to such licensee a portion of the auction proceeds for the purpose of relocating to any alternative frequency or location that the Commission may designate; Provided, however, that with respect to frequency bands between 54 megahertz and 72 megahertz, 76 megahertz and 88 megahertz, 174 megahertz and 216 megahertz, and 470 megahertz and 698 megahertz (“the specified bands”), any spectrum made available for alternative use utilizing payments authorized under this subsection shall be assigned via the competitive bidding process until the winning bidders for licenses covering at least 84 megahertz from the specified bands deposit the full amount of their bids in accordance with the Commission's instructions. In addition, if more than 84 megahertz of spectrum from the specified bands is made available for alternative use utilizing payments under this subsection, and such spectrum is assigned via competitive bidding, a portion of the proceeds may be disbursed to licensees of other frequency bands for the purpose of making additional spectrum available, provided that a majority of such additional spectrum is assigned via competitive bidding. Also, provided that in exercising the authority provided under this section:

“(i) The Chairman of the Commission, in consultation with the Director of OMB, shall notify the Committees on Appropriations and Commerce, Science, and Transportation of the Senate, and the Committees on Appropriations and Energy and Commerce of the House of Representatives of the methodology for calculating such payments to licensees at least 3 months in advance of the relevant auction, and that such methodology consider the value of spectrum vacated in its current use and the timeliness of clearing; and

“(ii) Notwithstanding subparagraph (A), and except as provided in subparagraphs (B), (C), and (D), all proceeds (including deposits and up front payments from successful bidders) from the auction of spectrum under this section and section 106 of this Act shall be deposited with the Public Safety Trust Fund established under section 217 of this Act.

“(G) ESTABLISHMENT OF INCENTIVE AUCTION RELOCATION FUND.—

“(i) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ‘Incentive Auction Relocation Fund’.

“(ii) ADMINISTRATION.—The Assistant Secretary shall administer the Incentive Auction Relocation Fund using the amounts deposited pursuant to this section.

“(iii) CREDITING OF RECEIPTS.—There shall be deposited into or credited to the Incentive Auction Relocation Fund any amounts specified in section 217 of this Act.

“(iv) AVAILABILITY.—Amounts in the Incentive Auction Relocation Fund shall be available to the NTIA for use—

“(I) without fiscal year limitation;

“(II) for a period not to exceed 18 months following the later of—

“(aa) the completion of incentive auction from which such amounts were derived;

“(bb) the date on which the Commission issues all the new channel assignments pursuant to any repacking required under subparagraph (F)(ii); or

“(cc) the issuance of a construction permit by the Commission for a station to change channels, geographic locations, to collocate on the same channel or notification by a station to the Assistant Secretary that it is impacted by such a change and

“(III) without further appropriation.

“(v) USE OF FUNDS.—Amounts in the Incentive Auction Relocation Fund may only be used by the NTIA, in consultation with the Commission, to cover—

“(I) the reasonable costs of television broadcast stations that are relocated to a different spectrum channel or geographic location following an incentive auction under subparagraph (F), or that are impacted by such relocations, including to cover the cost of new equipment, installation, and construction; and

“(II) the costs incurred by multichannel video programming distributors for new equipment, installation, and construction related to the carriage of such relocated stations or the carriage of stations that voluntarily elect to share a channel, but retain their existing rights to carriage pursuant to sections 338, 614, and 615.”.

SECTION 274. REQUIREMENTS WHEN REPURPOSING CERTAIN MOBILE SATELLITE SERVICES SPECTRUM FOR TERRESTRIAL BROADBAND USE.

To the extent that the Commission makes available terrestrial broadband rights on spectrum primarily licensed for mobile satellite services, the Commission shall recover a significant portion of the value of such right either through the authority provided in section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) or by section 278 of this subtitle.

SECTION 275. PERMANENT EXTENSION OF AUCTION AUTHORITY.

Section 309(j)11 of the Communications Act of 1934 (47 U.S.C. 309 (j)(11)) is repealed.

SECTION 276. AUTHORITY TO AUCTION LICENSES FOR DOMESTIC SATELLITE SERVICES.

Section 309(j) of the Communications Act of 1934 is amended by adding the following new subsection at the end thereof:

“(17) Notwithstanding any other provision of law, the Commission shall use competitive bidding under this subsection to assign any license, construction permit, reservation, or similar authorization or modification thereof, that may be used solely or predominantly for domestic satellite communications services, including satellite-based television or radio services. A service is defined to be predominantly for domestic satellite communications services if the majority of customers that may be served are located within the geographic boundaries of the United States. The Commission may, however, use an alternative approach to assignment of such licenses or similar authorities if it finds that such an alternative to competitive bidding would serve the public interest, convenience, and necessity. This paragraph shall be effective on the date of its enactment and shall apply to all Commission assignments or reservations of spectrum for domestic satellite services, including, but not limited to, all assignments or reservations for satellite-based television or radio services as of the effective date.”.

SECTION 277. DIRECTED AUCTION OF CERTAIN SPECTRUM.

(a) IDENTIFICATION OF SPECTRUM.—Not later than 1 year after the date of enactment of this subtitle, the Assistant Secretary shall identify and make available for immediate reallocation, at a minimum, 15 megahertz of contiguous spectrum at frequencies located between 1675 megahertz and 1710 megahertz, inclusive, minus the geographic exclusion zones, or any amendment thereof, identified in NTIA’s October 2010 report entitled “An Assessment of Near-Term Viability of Accommodating Wireless Broadband Systems in 1675–1710 MHz, 1755–1780 MHz, 3500–3650 MHz, and 4200–4220 MHz, 4380–4400 MHz Bands,” to be made available for reallocation or sharing with incumbent Government operations.

(b) AUCTION.—Not later than January 31, 2016, the Commission shall conduct, in such combination as deemed appropriate by the Commission, the auctions of the following licenses covering at least the frequencies described in this section, by commencing the bidding for:

- (1) The spectrum between the frequencies of 1915 megahertz and 1920 megahertz, inclusive.
- (2) The spectrum between the frequencies of 1995 megahertz and 2000 megahertz, inclusive.
- (3) The spectrum between the frequencies of 2020 megahertz and 2025 megahertz, inclusive.
- (4) The spectrum between the frequencies of 2155 megahertz and 2175 megahertz, inclusive.

(5) The spectrum between the frequencies of 2175 megahertz and 2180 megahertz, inclusive.

