

WIRELESS COMMUNICATIONS AND PUBLIC SAFETY ACT OF  
 1998

OCTOBER 2, 1998.—Ordered to be printed

Mr. BLILEY, from the Committee on Commerce,  
 submitted the following

REPORT

[To accompany H.R. 3844]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 3844) to promote and enhance public safety through use of 9-1-1 as the universal emergency assistance number, further deployment of wireless 9-1-1 service, support of States in upgrading 9-1-1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous and reliable networks for personal wireless services, and ensuring access to Federal Government property for such networks, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Wireless Communications and Public Safety Act of 1998”.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress finds that—

(1) the establishment and maintenance of an end-to-end communications infrastructure among members of the public, emergency safety, fire service and law enforcement officials, and hospital emergency and trauma care facilities will reduce response times for the delivery of emergency care, assist in delivering appropriate care, and thereby prevent fatalities, substantially reduce the severity and extent of injuries, reduce time lost from work, and save thousands of lives and billions of dollars in health care costs;

(2) the rapid, efficient deployment of emergency telecommunications service requires statewide coordination of the efforts of local public safety, fire service and law enforcement officials, the establishment of sources of adequate funding for carrier and public safety, fire service and law enforcement agency technology development and deployment, and the designation of 911 as the number to call in emergencies throughout the Nation;

(3) emerging technologies such as automatic crash notification systems can be a critical component of the end-to-end communications infrastructure connecting the public with emergency medical service providers and emergency dispatch providers, public safety, fire service and law enforcement officials, and hospital emergency and trauma care facilities, to reduce emergency response times and provide appropriate care;

(4) improved public safety remains an important public health objective of Federal, State, and local governments and substantially facilitates interstate and foreign commerce;

(5) the benefits of wireless communications in emergencies will be enhanced by—

(A) the establishment of a program to improve safety through grants to States to develop integrated enhanced wireless 911 services and to support State programs to address risks to the safety of members of the public from driving under the influence of alcohol or illegal drugs, driving aggressively, or other driving behavior that poses a risk to such safety; and

(B) investments in research on and development of automatic crash notification and related matters;

(6) emergency care systems, particularly in rural areas of the Nation, will improve with the enabling of prompt notification of emergency services when motor vehicle crashes occur; and

(7) the construction and operation of seamless, ubiquitous, and reliable wireless telecommunications systems promote public safety and provide immediate and critical communications links among members of the public, emergency medical service providers and emergency dispatch providers, public safety, fire service and law enforcement officials, and hospital emergency and trauma care facilities.

(b) PURPOSE.—The purpose of this Act is to encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation’s public safety and other communications needs.

**SEC. 3. UNIVERSAL EMERGENCY TELEPHONE NUMBER.**

Section 251(e) of the Communications Act of 1934 (47 U.S.C. 251(e)) is amended by adding at the end the following new paragraph:

“(3) UNIVERSAL EMERGENCY TELEPHONE NUMBER.—The Commission and any agency or entity to which the Commission has delegated authority under this subsection shall designate 911 as the universal emergency telephone number within the United States for reporting an emergency to appropriate authorities and requesting assistance. Such designation shall apply to both wireline and wireless telephone service. In making such designation, the Commission (and any such agency or entity) shall provide appropriate transition periods for areas in which 911 is not in use as an emergency telephone number on the date of enactment of the Wireless Communications and Public Safety Act of 1998.”.

**SEC. 4. WIRELESS COMMUNICATIONS AND PUBLIC SAFETY FUND.**

(a) **ESTABLISHMENT OF THE WICAPS FUND.**—There is hereby established in the Treasury a fund to be known as the Wireless Communications and Public Safety Fund.

(b) **ADMINISTRATION OF THE WICAPS FUND.**—The Secretary of Treasury shall administer the WICAPS Fund in accordance with this Act.

(c) **INVESTMENT AND RETENTION OF EARNINGS.**—It shall be the duty of the Secretary of the Treasury to invest such portion of the WICAPS Fund as is not, in the Secretary of the Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. The interest on, and the proceeds from the sale or redemption of, any obligations held in the WICAPS Fund shall be credited to and form a part of the WICAPS Fund.

**SEC. 5. ASSISTANCE TO STATES.**

(a) **POPULATION-BASED MATCHING GRANTS TO IMPLEMENT STATE PLANS.**—

(1) **IN GENERAL.**—From the amounts available under section 11(d)(1), the Secretary shall make grants to States in accordance with the requirements of this subsection.

(2) **STATE PLANS.**—Any State seeking to obtain a grant under this subsection shall submit to the Secretary a plan for the administration of the grant. Such plan shall—

(A) contain a certification by the Governor or the Governor's designee that the State—

(i) will implement the designation of 911 as a universal emergency telephone number in such State for reporting an emergency to appropriate authorities and requesting assistance;

(ii) has in place policies to encourage members of the public to report significant risks to the safety of members of the traveling public, such as incidents of driving under the influence of alcohol or illegal drugs, driving aggressively, or other driving behavior that poses a risk to such safety;

(iii) will make significant efforts to minimize, such as through youth and adult driver education, driving behavior that poses a risk to the safety of members of the public;

(iv) will provide from non-Federal sources for carrying out the purposes of the grant an amount equal to not less than one-fourth of the amount of the grant, and will not provide such required amount from any surcharge or tax on wireless carriers or subscribers; and

(v) has consulted in the development of the plan, and will consult in the implementation of the plan, with State and local officials responsible for emergency services and public safety, the telecommunications industry (specifically including the cellular and other wireless telecommunications elements of the industry), the motor vehicle manufacturing industry, emergency medical service providers and emergency dispatch providers, special 911 districts, public safety, fire service and law enforcement officials, consumer groups, and hospital emergency and trauma care personnel (including emergency physicians, trauma surgeons, and nurses);

(B) provide for coordination on a statewide basis, by an entity designated by the Governor of the State, of deployment and functioning of a comprehensive end-to-end emergency communications system, including enhanced wireless 911 service;

(C) contain a description of the mechanisms used in the State for wireless carrier recovery of costs related to the provision of automatic numbering identification and call location services in response to a request from a PSAP;

(D) describe the activities to be undertaken with the grant to achieve the purposes set forth in paragraph (4);

(E) identify any entity that will be used to administer the grant in accordance with subsection (c);

(F) provide such assurances as the Secretary may require that the grant funds will be used to implement the plan consistent with the provisions of this Act.

(3) **ALLOCATION OF GRANTS ON THE BASIS OF POPULATION.**—

(A) **IN GENERAL.**—The Secretary shall allocate the amount available under section 11(d)(1) for any fiscal year among States submitting plans in accordance with paragraph (2) for such fiscal year. The amount of each such

grant shall be equal to the amount that bears the same ratio to the amount available under section 11(d)(1) for such fiscal year as the population of each State bears to the total population of the States submitting such plans, as determined in the most recent decennial census of the United States.

(B) REALLOCATION OF UNMATCHED AMOUNTS.—If any amounts remain unallocated because one or more States provide a smaller matching amount under paragraph (2)(A)(iv) than is required to obtain the full grant amount under subparagraph (A) of this paragraph, the Secretary shall reallocate such remaining amounts among the other States (meeting such matching amount) in proportion to the amounts allocated under subparagraph (A).

(4) USE OF FUNDS.—Funds made available by a grant under this subsection may be used for any one or more of the following purposes:

(A) payment of costs associated with acquisition, upgrade, or modification of equipment to be used by units of States or of political subdivisions thereof (including PSAPs) for receipt of enhanced wireless 911 service information; and

(B) emergency prevention, educational, or pre-hospital emergency medical programs or expenditures which will utilize or make effective the end-to-end system envisioned by this Act.

(b) RURAL ASSISTANCE GRANTS TO STATES.—

(1) IN GENERAL.—From the amounts available under section 11(d)(2), the Secretary shall make grants to States in accordance with the requirements of this subsection to assist in ensuring the achievement of the purpose of this Act in rural areas of the United States.

(2) STATE PLANS.—Any State seeking to obtain a grant under this subsection shall submit to the Secretary a plan for the administration of the grant. Such plan shall comply with the requirements set forth in subsection (a)(2).

(3) AMOUNT OF GRANTS.—The amount of the grant under this subsection shall be such amount as the Secretary deems appropriate to assist in ensuring the achievement of the purpose of this Act in rural areas of the State.

(4) USE OF FUNDS.—Funds made available by a grant under this subsection may be used for any of the purposes set forth in subsection (a)(4).

(c) DISBURSEMENT OF GRANT FUNDS.—

(1) DIRECT OR INDIRECT DISBURSEMENT PERMITTED.—A State that receives a grant under this section may—

(A) directly administer funds provided by a grant under subsection (a) or (b) (or both); or

(B) administer such funds through governmental entities of that State, political subdivisions of that State or entities thereof, or eligible nongovernmental entities, if—

(i) the system with which the entity or subdivision is associated uses the number 911 as a universal emergency telephone number; or

(ii) a purpose of the disbursements is to enable such system to use the number 911 as a universal emergency telephone number.

(2) ELIGIBLE NONGOVERNMENTAL ENTITIES.—For purposes of paragraph (1), an eligible nongovernmental entity is an entity that provides public safety services or administrative services on behalf of a State government.

(d) DUAL GRANTS PERMITTED.—A State may, in any fiscal year, obtain a grant under either or both of subsections (a) and (b).

#### SEC. 6. RESEARCH AND DEVELOPMENT ON CRASH INFORMATION SYSTEMS.

(a) PROGRAM AUTHORIZED.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a program to provide, from amounts appropriated from the WICAPS Fund under section 11(b)(1), investments in research and development of—

(1) an end-to-end automatic crash notification system that, in the event of a crash of a motor vehicle, would automatically use a wireless telephone or other communications system in that vehicle to transmit information about the crash to the appropriate emergency personnel; and

(2) an interface in motor vehicles that permits all models of wireless telephones—

(A) to transmit crash data; and

(B) to be voice-activated, allowing hands-free use.

(b) CONSULTATION WITH INTERESTED PARTIES.—The Secretary shall consult with representatives of the personal wireless services and equipment industry, the motor vehicle manufacturing industry, the public safety community, and the medical com-

munity in planning the research and development investments described in subsection (a).