(6) At least 25 megahertz of spectrum between the frequencies of 1755 megahertz and 1850 megahertz, minus appropriate geographic exclusion zones if necessary, unless the President of the United States determines that —

(A) such spectrum should not be reallocated due to the need to protect incumbent Federal operations; or reallocation must be delayed or progressed in phases to ensure protection or continuity of Federal operations; and

(B) allocation of other spectrum—

(i) better serves the public interest, convenience, and necessity; and

(ii) can reasonably be expected to produce receipts comparable to auction of spectrum frequencies identified in this paragraph.

(7) The Commission may substitute alternative spectrum frequencies for the spectrum frequencies identified in paragraphs (1) through (5) of this subsection, if the Commission determines that alternative spectrum would better serve the public interest and the Office of Management and Budget certifies that such alternative spectrum frequencies are reasonably expected to produce receipts comparable to auction of the spectrum frequencies identified in paragraphs (1) through (5) of this subsection.

(c) AUCTION ORGANIZATION.—The Commission may, if technically feasible and consistent with the public interest, combine the spectrum identified in paragraphs (4), (5), and the portion of paragraph (6) between the frequencies of 1755 megahertz and 1850 megahertz, inclusive, of subsection (b) in an auction of licenses for paired spectrum blocks.

(d) FURTHER REALLOCATION OF CERTAIN OTHER SPECTRUM.—

(1) COVERED SPECTRUM.—For purposes of this subsection, the term “covered spectrum” means the portion of the electromagnetic spectrum between the frequencies of 3550 to 3650 megahertz, inclusive, minus the geographic exclusion zones, or any amendment thereof, identified in NTIA’s October 2010 report entitled “An Assessment of Near-Term Viability of Accommodating Wireless Broadband Systems in 1675–1710 MHz, 1755–1780 MHz, 3500–3650 MHz, and 4200–4220 MHz, 4380–4400 MHz Bands”.

(2) IN GENERAL.—Consistent with requirements of section 309(j) of the Communications Act of 1934, the Commission shall reallocate covered spectrum for assignment by competitive bidding or allocation to unlicensed use, minus appropriate exclusion zones if necessary, unless the President of the United States determines that—

(A) such spectrum cannot be reallocated due to the need to protect incumbent Federal systems from interference; or

(B) allocation of other spectrum—

(i) better serves the public interest, convenience, and necessity; and

(ii) can reasonably be expected to produce receipts comparable to what the covered spectrum might auction for without the geographic exclusion zones.

(3) ACTIONS REQUIRED IF COVERED SPECTRUM CANNOT BE REALLOCATED.—

(A) IN GENERAL.—If the President makes a determination under paragraph (2) that the covered spectrum cannot be reallocated, then the President shall, within 1 year after the date of such determination—

(i) identify alternative bands of frequencies totaling more than 20 megahertz and no more than 100 megahertz of spectrum used primarily by Federal agencies that satisfy the requirements of clauses (i) and (ii) of paragraph (2)(B);

(ii) report to the appropriate committees of Congress and the Commission an identification of such alternative spectrum for assignment by competitive bidding; and

(iii) make such alternative spectrum for assignment immediately available for reallocation.

(B) AUCTION.—If the President makes a determination under paragraph (2) that the covered spectrum cannot be reallocated, the Commission shall commence the bidding of the alternative spectrum identified pursuant to subparagraph (A) within 3 years of the date of enactment of this subtitle.

(4) ACTIONS REQUIRED IF COVERED SPECTRUM CAN BE REALLOCATED.—If the President does not make a determination under paragraph (1) that the covered spectrum cannot be reallocated, the Commission shall commence the competitive bidding for the covered spectrum within 3 years of the date of enactment of this subtitle.

(e) AMENDMENTS TO DESIGN REQUIREMENTS RELATED TO COMPETITIVE BIDDING.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (E)(ii), by striking “; and” and inserting a semicolon;

(B) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(2) by amending clause (i) of the second sentence of paragraph (8)(C) to read as follows:

“(i) the deposits—

“(I) of successful bidders of any auction conducted pursuant to subparagraph (F) of section 106 of this act shall be paid to the Public Safety Trust Fund established under section 217 of such Act; and

“(II) of successful bidders of any other auction shall be paid to the Treasury;”.

SECTION 278. AUTHORITY TO ESTABLISH SPECTRUM LICENSE USER FEES.

Section 309 of the Communications Act of 1934 is amended by adding the following new subsection at the end thereof:

“(m) USE OF SPECTRUM LICENSE USER FEES. – For initial licenses or construction permits that are not granted through the use of competitive bidding as set forth in subsection (j), and for renewals or modifications of initial licenses or other authorizations, whether granted through competitive bidding or not, the Commission may, where warranted, establish, assess, and collect annual user fees on holders of

spectrum licenses or construction permits, including their successors or assignees, in order to promote efficient and effective use of the electromagnetic spectrum.

“(1) REQUIRED COLLECTIONS. –the Commission shall collect at least the following amounts –

- (A) \$200,000,000 in fiscal year 2012;
- (B) \$300,000,000 in fiscal year 2013;
- (C) \$425,000,000 in fiscal year 2014;
- (D) \$550,000,000 in fiscal year 2015;
- (E) \$550,000,000 in fiscal year 2016;
- (F) \$550,000,000 in fiscal year 2017;
- (G) \$550,000,000 in fiscal year 2018;
- (H) \$550,000,000 in fiscal year 2019;
- (I) \$550,000,000 in fiscal year 2020; and
- (J) \$550,000,000 in fiscal year 2021.”

“(2) DEVELOPMENT OF SPECTRUM FEE REGULATIONS. –

“(A) The Commission shall, by regulation, establish a methodology for assessing annual spectrum user fees and a schedule for collection of such fees on classes of spectrum licenses or construction permits or other instruments of authorization, consistent with the public interest, convenience and necessity. The Commission may determine over time different classes of spectrum licenses or construction permits upon which such fees may be assessed. In establishing the fee methodology, the Commission may consider the following factors:

- “(i) the highest value alternative spectrum use forgone;
- “(ii) scope and type of permissible services and uses;
- “(iii) amount of spectrum and licensed coverage area;
- “(iv) shared versus exclusive use;
- “(v) level of demand for spectrum licenses or construction permits within a certain spectrum band or geographic area;
- “(vi) the amount of revenue raised on comparable licenses awarded through an auction; and
- “(vii) such factors that the Commission determines, in its discretion, are necessary to promote efficient and effective spectrum use.

“(B) In addition, the Commission shall, by regulation, establish a methodology for assessing annual user fees and a schedule for collection of such fees on entities holding Ancillary Terrestrial Component authority in conjunction with Mobile Satellite Service spectrum licenses, where the Ancillary Terrestrial Component authority was not assigned through use of competitive bidding. The Commission shall not collect less from the holders of such authority than a reasonable estimate of the value of such authority over its term, regardless of whether terrestrial services is actually provided during this term. In determining a reasonable estimate of the value of such authority, the Commission may consider factors listed in subsection (A).

“(C) Within 60 days of enactment of this Act, the Commission shall commence a rulemaking to develop the fee methodology and regulations. The Commission shall take all actions necessary so that it can collect fees from the first class or classes of spectrum license or construction permit holders no later than September 30, 2012.

“(D) The Commission, from time to time, may commence further rulemakings (separate from or in connection with other rulemakings or proceedings involving spectrum-based services, licenses, permits and uses) and modify the fee methodology or revise its rules required by paragraph (B) to add or modify classes of spectrum license or construction permit holders that must pay fees, and assign or adjust such fee as a result of the addition, deletion, reclassification or other change in a spectrum-based service or use, including changes in the nature of a spectrum-based service or use as a consequence of Commission rulemaking proceedings or changes in law. Any resulting changes in the classes of spectrum licenses, construction permits or fees shall take effect upon the dates established in the Commission’s rulemaking proceeding in accordance with applicable law.

“(E) The Commission shall exempt from such fees holders of licenses for broadcast television and public safety services. The term “emergency response providers” includes State, local, and tribal, emergency public safety, law enforcement, firefighter, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies and authorities.

“(3) PENALTIES FOR LATE PAYMENT. – The Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of fees required by this subsection.

“(4) REVOCATION OF LICENSE OR PERMIT. – The Commission may revoke any spectrum license or construction permit for a licensee’s or permittee’s failure to pay in a timely manner any fee or penalty to the Commission under this subsection. Such revocation action may be taken by the Commission after notice of the Commission’s intent to take such action is sent to the licensee by registered mail, return receipt requested, at the licensee’s last known address. The notice will provide the licensee at least 30 days to either pay the fee or show cause why the fee does not apply to the licensee or should otherwise be waived or payment deferred. A hearing is not required under this subsection unless the licensee’s response presents a substantial and material question of fact. In any case where a hearing is conducted pursuant to this section, the hearing shall be based on written evidence only, and the burden of proceeding with the introduction of evidence and the burden of proof shall be on the licensee. Unless the licensee substantially prevails in the hearing, the Commission may assess the licensee for the costs of such hearing. Any Commission order adopted pursuant to this subsection shall determine the amount due, if any, and provide the licensee with at least 30 days to pay that amount or have its authorization revoked. No order of revocation under this subsection shall become final until the licensee has exhausted its right to judicial review of such order under section 402(b)(5) of this title.

“(5) TREATMENT OF REVENUES. —All proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the General Fund of the Treasury.”

PART II – PUBLIC SAFETY BROADBAND NETWORK

SECTION 281. REALLOCATION OF D BLOCK FOR PUBLIC SAFETY.

(a) In General.—The Commission shall reallocate the 700 MHz D block spectrum for use by public safety entities in accordance with the provisions of this subtitle.

(b) Spectrum Allocation.—Section 337(a) of the Communications Act of 1934 (47 U.S.C. 337(a)) is amended—

- (1) by striking “24” in paragraph (1) and inserting “34”; and
- (2) by striking “36” in paragraph (2) and inserting “26”.

SECTION 282. FLEXIBLE USE OF NARROWBAND SPECTRUM.

The Commission may allow the narrowband spectrum to be used in a flexible manner, including usage for public safety broadband communications, subject to such technical and interference protection measures as the Commission may require and subject to interoperability requirements of the Commission and the Corporation established in section 204 of this subtitle.

SECTION 283. SINGLE PUBLIC SAFETY WIRELESS NETWORK LICENSEE.

(a) Reallocation and Grant of License.—Notwithstanding any other provision of law, and subject to the provisions of this subtitle, including section 290, the Commission shall grant a license to the Public Safety Broadband Corporation established under section 284 for the use of the 700 MHz D block spectrum and existing public safety broadband spectrum.

(b) Term of License.—

(1) INITIAL LICENSE.—The license granted under subsection (a) shall be for an initial term of 10 years from the date of the initial issuance of the license.

(2) RENEWAL OF LICENSE.—Prior to expiration of the term of the initial license granted under subsection (a) or the expiration of any subsequent renewal of such license, the Corporation shall submit to the Commission an application for the renewal of such license. Such renewal application shall demonstrate that, during the preceding license term, the Corporation has met the duties and obligations set forth under this subtitle. A renewal license granted under this paragraph shall be for a term of not to exceed 15 years.

(c) Facilitation of Transition.—The Commission shall take all actions necessary to facilitate the transition of the existing public safety broadband spectrum to the Public Safety Broadband Corporation established under section 284.

SECTION 284. ESTABLISHMENT OF PUBLIC SAFETY BROADBAND CORPORATION.

(a) Establishment.—There is authorized to be established a private, nonprofit corporation, to be known as the “Public Safety Broadband Corporation”, which is neither an agency nor establishment of the United States Government or the District of Columbia Government.

(b) Application of Provisions.—The Corporation shall be subject to the provisions of this subtitle, and, to the extent consistent with this subtitle, to the District of Columbia Nonprofit Corporation Act (sec. 29–301.01 et seq., D.C. Official Code).

(c) Residence.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(d) Powers Under DC Act.—In order to carry out the duties and activities of the Corporation, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act.

(e) Incorporation.—The members of the initial Board of Directors of the Corporation shall serve as incorporators and shall take whatever steps that are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act.

SECTION 285. BOARD OF DIRECTORS OF THE CORPORATION.

(a) Membership.—The management of the Corporation shall be vested in a Board of Directors (referred to in this Title as the “Board”), which shall consist of the following members:

(1) FEDERAL MEMBERS.—The following individuals, or their respective designees, shall serve as Federal members:

(A) The Secretary of Commerce.

(B) The Secretary of Homeland Security.

(C) The Attorney General of the United States.

(D) The Director of the Office of Management and Budget.

(2) NON-FEDERAL MEMBERS.—

(A) IN GENERAL.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, shall appoint 11 individuals to serve as non-Federal members of the Board.