(c) USE OF FUNDS.—

(1) AUTHORIZED USES.—The investments for which subsection (a)(1) provides shall include investments conducted by trauma centers in coordination with other providers of emergency medical services for the purpose of—

(A) establishing decision protocols for the use of data obtained from such systems;

(B) training emergency personnel in the use of such data;

(C) establishing standardized methods to assess the added value of an end-to-end automatic crash notification system and to identify the factors causing changes in injury patterns of motor vehicle crashes; and

(D) developing models for incorporating the use of such data into emergency systems throughout the United States.

(2) GEOGRAPHIC DISTRIBUTION.—The centers for which paragraph (1) provides shall reflect a cross section of the geographic diversity, population characteristics, and climatic features of the United States.

**SEC. 7. RADIOFREQUENCY STUDY.—**

(a) FINDINGS.—The Congress finds that—

(1) there is a significant international body of scientific knowledge on electromagnetic energy and wireless telephones;

(2) the United States should add to this body of knowledge through the conduct of appropriate research that is coordinated with other international research efforts; and

(3) representatives of the scientific community and the industry can provide information and expertise that would be valuable to the research authorized by this subsection.

(b) STUDY.—

(1) IN GENERAL.—Subject to the availability of appropriations pursuant to section 11(b)(2), the Food and Drug Administration shall conduct a 2-year animal bioassay of radiofrequency emissions from wireless telephones operating on frequencies between 825 and 1900 megahertz, inclusive.

(2) COORDINATION AND PRINCIPLES.—To the maximum extent practicable, the study described in paragraph (1) shall—

(A) be consistent with the global research needs on such matters as set forth by the International Electromagnetic Frequency Project of the World Health Organization; and

(B)(i) be scientifically objective;

(ii) provide a careful analysis of the weight of the evidence; and

(iii) provide a description of the results of such research that, based upon the weight of scientific evidence as found in the study, characterizes such findings in a scientifically objective, impartial manner, neither minimizing nor exaggerating risks to human health.

(c) ADVISORY PANEL.—The Commissioner of the Food and Drug Administration shall, after consultation with the Center for Devices and Radiological Health and representatives of the scientific community and the wireless industry, designate a panel of scientific and industry experts to advise the Food and Drug Administration, on an ongoing basis, on the preparation, conduct, and evaluation of the study described in subsection (b)(1). Such panel shall provide advice on—

(1) the scope of the investigation;

(2) the appropriate transmission modalities to be studied;

(3) dosimetry techniques and measurements;

(4) other relevant scientific studies;

(5) engineering and properties of radiofrequency transmissions from wireless telephones; and

(6) other matters relevant to such study.

(d) ATTENDANCE AT MEETINGS.—Subject to the availability of funds appropriated pursuant to section 11(b)(2), the Food and Drug Administration may use such funds to provide for attendance by Food and Drug Administration personnel at scientific symposia and other meetings related to the subject matter of the study described in subsection (b)(1), including such meetings convened under the auspices of the International Electromagnetic Frequency Project of the World Health Organization, to ensure full participation by the United States in the international research in such matters.

**SEC. 8. EMERGENCY SERVICES SUPPORT FROM USE OF FEDERAL PROPERTY.**

Section 704 of the Telecommunications Act of 1996 is amended by inserting after subsection (c) (47 U.S.C. 332 nt) the following new subsection:

“(d) USE OF FEDERAL PROPERTY TO PROVIDE PERSONAL WIRELESS SERVICES.—

“(1) POLICY.—It is the policy of the United States to encourage rapid construction and expansion of the wireless communications infrastructure in the United States and, to that end, to make the real property of the United States Government available to the maximum extent practicable for the siting of facilities that are part of that infrastructure.

“(2) AVAILABILITY OF FEDERAL PROPERTY FOR PERSONAL WIRELESS SERVICES.—Not later than 60 days after a department, agency, officer, or instrumentality of the United States with control of real property (including rights-of-way and easements) owned by the United States receives a request containing the information set forth in paragraph (5) from a provider of personal wireless services for access to and use of such real property for siting of facilities used in providing such services, the department, agency, officer, or instrumentality shall make that real property available on a fair, reasonable, and nondiscriminatory basis and at not more than a reasonable fee (which shall in no event exceed fair market value), to the provider for that purpose, unless and to the extent that the head of the department, agency, officer, or instrumentality determines and notifies the provider prior to the expiration of that 60-day period that making such real property available will present an unavoidable direct conflict with—

“(A) the mission of the department, agency, or instrumentality; or

“(B) the current use of the real property or the use of the real property that was planned at the time of the request.

“(3) FAVORABLE DECISION.—Unless the department, agency, officer, or instrumentality determines pursuant to paragraph (2) that an unavoidable conflict exists (as described in such paragraph), such department, agency, officer, or instrumentality shall, within 90 days after the date of the receipt of the request under paragraph (2), execute any documents, such as a lease, that are necessary to implement the request.

“(4) UNFAVORABLE DECISION.—With regard to a request under paragraph (2), a department, agency, officer, or instrumentality shall not make a determination that an unavoidable conflict exists (as described in such paragraph) unless—

“(A) an opportunity for an informal hearing is afforded to interested persons commencing within 60 days, and concluding within 90 days, after receipt of the request and prior to the making of the determination;

“(B) the determination is in writing, constitutes a final agency action, and discloses the specific grounds therefor.