(B) STATE, TERRITORIAL, TRIBAL AND LOCAL GOVERNMENT INTERESTS.—In making appointments under subparagraph (A), the Secretary of Commerce should—

(i) appoint at least 3 individuals with significant expertise in the collective interests of State, Territorial, Tribal and Local governments; and

(ii) seek to ensure geographic and regional representation of the United States in such appointments;

(iii) seek to ensure rural and urban representation in such appointments.

(C) PUBLIC SAFETY INTERESTS.—In making appointments under subparagraph (A), the Secretary of Commerce should appoint at least 3 individuals who have served or are currently serving as public safety professionals.

(D) REQUIRED QUALIFICATIONS.—

(i) IN GENERAL.— Each non-Federal member appointed under subparagraph (A) should meet at least 1 of the following criteria:

(I) PUBLIC SAFETY EXPERIENCE.—Knowledge and experience in the use of Federal, State, local, or tribal public safety or emergency response.

(II) TECHNICAL EXPERTISE.—Technical expertise and fluency regarding broadband communications, including public safety communications and cybersecurity.

(III) NETWORK EXPERTISE.—Expertise in building, deploying, and operating commercial telecommunications networks.

(IV) FINANCIAL EXPERTISE.—Expertise in financing and funding telecommunications networks.

(ii) EXPERTISE TO BE REPRESENTED.—In making appointments under subparagraph (A), the Secretary of Commerce should appoint—

(I) at least one individual who satisfies the requirement under subclause (II) of clause (i);

(II) at least one individual who satisfies the requirement under subclause (III) of clause (i); and

(III) at least one individual who satisfies the requirement under subclause (IV) of clause (i).

(E) INDEPENDENCE.—

(i) IN GENERAL.—Each non-Federal member of the Board shall be independent and neutral and maintain a fiduciary relationship with the Corporation in performing his or her duties.

(ii) INDEPENDENCE DETERMINATION.—In order to be considered independent for purposes of this subparagraph, a member of the Board—

(I) may not, other than in his or her capacity as a member of the Board or any committee thereof—

(aa) accept any consulting, advisory, or other compensatory fee from the Corporation; or

(bb) be a person associated with the Corporation or with any affiliated company thereof; and

(II) shall be disqualified from any deliberation involving any transaction of the Corporation in which the Board member has a financial interest in the outcome of the transaction.

(F) NOT OFFICERS OR EMPLOYEES.—The non-Federal members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(G) CITIZENSHIP.—No individual other than a citizen of the United States may serve as a non-Federal member of the Board.

(H) CLEARANCE FOR CLASSIFIED INFORMATION. —In order to have the threat and vulnerability information necessary to make risk management decisions regarding the network, the non-Federal members of the Board shall be required, prior to appointment, to obtain a clearance held by the Director of

National Intelligence that permits them to receive information classified at the level of Top Secret, Special Compartmented Information.

(b) Terms of Appointment.—

(1) INITIAL APPOINTMENT DEADLINE.—Members of the Board shall be appointed not later than 180 days after the date of the enactment of this subtitle.

(2) TERMS.—

(A) LENGTH.—

(i) FEDERAL MEMBERS.—Each Federal member of the Board shall serve as a member of the Board for the life of the Corporation while serving in their appointed capacity.

(ii) NON-FEDERAL MEMBERS.—The term of office of each non-Federal member of the Board shall be 3 years. No non-Federal member of the Board may serve more than 2 consecutive full 3-year terms.

(B) EXPIRATION OF TERM.—Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier.

(C) APPOINTMENT TO FILL VACANCY.—Any non-Federal member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term.

(D) STAGGERED TERMS.—With respect to the initial non-Federal members of the Board—

(i) 4 members shall serve for a term of 3 years;

(ii) 4 members shall serve for a term of 2 years; and

(iii) 3 members shall serve for a term of 1 year.

(3) VACANCIES.—A vacancy in the membership of the Board shall not affect the Board's powers, and shall be filled in the same manner as the original member was appointed.

(c) Chair.—

(1) SELECTION.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, shall select, from among the members of the Board, an individual to serve for a 2-year term as Chair of the Board.

(2) CONSECUTIVE TERMS.—An individual may not serve for more than 2 consecutive terms as Chair of the Board.

(3) REMOVAL FOR CAUSE.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, may remove the Chair of the Board and any non-Federal member for good cause.

(d) Removal.—All members of the Board may by majority vote—

(1) remove any non-Federal member of the Board from office for conduct determined by the Board to be detrimental to the Board or Corporation; and

(2) request that the Secretary of Commerce exercise his or her authority to remove the Chair of the Board for conduct determined by the Board to be detrimental to the Board or Corporation.

(e) Meetings.—

(1) FREQUENCY.—The Board shall meet in accordance with the bylaws of the Corporation—

(A) at the call of the Chairperson; and

(B) not less frequently than once each quarter.

(2) TRANSPARENCY.—Meetings of the Board, including any committee of the Board, shall be open to the public. The Board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, to discuss security vulnerabilities when making those vulnerabilities public would increase risk to the network or otherwise materially threaten network operations, or to discuss legal matters affecting the Corporation, including pending or potential litigation.

(f) Quorum.—Eight members of the Board shall constitute a quorum.

(g) Bylaws.—A majority of the members of the Board of Directors may amend the bylaws of the Corporation.

(h) Attendance.—Members of the Board of Directors may attend meetings of the Corporation and vote in person, via telephone conference, or via video conference.

(i) Prohibition on Compensation. Members of the Board of the Corporation shall serve without pay, and shall not otherwise benefit, directly or indirectly, as a result of their service to the Corporation, but shall be allowed a per diem allowance for travel expenses, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Corporation.

SECTION 286. OFFICERS, EMPLOYEES, AND COMMITTEES OF THE CORPORATION.

(a) Officers and Employees.—

(1) IN GENERAL.—The Corporation shall have a Chief Executive Officer, and such other officers and employees as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board pursuant to this subsection. The Chief Executive Officer may name and appoint such employees as are necessary. All officers and employees shall serve at the pleasure of the Board.

(2) LIMITATION.—No individual other than a citizen of the United States may be an officer of the Corporation.

(3) NONPOLITICAL NATURE OF APPOINTMENT.—No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(4) COMPENSATION.—

(A) IN GENERAL.—The Board may hire and fix the compensation of employees hired under this subsection as may be necessary to carry out the purposes of the Corporation.

(B) APPROVAL BY COMPENSATION BY FEDERAL MEMBERS.—Notwithstanding any other provision of law, or any bylaw adopted by the Corporation, all rates of compensation, including benefit plans and salary ranges, for officers and employees of the Board, shall be jointly approved by the Federal members of the Board.

(C) LIMITATION ON OTHER COMPENSATION.—No officer or employee of the Corporation may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of the employment of the officer or employee by the Corporation, unless unanimously approved by all voting members of the Corporation.

(5) SERVICE ON OTHER BOARDS.—Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the Board and subject to the provisions of the Corporation’s Statement of Ethical Conduct.

(6) RULE OF CONSTRUCTION.—No officer or employee of the Board or of the Corporation shall be considered to be an officer or employee of the United States Government or of the government of the District of Columbia.

(7) CLEARANCE FOR CLASSIFIED INFORMATION. —In order to have the threat and vulnerability information necessary to make risk management decisions regarding the network, at a minimum the Chief Executive Officer and any officers filling the roles normally titled as Chief Information Officers, Chief Information Security Officer, and Chief Operations Officer shall—

(A) be required, within six months of being hired, to obtain a clearance held by the Director of National Intelligence that permits them to receive information classified at the level of Top Secret, Special Compartmented Information.

(b) Advisory Committees.—The Board—

(1) shall establish a standing public safety advisory committee to assist the Board in carrying out its duties and responsibilities under this Title; and

(2) may establish additional standing or ad hoc committees, panels, or councils as the Board determines are necessary.

SECTION 287. NONPROFIT AND NONPOLITICAL NATURE OF THE CORPORATION.

(a) Stock.—The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(b) Profit.—No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual associated with the Corporation, except as salary or reasonable compensation for services.

(c) Politics.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(d) Prohibition on Lobbying Activities.— The Corporation shall not engage in lobbying activities (as defined in section 3(7) of the Lobbying Disclosure Act of 1995 (5 U.S.C. 1602(7))).

SECTION 288. POWERS, DUTIES, AND RESPONSIBILITIES OF THE CORPORATION.

(a) General Powers.—The Corporation shall have the authority to do the following:

(1) To adopt and use a corporate seal.

(2) To have succession until dissolved by an Act of Congress.

(3) To prescribe, through the actions of its Board, bylaws not inconsistent with Federal law and the laws of the District of Columbia, regulating the manner in which the Corporation's general business may be conducted and the manner in which the privileges granted to the Corporation by law may be exercised.

(4) To exercise, through the actions of its Board, all powers specifically granted by the provisions of this Title, and such incidental powers as shall be necessary.

(5) To hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Corporation considers necessary to carry out its responsibilities and duties.

(6) To obtain grants and funds from and make contracts with individuals, private companies, organizations, institutions, and Federal, State, regional, and local agencies, pursuant to guidelines established by the Director of the Office of Management and Budget.

(7) To accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, for the purposes of aiding or facilitating the work of the Corporation.

(8) To issue notes or bonds, which shall not be guaranteed or backed in any manner by the Government of the United States, to purchasers of such instruments in the private capital markets;

(9) To incur indebtedness, which shall be the sole liability of the Corporation and shall not be guaranteed or backed by the Government of the United States, to carry out the purposes of this Title.

(10) To spend funds under paragraph (6) in a manner authorized by the Board, but only for purposes that will advance or enhance public safety communications consistent with this subtitle.

(11) To establish reserve accounts with funds that the Corporation may receive from time to time that exceed the amounts required by the Corporation to timely pay its debt service and other obligations.

(12) To expend the funds placed in any reserve accounts established under paragraph (11) (including interest earned on any such amounts) in a manner authorized by the Board, but only for purposes that—

(A) will advance or enhance public safety communications consistent with this subtitle; or

(B) are otherwise approved by an Act of Congress.

(13) To build, operate and maintain the public safety interoperable broadband network.

(14) To take such other actions as the Corporation (through its Board) may from time to time determine necessary, appropriate, or advisable to accomplish the purposes of this subtitle.

(b) Duty and Responsibility to Deploy and Operate a Nationwide Public Safety Interoperable Broadband Network.—

(1) IN GENERAL.—The Corporation shall hold the single public safety wireless license granted under section 281 and take all actions necessary to ensure the building, deployment, and operation of a secure and resilient nationwide public safety interoperable broadband network in consultation with Federal, State, tribal, and local

public safety entities, the Director of NIST, the Commission, and the public safety advisory committee established in section 284(b)(1), including by,—

(A) ensuring nationwide standards including encryption requirements for use and access of the network;

(B) issuing open, transparent, and competitive requests for proposals to private sector entities for the purposes of building, operating, and maintaining the network;

(C) managing and overseeing the implementation and execution of contracts or agreements with non-Federal entities to build, operate, and maintain the network; and

(D) establishing policies regarding Federal and public safety support use.

(2) INTEROPERABILITY, SECURITY AND STANDARDS.—In carrying out the duties and responsibilities of this subsection, including issuing requests for proposals, the Corporation shall—

(A) ensure the safety, security, and resiliency of the network, including requirements for protecting and monitoring the network to protect against cyber intrusions or cyberattack;

(B) be informed of and manage supply chain risks to the network, including requirements to provide insight into the suppliers and supply chains for critical network components and to implement risk management best practice in network design, contracting, operations and maintenance;

(C) promote competition in the equipment market, including devices for public safety communications, by requiring that equipment and devices for use on the network be—

(i) built to open, non-proprietary, commercially available standards;

(ii) capable of being used across the nationwide public safety broadband network operating in the 700 MHz band;

(iii) be able to be interchangeable with other vendors' equipment; and

(iv) backward-compatible with existing second and third generation commercial networks to the extent that such capabilities are necessary and technically and economically reasonable; and

(D) promote integration of the network with public safety answering points or their equivalent.

(3) RURAL COVERAGE.—In carrying out the duties and responsibilities of this subsection, including issuing requests for proposals, the Corporation, consistent with the license granted under section 281, shall require deployment phases with substantial rural coverage milestones as part of each phase of the construction and deployment of the network.

(4) EXECUTION OF AUTHORITY.—In carrying out the duties and responsibilities of this subsection, the Corporation may—

(A) obtain grants from and make contracts with individuals, private companies, and Federal, State, regional, and local agencies;

(B) hire or accept voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out such duties and responsibilities;

(C) receive payment for use of—

(i) network capacity licensed to the Corporation; and

(ii) network infrastructure constructed, owned, or operated by the Corporation;

(D) take such other actions as may be necessary to accomplish the purposes set forth in this subsection.