“(5) INFORMATION REQUIRED IN REQUEST FOR ACCESS TO AND USE OF FEDERAL PROPERTY.—A request by a provider of personal wireless services under paragraph (2) shall contain the following information:

“(A) The name, address and telephone number of the provider and the provider’s authorized or legal representative for the request.

“(B) Site-specific identification of the real property to which access is requested, such as a specific building name and address or site latitude and longitude.

“(C) The type and size of antenna installation and support required for the provider’s proposed wireless site, including access to the site, utility requirements, acreage of land, or foot-pound capacity for rooftops, and any special site modification requirements.

“(D) A summary of antenna specifications, including frequencies.

“(E) The term of the requirement for use of the real property.

“(F) The terms of removal of the equipment and structures or property restoration.

“(G) A description of any project or larger antenna program to which the site relates.

“(H) A description of methods of achieving compliance with any applicable environmental or historic preservation statutes.

“(6) JUDICIAL REVIEW.—A provider of personal wireless services adversely affected by a final action or failure to act by a department, agency, officer, or instrumentality concerning a request under paragraph (2) (including any decision relating to a fair, reasonable, and nondiscriminatory basis for access and use or what constitutes a reasonable fee) may obtain judicial review of the action or failure to act in accordance with the provisions of chapter 7 of title 5 of the United States Code, except that the burden shall be on the department, agency, officer, or instrumentality to sustain its action.

“(7) REGULATORY COMPLIANCE.—A request under paragraph (2) and the access to and use of real property pursuant to this subsection shall be subject to envi-

ronmental processing only under subpart I of part 1 of title 47 of the Code of Federal Regulations.

“(8) AVOIDANCE OF REDUNDANT REGULATIONS.—Bulletins issued by the Administrator of General Services pursuant to subsection (c) of this section shall continue to apply, to the extent otherwise consistent with this subsection, to the administration of this subsection until modified or superseded by the Administrator as necessary for the purposes of this subsection.

“(9) DEFINITIONS.—As used in this subsection:

“(A) The term ‘instrumentality of the United States’ includes any independent establishment of the United States.

“(B) The term ‘personal wireless services’ has the meaning specified for that term in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i)).

“(C) Facilities used in the provision of personal wireless services are the antenna and supporting equipment, including ground-based electronics connected to such equipment, for the provision of such service.”

**SEC. 9. PARITY OF PROTECTION FOR PROVISION OR USE OF WIRELESS SERVICE.**

(a) PROVIDER PARITY.—A wireless carrier, and its officers, directors, employees, vendors, and agents, shall have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability in a particular jurisdiction that a local exchange company, and its officers, directors, employees, vendors, or agents, have under Federal and State law applicable in such jurisdiction with respect to wireline services, including in connection with an act or omission involving—

(1) development, design, installation, operation, maintenance, performance, or provision of wireless service;

(2) transmission errors, failures, network outages, or other technical difficulties that may arise in the course of transmitting or handling emergency calls or providing emergency services (including wireless 911 service); and

(3) release to a PSAP, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or trauma care facility of subscriber information related to emergency calls or emergency services involving use of wireless services.

(b) USER PARITY.—A person using wireless 911 service shall have immunity or other protection from liability in a particular jurisdiction of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under Federal or State law applicable in such jurisdiction in similar circumstances of a person using 911 service that is not wireless.

(c) EXCEPTION FOR STATE LEGISLATIVE ACTION.—The immunity or other protection from liability required by subsection (a)(1) shall not apply in any State that, prior to the expiration of 2 years after the date of enactment of this Act, enacts a statute that specifically refers to this section and establishes a different standard of immunity or other protection from liability with respect to an act or omission involving development, design, installation, operation, maintenance, performance, or provision of wireless service (other than wireless 911 service). The enactment of such a State statute shall not affect the immunity or other protection from liability required by such subsection (a)(1) with respect to acts or omissions occurring before the date of enactment of such State statute.

**SEC. 10. AUTHORITY TO PROVIDE LOCATION INFORMATION.**

Section 222 of the Communications Act of 1934 (47 U.S.C. 222) is amended—

(1) in subsection (d)—

(A) by striking “or” at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting a semicolon;

(C) by adding at the end the following new paragraph:

“(4) to provide call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d)) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or trauma care facility, in order to respond to the user’s call for emergency services; or to inform the user’s legal guardian or members of the user’s immediate family of the user’s location in an emergency situation that involves the risk of death or serious physical harm; and

“(5) to transmit automatic crash notification information as part of the operation of an automatic crash notification system.”;

(2) by redesignating subsection (f) as subsection (g) and by inserting before such subsection the following new subsection:

“(f) **AUTHORITY TO USE WIRELESS LOCATION INFORMATION.**—For purposes of subsection (c)(1), without the express prior authorization of the customer, a customer shall not be considered to have approved the use, disclosure, or access to—

“(1) call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d)) to any person other than—

“(A) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or trauma care facility, in order to respond to the user’s call for emergency services; or

“(B) to inform the user’s legal guardian or members of the user’s immediate family of the user’s location in an emergency situation that involves the risk of death or serious physical harm; or

“(2) automatic crash notification information to any person other than for use in the operation of an automatic crash notification system.”; and

(3) in subsection (g) (as redesignated by paragraph (2)), by inserting “location,” after “destination.”

**SEC. 11. AUTHORIZATIONS OF APPROPRIATIONS AND DISPOSITION OF FEES.**

(a) **AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATION OF THE ACT.**—There are authorized to be appropriated in any fiscal year to the Department of Transportation such sums as may be necessary to carry out the duties of the Secretary under this Act (other than the duties for which subsections (b) and (c) authorize appropriations), and such sums may be derived by transfer from the WICAPS Fund to the extent provided in appropriations Acts.

(b) **AUTHORIZATION OF APPROPRIATIONS FROM THE WICAPS FUND FOR RESEARCH.**—

(1) **AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND DEVELOPMENT.**—

There is authorized to be appropriated to the Department of Transportation in any fiscal year from the WICAPS Fund, for the purpose of making investments under section 6, an amount not to exceed 25 percent of the amount appropriated for that fiscal year pursuant to subsection (c). The total amount that is authorized to be appropriated pursuant to this subsection for all such fiscal years shall not exceed \$60,000,000.

(2) **AUTHORIZATION OF APPROPRIATIONS FOR STUDY.**—There is authorized to be appropriated to the Food and Drug Administration from the WICAPS Fund for the purpose of implementing this section 7 in each of fiscal years 1999, 2000, 2001, 2002, and 2003, the lesser of—

(A) 5 percent of the amount appropriated for the WICAPS Fund for that fiscal year pursuant to subsection (c); or

(B) \$2,000,000.

(c) **AUTHORIZATION OF APPROPRIATIONS FROM THE WICAPS FUND FOR MAKING GRANTS.**—There are authorized to be appropriated in any fiscal year from the WICAPS Fund, for the purpose of making grants under section 5, such sums as the WICAPS fund may contain after deduction of the amounts appropriated pursuant to subsections (a) and (b).

(d) **ALLOCATION OF APPROPRIATIONS FOR GRANTS.**—In any fiscal year—

(1)  $\frac{2}{3}$  of the funds appropriated pursuant to subsection (c) shall be available for grants pursuant to section 5(a); and

(2)  $\frac{1}{3}$  of the funds so appropriated shall be available for grants pursuant to section 5(b).

(e) **AUTHORIZATION OF APPROPRIATIONS TO THE WICAPS FUND.**—There are authorized to be appropriated to the WICAPS Fund in any fiscal year such sums as may be necessary to carry out this Act.

(f) **FISCAL YEAR AVAILABILITY.**—Funds made available pursuant to an authorization of appropriations contained in this Act shall be available without fiscal year limitation to the extent provided in appropriations Acts.

(g) **DISPOSITION OF FEES.**—

(1) Subject to paragraph (4), a department, agency, officer or instrumentality of the United States receiving funds which are the reasonable fees to which section 704(d)(2) of the Telecommunications Act of 1996 (as added by section 8) refers—

(A) may, without regard to section 3302 of title 31 of the United States Code and consistent with such instructions as the Director of the Office of Management and Budget may issue, credit to the appropriations accounts identified in paragraph (2) not to exceed the amount set forth in paragraph (3); and



(B) shall remit to the Treasury for deposit in the WICAPS Fund established by section 4 such sums received as reasonable fees as are not credited in accordance with subparagraph (A).

(2) The appropriations accounts to which paragraph (1)(A) refers are the appropriations accounts the appropriated funds of which the department, agency, officer, or instrumentality would use at the time the crediting occurs to process requests for access to and use of real property for siting of facilities used in providing personal wireless services.

(3) The amount to which paragraph (1)(A) refers is the amount the department, agency, officer, or instrumentality has obligated after the date of enactment of this Act to process requests for access to and use of real property for siting of facilities used in providing personal wireless services.

(4) Nothing in this subsection shall impair or affect the authority under a statute other than this Act of a department, agency, officer, or instrumentality to receive and use funds that are not appropriated funds.

#### SEC. 12. DEFINITIONS.

As used in this Act:

(1) The term “WICAPS Fund” means the Wireless Communications and Public Safety Fund established by section 4.

(2) The term “Secretary” means the Secretary of Transportation.

(3) The term “State” means any of the several States, the District of Columbia, or any territory or possession of the United States.

(4) The term “instrumentality of the United States” includes any independent establishment of the United States.

(5) The term “personal wireless services” has the meaning specified for that term in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i)).

(6) The term “public safety answering point” or “PSAP” means a facility that has been designated to receive emergency calls and route them to emergency service personnel.

(7) The term “wireless carrier” means a provider of commercial mobile services or any other radio communications service that the Federal Communications Commission requires to provide wireless emergency service.

(8) The term “enhanced wireless 911 service” means any enhanced 911 service so designated by the Federal Communications Commission in the proceeding entitled “Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems” (CC Docket No. 94–102; RM–8143), or any successor proceeding.

(9) The term “wireless 911 service” means any 911 service provided by a wireless carrier, including enhanced wireless 911 service.

#### PURPOSE AND SUMMARY

H.R. 3844, the Wireless Communications and Public Safety Act of 1998, will promote and enhance public safety through the use of 911 as the universal emergency assistance number; further the deployment of wireless 911 service; support States in upgrading 911 capabilities and related functions; encourage construction and operation of seamless, ubiquitous and reliable networks for personal wireless services; and ensure access to Federal government property for such networks. The bill will do so by requiring that the Federal Communications Commission (FCC or Commission) designate “911” as the universal emergency telephone number for both wireline and wireless telephone calls. The bill will also enhance the provision of wireless telephone emergency services by establishing a fund, administered by the Department of the Treasury and allocated in State grants by the Department of Transportation, to upgrade the equipment of “public safety answering points” (PSAPs) to enable them to receive number and location information with wireless emergency telephone calls and to fund emergency educational programs.