(c) Other Specific Duties and Responsibilities.—

(1) ESTABLISHMENT OF NETWORK POLICIES.—In carrying out the requirements under subsection (b), the Corporation shall take such actions as may be necessary, including the development of requests for proposals—

(A) Request for proposals should include—

(i) build timetables, including by taking into consideration the time needed to build out to rural areas;

(ii) coverage areas, including coverage in rural and nonurban areas;

(iii) service levels;

(iv) performance criteria; and

(v) other similar matters for the construction and deployment of such network;

(B) the technical, operational and security requirements of the network and, as appropriate, network suppliers;

(C) practices, procedures, and standards for the management and operation of such network;

(D) terms of service for the use of such network, including billing practices; and

(E) ongoing compliance review and monitoring of the—

(i) management and operation of such network;

(ii) practices and procedures of the entities operating on and the personnel using such network; and

(iii) training needs of entities operating on and personnel using such network.

(2) STATE AND LOCAL PLANNING.—

(A) REQUIRED CONSULTATION.—In developing requests for proposal and otherwise carrying out its responsibilities under this subtitle, the Corporation shall consult with regional, State, tribal, and local jurisdictions regarding the distribution and expenditure of any amounts required to carry out the policies established under paragraph (1), including with regard to the—

(i) construction of an Evolved Packet Core or Cores and any Radio Access Network build out;

(ii) placement of towers;

(iii) coverage areas of the network, whether at the regional, State, tribal, or local level;

(iv) adequacy of hardening, security, reliability, and resiliency requirements;

- (v) assignment of priority to local users;
- (vi) assignment of priority and selection of entities seeking access to or use of the nationwide public safety interoperable broadband network established under subsection (b); and
- (vii) training needs of local users.

(B) METHOD OF CONSULTATION.—The consultation required under subparagraph (A) shall occur between the Corporation and the single officer or governmental body designated under section 294(d).

(3) LEVERAGING EXISTING INFRASTRUCTURE.—In carrying out the requirement under subsection (b), the Corporation shall enter into agreements to utilize, to the maximum economically desirable, existing—

- (A) commercial or other communications infrastructure; and
- (B) Federal, State, tribal, or local infrastructure.

(4) MAINTENANCE AND UPGRADES.—The Corporation shall ensure through the maintenance, operation, and improvement of the nationwide public safety interoperable broadband network established under subsection (b), including by ensuring that the Corporation updates and revises any policies established under paragraph (1) to take into account new and evolving technologies and security concerns.

(5) ROAMING AGREEMENTS.—The Corporation shall negotiate and enter into, as it determines appropriate, roaming agreements with commercial network providers to allow the nationwide public safety interoperable broadband users to roam onto commercial networks and gain prioritization of public safety communications over such networks in times of an emergency.

(6) NETWORK INFRASTRUCTURE AND DEVICE CRITERIA.—The Director of NIST, in consultation with the Corporation and the Commission, shall ensure the development of a list of certified devices and components meeting appropriate protocols, encryption requirements, and standards for public safety entities and commercial vendors to adhere to, if such entities or vendors seek to have access to, use of, or compatibility with the nationwide public safety interoperable broadband network established under subsection (b).

(7) REPRESENTATION BEFORE STANDARD SETTING ENTITIES.—The Corporation, in consultation with the Director of NIST, the Commission, and the public safety advisory committee established under section 284(b)(1), shall represent the interests of public safety users of the nationwide public safety interoperable broadband network established under subsection (b) before any proceeding, negotiation, or other matter in which a standards organization, standards body, standards development organization, or any other recognized standards-setting entity regarding the development of standards relating to interoperability.

(8) PROHIBITION ON NEGOTIATION WITH FOREIGN GOVERNMENTS.—Except as authorized by the President, the Corporation shall not have the authority to negotiate or enter into any agreements with a foreign government on behalf of the United States.

(d) Use of Mails.—The Corporation may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

SECTION 289. INITIAL FUNDING FOR CORPORATION.

(a) NTIA Provision of Initial Funding to the Corporation.—

(1) IN GENERAL.—Prior to the commencement of incentive auctions to be carried out under section 309(j)(8)(F) of the Communications Act of 1934 or the auction of spectrum pursuant to section 273 of this subtitle, the NTIA is hereby appropriated \$50,000,000 for reasonable administrative expenses and other costs associated with the establishment of the Corporation, and that may be transferred as needed to the Corporation for expenses before the commencement of incentive auction: Provided, That funding shall expire on September 30, 2014.

(2) CONDITION OF FUNDING.—At the time of application for, and as a condition to, any such funding, the Corporation shall file with the NTIA a statement with respect to the anticipated use of the proceeds of this funding.

(3) NTIA APPROVAL.—If the NTIA determines that such funding is necessary for the Corporation to carry out its duties and responsibilities under this Title and that Corporation has submitted a plan, then the NTIA shall notify the appropriate committees of Congress 30 days before each transfer of funds takes place.

SECTION 290. PERMANENT SELF-FUNDING; DUTY TO ASSESS AND COLLECT FEES FOR NETWORK USE.

(a) In General.—The Corporation shall have the authority to assess and collect the following fees:

(1) NETWORK USER FEE.—A user or subscription fee from each entity, including any public safety entity or secondary user, that seeks access to or use of the nationwide public safety interoperable broadband network established under this Title.

(2) LEASE FEES RELATED TO NETWORK CAPACITY.—

(A) IN GENERAL.—A fee from any non-Federal entity that seeks to enter into a covered leasing agreement.

(B) COVERED LEASING AGREEMENT.—For purposes of subparagraph (A), a “covered leasing agreement” means a written agreement between the Corporation and secondary user to permit—

(i) access to network capacity on a secondary basis for non-public safety services; and

(ii) the spectrum allocated to such entity to be used for commercial transmissions along the dark fiber of the long-haul network of such entity.

(3) LEASE FEES RELATED TO NETWORK EQUIPMENT AND INFRASTRUCTURE.—A fee from any non-Federal entity that seeks access to or use of any equipment or infrastructure, including antennas or towers, constructed or otherwise owned by the Corporation.

(b) Establishment of Fee Amounts; Permanent Self-funding.—The total amount of the fees assessed for each fiscal year pursuant to this section shall be sufficient, and shall not exceed the amount necessary, to recoup the total expenses of the Corporation in carrying out its duties and responsibilities described under this Title for the fiscal year involved.