The fund would come from both an annual appropriation to the Department of Transportation and the profit portion of lease fees, credited by Federal agencies, for siting cellular antennas and other facilities of personal wireless services providers on Federal property. In order to maximize such fund resources, and speed the deployment of personal wireless services, including wireless 911, the bill provides for a streamlined process for Federal property managers to respond to a siting request by a personal wireless provider. Finally, to encourage the provision of wireless telephone emergency services, the bill provides the same degree of protection from liability for emergency telephone and other services to wireless carriers in each State as provided in that State to a wireline carrier.

#### BACKGROUND AND NEED FOR LEGISLATION

In 1997, nearly 42,000 people were killed in the 6.8 million motor vehicle crashes reported to police. In addition, those crashes resulted in nearly 3.4 million injuries. And while deaths from motor vehicle crashes have been declining in recent years, deaths at the scene prior to receiving emergency medical care have doubled in the past 20 years, totaling more than 20,000 per year. For 40 percent of crash fatalities, the response time for emergency personnel is 20 minutes or more. In urban areas, response times for fatal crashes is often as much as 30 minutes; in rural areas it can be as long as 50 minutes. Among the most commonly used methods for requesting emergency assistance is the use of the 911 service, which permits callers to dial the digits 911 to reach public safety personnel.

The traveling public has responded in a variety of ways to these realities. They are driving safer cars and are exercising better judgment in their driving behavior. Another way in which they are providing themselves with an extra measure of security is through the use of wireless phones.

Today, approximately 65 million Americans subscribe to cellular or other personal wireless services, with millions of new subscribers added each year. As a result of this increase, there are now 30 million calls to 911 placed on wireless phones annually, up from a total of only 59,000 for the entire year before. Consumers are using these phones to call for help when they need it, to report other drivers' accidents or injuries, and to report erratic or aggressive drivers to authorities before those drivers have an opportunity to injure others.

While wireless phones have enabled people to save countless lives, it is clear that improvements need to be made to the wireless network if emergency personnel are to improve response times and ultimately reduce fatalities on our nation's highways. The first of these improvements is that the wireless network must be as seamless as possible. As one wireless carrier advertises, a wireless telephone is worthless unless the call goes through. And while there are many other hurdles to the development of a seamless wireless network, Federal agencies have more often obstructed rather than assisted in this effort.

Despite a 1995 Presidential memorandum directing Federal agencies to facilitate the placement of wireless antennas on Federal property and section 704(c) of the Telecommunications Act of 1996

(47 U.S.C. 332 note), which directs Federal agencies to make property available for the placement of wireless antennas, Federal agencies generally have been reluctant to facilitate the placement of antennas on property under their control. According to testimony received by the Committee, only the Postal Service and, to a lesser extent, the General Services Administration (GSA) have engaged in any kind of concerted effort to make their properties available for antenna siting. While the siting of antennas on Federal property will not patch every hole in the wireless network, it will provide coverage to areas where there are few other alternatives. Further, it permits the Federal government to lead by example, demonstrating to localities and others the need for a seamless and ubiquitous wireless network to improve public safety.

If the first issue is ensuring that the call goes through, then the second issue is ensuring that the public knows whom to call. In most areas of the country, 911 is the number to call from a wireline phone when requesting emergency assistance or reporting a crime. However, in many States 911 is not the emergency number to call when calling from a wireless phone. These can range from #77 for the Pennsylvania State Police, to \*MSP for the Massachusetts State Police, to the regular seven digit phone number of the local police or sheriff's department. Unfortunately, it is often impossible for travelers to know the correct number to call.

This problem is best illustrated in testimony by K. Susan Hoyt, Chair of the ComCARE Alliance, from the Committee's March 24, 1998, hearing:

One recent story highlighted this problem when a couple traveling through Missouri from another state noticed a drunk driver cutting through traffic and speeding along the interstate. They grabbed their wireless phone and dialed "9-1-1" but could not reach help. The couple tried calling other numbers, then called information for the local police, but since they were from out of state, they weren't sure of their location. They followed the reckless driver; but, unfortunately, it was too late. The driver caused a severe vehicle crash that resulted in fatal injuries before the couple reached the local authorities on the appropriate wireless emergency number—"#55." (Serial No. 105-74, p. 14)

While it is important to improve coverage of 911 service to households and businesses served by traditional wireline service, it is that much more important that travelers know that when they have an emergency or need to report dangerous behavior on the nation's highways, they will be able to do so. The best way to accomplish that goal is through the establishment of a single emergency number for both wireless and wireline coverage. H.R. 3844 does so by directing the FCC to use its existing numbering authority to designate 911 as the nationwide emergency number and directs the FCC to establish appropriate rules for implementation.

Lastly, it is also important that when a PSAP answers an emergency call, it can readily determine the location of the caller. This is a relatively simple accomplishment with wireline phones since the phones are at a fixed location. However, the location of a cel-

lular or other personal wireless service caller is not typically known to the PSAP answering an emergency call. In addition, a mobile phone user is not always aware of his or her precise location when calling from the scene of an accident or other emergency and may, therefore, be incapable of telling the PSAP where to direct the desired help.

Reacting to this problem, the Commission in 1997 required that wireless carriers enhance emergency telephone service by providing the PSAP, upon the PSAP's request, with each emergency call, number and cell-site information by April 1, 1998, and location information by October 1, 2001. However, because many PSAPs lack sufficient funds to install the equipment upgrades necessary to receive the enhanced information, they currently do not request number and cell-site information and the rules do not apply. The same lack of ability to receive location information is expected to occur by the 2001 deadline, if PSAPs do not obtain the funds for upgrades.

The Committee believes strongly that the construction and operation of seamless, ubiquitous, reliable wireless systems serve the public interest by improving communications, enhancing public safety, and promoting economic development. Consistent with the purpose of the bill, the Committee expects the FCC and other government entities to encourage and facilitate the deployment of a seamless, reliable end-to-end wireless infrastructure. Ultimately, the key to improving the value of the wireless phone as a life-saving safety device is ensuring that the proper emergency personnel receive the information necessary to perform their duties. This legislation will leverage Federal, State, local, and private resources to accomplish these goals.

#### HEARINGS

The Subcommittee on Telecommunications, Trade, and Consumer Protection held an oversight hearing on enhanced 911 wireless services on March 24, 1998. The Subcommittee received testimony from: The Honorable Pat Danner, U.S. Representative, Sixth District, State of Missouri; The Honorable Ricardo Martinez, Administrator, National Highway Traffic Safety Administration; Mr. Thomas E. Wheeler, President and CEO, Cellular Telecommunications Industry Association; Ms. K. Susan Hoyt, RN, MN, CEN, Chairperson, ComCARE Alliance; Dr. Stephen Hargarten, Chairman, Department of Emergency Medicine, University of Wisconsin Medical Center; Mr. George Heinrichs, President and CEO, SCC Communications Corp.; Mr. S. Robert Miller, Chair, Regulatory Committee, National Emergency Number Association; Mr. Edward R. Trout, Chairman, American Trucking Association, Inc.; The Honorable Hal Daub, Mayor, City of Omaha, on behalf of the National League of Cities; The Honorable Denis P. Galvin, Deputy Director, National Park Service, Department of the Interior; and Mr. David Bibb, Deputy Associate Administrator, Office of Real Property, Office of Governmentwide Policy, General Services Administration.

H.R. 3844, the Wireless Communications and Public Safety Act of 1998, was introduced in the House on May 12, 1998. The Subcommittee held a legislative hearing on the bill on June 9, 1998. The Subcommittee received testimony from: Dr. Jeffrey Michael,

Chief, Emergency Medical Services Division, National Highway Traffic Safety Administration; Mr. David Bibb, Deputy Associate Administrator, Office of Real Property, Office of Governmentwide Policy, General Services Administration; Mr. Michael Amarosa, Vice President, Public Affairs, TruePosition, Inc.; Mr. John Melcher, Director, MIS Greater Harris County 911; and Mr. David K. Alyward, Executive Director, ComCARE Alliance.

#### COMMITTEE CONSIDERATION

On July 22, 1998, the Subcommittee on Telecommunications, Trade, and Consumer Protection met in open markup session and approved H.R. 3844, the Wireless Communications and Public Safety Act of 1998, for Full Committee consideration, amended, by a voice vote.

On August 5, 1998, the Committee met in open markup session and ordered H.R. 3844 reported to the House, amended, by a voice vote, a quorum being present.

#### ROLLCALL VOTES

Clause 2(1)(2)(B) of rule XI of the Rules of the House requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 3844 reported. An En Bloc Amendment by Mr. Bliley to provide (1) that the study funded by the bill on the health effects of cellular radio frequencies be scientifically objective and not exaggerate the risks to human health, and (2) that wireless carriers be permitted to release a user's location to immediate family members in the event of a life-threatening situation, was agreed to by a voice vote. A motion by Mr. Bliley to order H.R. 3844 reported to the House, amended, was agreed to by a voice vote, a quorum being present.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee held legislative and oversight hearings and made findings that are reflected in this report.

#### COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee concurs with the finding of the Congressional Budget Office that H.R. 3844, the Wireless Communications and Public Safety Act of 1998, would result in \$1 million in new budget authority and outlays in each Fiscal Year 1999 through 2003.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 18, 1998.*

Hon. TOM BLILEY,  
*Chairman, Committee on Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3844, the Wireless Communications and Public Safety Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts for federal costs are Clare Doherty (for costs of the Department of Transportation) and John R. Righter (for use of property to place antennas), and Julia Christensen (for costs of the Food and Drug Administration). The staff contact for the impact on state and local governments is Lisa Cash Driskill.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

*H.R. 3844—Wireless Communications and Public Safety Act of 1998*

Summary: H.R. 3844 would promote (1) the development of an enhanced "911" emergency call system for use across the United States, and (2) research and development of automotive crash notification (ACN) systems that would use wireless communications technology. To facilitate work towards those goals, the bill would establish the Wireless Communications and Public Safety Fund (WICAPS fund) and authorize the appropriation of such sums as are necessary to the National Highway Traffic Safety Administration (NHTSA) for grants to states and investments in research and development of wireless technology. It would also authorize appropriations to the Food and Drug Administration (FDA) for a study to analyze the effects of radio-frequency emissions from wireless telephones.