(c) Required Reinvestment of Funds.—The Corporation shall reinvest amounts received from the assessment of fees under this section in the nationwide public safety interoperable

broadband network by using such funds only for constructing, maintaining, managing or improving the network.

SECTION 291. AUDIT AND REPORT.

(a) Audit.—

(1) IN GENERAL.—The financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations shall be audited by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General.

(2) LOCATION.—Any audit conducted under paragraph (1) shall be conducted at the place or places where accounts of the Corporation are normally kept.

(3) ACCESS TO CORPORATION BOOKS AND DOCUMENTS.—

(A) IN GENERAL.—For purposes of an audit conducted under paragraph (1), the representatives of the Comptroller General shall—

(i) have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation that pertain to the financial transactions of the Corporation and are necessary to facilitate the audit; and

(ii) be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(B) REQUIREMENT.—All books, accounts, records, reports, files, papers, and property of the Corporation shall remain in the possession and custody of the Corporation.

(b) Report.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit a report of each audit conducted under subsection (a) to—

(A) the appropriate committees of Congress;

(B) the President; and

(C) the Corporation.

(2) CONTENTS.—Each report submitted under paragraph (1) shall contain—

(A) such comments and information as the Comptroller General determines necessary to inform Congress of the financial operations and condition of the Corporation;

(B) any recommendations of the Comptroller General relating to the financial operations and condition of the Corporation; and

(C) a description of any program, expenditure, or other financial transaction or undertaking of the Corporation that was observed during the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without the authority of law.

SECTION 292. ANNUAL REPORT TO CONGRESS.

(a) In General.—Not later than 1 year after the date of enactment of this subtitle, and each year thereafter, the Corporation shall submit an annual report covering the preceding fiscal year to the President and the appropriate committees of Congress.

(b) Required Content.—The report required under subsection (a) shall include—

(1) a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the Corporation under this section; and

(2) such recommendations or proposals for legislative or administrative action as the Corporation deems appropriate.

(c) Availability to Testify.—The directors, officers, employees, and agents of the Corporation shall be available to testify before the appropriate committees of the Congress with respect to—

(1) the report required under subsection (a);

(2) the report of any audit made by the Comptroller General under section 291; or

(3) any other matter which such committees may determine appropriate.

SECTION 293. PROVISION OF TECHNICAL ASSISTANCE.

The Commission and the Departments of Homeland Security, Justice and Commerce may provide technical assistance to the Corporation and may take any action at the request of the Corporation in effectuating its duties and responsibilities under this Title.

SECTION 294. STATE AND LOCAL IMPLEMENTATION.

(a) Establishment of State and Local Implementation Grant Program.—The Assistant Secretary, in consultation with the Corporation, shall take such action as is necessary to establish a grant program to make grants to States to assist State, regional, tribal, and local jurisdictions to identify, plan, and implement the most efficient and effective way for such jurisdictions to utilize and integrate the infrastructure, equipment, and other architecture associated with the nationwide public safety interoperable broadband network established in this subtitle to satisfy the wireless communications and data services needs of that jurisdiction, including with regards to coverage, siting, identity management for public safety users and their devices, and other needs.

(b) Matching Requirements; Federal Share.—

(1) IN GENERAL.—The Federal share of the cost of any activity carried out using a grant under this section may not exceed 80 percent of the eligible costs of carrying out that activity, as determined by the Assistant Secretary, in consultation with the Corporation.

(2) WAIVER.—The Assistant Secretary may waive, in whole or in part, the requirements of paragraph (1) for good cause shown if the Assistant Secretary determines that such a waiver is in the public interest.

(c) Programmatic Requirements.—Not later than 6 months after the establishment of the bylaws of the Corporation pursuant to section 286 of this subtitle, the Assistant Secretary, in consultation with the Corporation, shall establish requirements relating to the grant program to be carried out under this section, including the following:

(1) Defining eligible costs for purposes of subsection (b)(1).

(2) Determining the scope of eligible activities for grant funding under this section.

(3) Prioritizing grants for activities that ensure coverage in rural as well as urban areas.

(d) Certification and Designation of Officer or Governmental Body.—In carrying out the grant program established under this section, the Assistant Secretary shall require each State to certify in its application for grant funds that the State has designated a single officer or governmental body to serve as the coordinator of implementation of the grant funds.

SECTION 295. STATE AND LOCAL IMPLEMENTATION FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “State and Local Implementation Fund”.

(b) PURPOSE.—The Assistant Secretary shall establish and administer the grant program authorized under section 294 of this subtitle using funds deposited in the State and Local Implementation Fund.

(c) CREDITING OF RECEIPTS.—There shall be deposited into or credited to the State and Local Implementation Fund—

(1) any amounts specified in section 297; and

(2) any amounts borrowed by the Assistant Secretary under subsection (d).

(d) BORROWING AUTHORITY.—

(1) IN GENERAL.—The Assistant Secretary may borrow from the General Fund of the Treasury beginning on October 1, 2011, such sums as may be necessary, but not to exceed \$100,000,000 to implement section 294,

(2) REIMBURSEMENT.—The Assistant Secretary shall reimburse the General Fund of the Treasury, with interest, for any amounts borrowed under subparagraph (1) as funds are deposited into the State and Local Implementation Fund.

SECTION 296. PUBLIC SAFETY WIRELESS COMMUNICATIONS RESEARCH AND DEVELOPMENT.

(a) NIST Directed Research and Development Program.—From amounts made available from the Public Safety Trust Fund established under section 297, the Director of NIST, in consultation with the Commission, the Secretary of Homeland Security, and the National Institute of Justice of the Department of Justice, as appropriate, shall conduct research and assist with the development of standards, technologies, and applications to advance wireless public safety communications.

(b) Required Activities.—In carrying out the requirement under subsection (a), the Director of NIST, in consultation with the Corporation and the public safety advisory committee established under section 286(b)(1), shall—

(1) document public safety wireless communications technical requirements;

(2) accelerate the development of the capability for communications between currently deployed public safety narrowband systems and the nationwide public safety interoperable broadband network to be established under this title;

(3) establish a research plan, and direct research, that addresses the wireless communications needs of public safety entities beyond what can be provided by the current generation of broadband technology;

(4) accelerate the development of mission critical voice, including device-to-device “talkaround” standards for broadband networks, if necessary and practical, public safety prioritization, authentication capabilities, as well as a standard application programming interfaces for the nationwide public safety interoperable broadband network to be established under this title, if necessary and practical;

(5) seek to develop technologies, standards, processes, and architectures that provide a significant improvement in network security, resiliency and trustworthiness; and

(6) convene working groups of relevant government and commercial parties to achieve the requirements in paragraphs (1) through (5).

(c) Transfer Authority.—If in the determination of the Director of NIST another Federal agency is better suited to carry out and oversee the research and development of any activity to be carried out in accordance with the requirements of this section, the Director may transfer any amounts provided under this section to such agency, including to the National Institute of Justice of the Department of Justice and the Department of Homeland Security.

SECTION 297. PUBLIC SAFETY TRUST FUND

(a) Establishment of Public Safety Trust Fund.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the “Public Safety Trust Fund”.

(2) CREDITING OF RECEIPTS.—

(A) IN GENERAL.—There shall be deposited into or credited to the Public Safety Trust Fund the proceeds from the auction of spectrum carried out pursuant to—

(i) section 273 of this subtitle; and

(ii) section 309(j)(8)(F) of the Communications Act of 1934, as added by section 273 of this subtitle.

(B) AVAILABILITY.—Amounts deposited into or credited to the Public Safety Trust Fund in accordance with subparagraph (A) shall remain available until the end of fiscal year 2018. Upon the expiration of the period described in the prior sentence such amounts shall be deposited in the General Fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(b) Use of Fund.—Amounts deposited in the Public Safety Trust Fund shall be used in the following manner:

(1) PAYMENT OF AUCTION INCENTIVE.—

(A) REQUIRED DISBURSALS.—Amounts in the Public Safety Trust Fund shall be used to make any required disbursement of payments to licensees required pursuant to clause (i) and subclause (IV) of clause (ii) of section 309(j)(8)(F) of the Communications Act of 1934.

(B) NOTIFICATION TO CONGRESS.—

(i) IN GENERAL.—At least 3 months in advance of any incentive auction conducted pursuant to subparagraph (F) of section 309(j)(8) of the Communications Act of 1934, the Chairman of the Commission, in

consultation with the Director of the Office of Management and Budget, shall notify the appropriate committees of Congress—

(I) of the methodology for calculating the disbursement of payments to certain licensees required pursuant to clause (i) and subclauses (III) and (IV) of clause of (ii) of such section;

(II) that such methodology considers the value of the spectrum voluntarily relinquished in its current use and the timeliness with which the licensee cleared its use of such spectrum; and

(III) of the estimated payments to be made from the Incentive Auction Relocation fund established under section 309(j)(8)(G) of the Communications Act of 1934.

(ii) DEFINITION.—In this clause, the term “appropriate committees of Congress” means—

(I) the Committee on Commerce, Science, and Transportation of the Senate;

(II) the Committee on Appropriations of the Senate;

(III) the Committee on Energy and Commerce of the House of Representatives; and

(IV) the Committee on Appropriations of the House of Representatives.

(2) INCENTIVE AUCTION RELOCATION FUND.—Not more than \$1,000,000,000 shall be deposited in the Incentive Auction Relocation Fund established under section 309(j)(8)(G) of the Communications Act of 1934.

(3) STATE AND LOCAL IMPLEMENTATION FUND.—\$200,000,000 shall be deposited in the State and Local Implementation Fund established under section 294.

(4) PUBLIC SAFETY BROADBAND CORPORATION.—\$6,450,000,000 shall be deposited with the Public Safety Broadband Corporation established under section 284, of which pursuant to its responsibilities and duties set forth under section 288 to deploy and operate a nationwide public safety interoperable broadband network. Funds deposited with the Public Safety Broadband Corporation shall be available after submission of a five -year budget by the Corporation and approval by the Secretary of Commerce, in consultation with the Secretary of Homeland Security, Director of the Office of Management and Budget and Attorney General of the United States.

(5) PUBLIC SAFETY RESEARCH AND DEVELOPMENT.—After approval by the Office of Management and Budget of a spend plan developed by the Director of NIST, a Wireless Innovation (WIN) Fund of up to \$300,000,000 shall be made available for use by the Director of NIST to carry out the research program established under section 296 and be available until expended. If less than \$300,000,000 is approved by the Office of Management and Budget, the remainder shall be transferred to the Public Safety Broadband Corporation established in section 284 and be available for duties set forth under section 288 to deploy and operate a nationwide public safety interoperable broadband network.

(6) DEFICIT REDUCTION.—Any amounts remaining after the deduction of the amounts required under paragraphs (1) through (5) shall be deposited in the General Fund

of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

SECTION 298. FCC REPORT ON EFFICIENT USE OF PUBLIC SAFETY SPECTRUM.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this subtitle and every 2 years thereafter, the Commission shall, in consultation with the Assistant Secretary and the Director of NIST, conduct a study and submit to the appropriate committees of Congress a report on the spectrum allocated for public safety use.

(b) CONTENTS.—The report required by subsection (a) shall include—

- (1) an examination of how such spectrum is being used;
- (2) recommendations on how such spectrum may be used more efficiently;
- (3) an assessment of the feasibility of public safety entities relocating from other bands to the public safety broadband spectrum; and
- (4) an assessment of whether any spectrum made available by the relocation described in paragraph (3) could be returned to the Commission for reassignment through auction, including through use of incentive auction authority under subparagraph (G) of section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)), as added by section 273(a).

SECTION 299. PUBLIC SAFETY ROAMING AND PRIORITY ACCESS.

The Commission may adopt rules, if necessary in the public interest, to improve the ability of public safety users to roam onto commercial networks and to gain priority access to commercial networks in an emergency if –

- (1) The public safety entity equipment is technically compatible with the commercial network;
- (2) The commercial network is reasonably compensated;
- (3) Such access does not preempt or otherwise terminate or degrade all existing voice conversations or data sessions.

TITLE III – ASSISTANCE FOR THE UNEMPLOYED AND PATHWAYS BACK TO WORK

SUBTITLE A – SUPPORTING UNEMPLOYED WORKERS

SECTION 301. SHORT TITLE.

This subtitle may be cited as the “Supporting Unemployed Workers Act of 2011”.

PART I – EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION AND CERTAIN EXTENDED BENEFITS PROVISIONS, AND ESTABLISHMENT OF SELF-EMPLOYMENT ASSISTANCE PROGRAM

SEC. 311. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.