H.R. 3844 would affect direct spending; therefore, pay-as-you-go procedures would apply. Specifically, the bill would require that, upon receipt of applications, federal agencies process applications from and execute leases with telecommunication companies to place antennas on federal property within 90 days. It would allow agencies to recover their costs from the income generated from such leases. CBO estimates that enacting these provisions would

increase direct spending by an average of about \$1 million a year for each of fiscal years 1999 through 2003.

Assuming the appropriation of the necessary amounts, CBO estimates that NHTSA and FDA activities would cost \$83 million over the 2000–2003 period (with little or no effect on discretionary spending in 1999). In addition, the bill’s effects on direct spending would be roughly matched by reductions in the need for annual discretionary spending for the costs of processing antenna applications. As a result, the estimated net impact on spending subject to appropriation is \$78 million over the 1999–2003 period.

H.R. 3844 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) but CBO estimates that the costs would not be significant and would not exceed the threshold established by that act (\$50 million in 1996, adjusted annually for inflation). The bill would impose no new private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The costs of this legislation fall within budget functions 400 (transportation), 550 (health), and 800 (general government). The estimated budgetary impact is shown in the following table.

(By fiscal year, in millions of dollars)

	1998	1999	2000	2001	2002	2003
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority .....	0	1	1	1	1	1
Estimated Outlays .....	0	1	1	1	1	1
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level .....	0	-1	25	25	25	25
Estimated Outlays .....	0	-1	11	20	23	25

Basis of estimate: For purposes of this estimate, CBO assumes that the necessary amounts will be appropriated for each fiscal year and that outlays will occur at historical spending rates for NHTSA and FDA.

DIRECT SPENDING

Under the Telecommunications Act of 1996 and an Executive Memorandum (dated August 10, 1995), agencies are generally required to lease space on federal property to telecommunication companies for the placement of antennas and other facilities needed to provide personal wireless services (PWS). An agency is exempted from the requirement when the placement of the antenna represents a direct conflict with either its mission or its use of the property. H.R. 3844 would require that federal agencies process the applications from telecommunication companies and execute the necessary leases within 90 days. The bill also would allow PWS providers to challenge in court an agency’s denial or its failure to act on an application to lease property. Finally, it would allow agencies to recover their costs to process new applications from the income earned on PWS leases.

Because the bill would allow agencies to spend some of their income from leases, CBO estimates that enacting these provisions would increase direct spending by about \$1 million a year for each of fiscal years 1999 through 2005. That estimate is based on the

rental income we estimate will be generated from antenna leases under current law and from information provided by agencies. CBO estimates that the bill would increase direct spending after 2005 by less than \$500,000 a year.

Under current law, CBO estimates that income from leases to PWS providers will increase steadily from between \$5 million and \$10 million in fiscal year 1998 to around \$25 million in fiscal year 2003. However, we estimate that more than one-half of that income will be generated by agencies that already have the authority to retain and spend such proceeds, including the United States Postal Service, the General Services Administration, the Bonneville Power Administration, and the Tennessee Valley Authority. For agencies without that authority, we estimate that proceeds from leases will be modest, increasing under current law from \$2 million in 1998 to \$12 million in 2003.

Based on information from agencies, including their costs to process applications and the rents they are receiving from leases, CBO assumes that agencies would, on average, retain the first year's rent to cover the costs of processing new applications to place antennas on federal property. In addition, we estimate that providing agencies with additional funds would enable them to process applications more quickly and collect rents from new leases sooner, but would not affect the number of new leases. Since this authority would only have an impact on those agencies that cannot retain and spend receipts under current law, CBO estimates that, on average, the provision would result in a net increase in new spending from rental income of \$1 million a year, beginning in fiscal year 1999. Because we anticipate that the demand to place new antennas on federal property will decline over time, we expect that the effect on direct spending will gradually decline. CBO estimates that, beginning in fiscal year 2006, the provision would increase direct spending by less than \$500,000 a year.

#### SPENDING SUBJECT TO APPROPRIATION

*Costs to the Department of Transportation.* H.R. 3844 would authorize the appropriation of such sums as are necessary for NHTSA to provide grants to states to further develop the existing 911 systems for emergency telephone calls and to support emergency prevention, educational, and medical programs that will use the wireless communication system envisioned by the bill. It would also authorize NHTSA funding to conduct research and development for ACN systems, to develop decision protocols for the use of such systems, and to evaluate the systems.

Based on information from NHTSA, CBO estimates that grants to states under the bill would require appropriations of about \$20 million a year, beginning in fiscal year 2000. Over the 2000–2003 period, CBO estimates that \$5 million would be devoted to the development of system protocols, \$13 million would be devoted to research and development, and \$2 million would cover the evaluation efforts. Funding for the research, development, and evaluation of ACN systems would be capped by the bill at annual amounts not to exceed 25 percent of the amounts appropriated for grants. Because the estimated funding for the grants is \$20 million a year,



CBO estimates that additional funding for ACN development would be \$5 million a year.

CBO estimates that other costs for carrying out activities under the bill would cost less than \$500,000 a year and a total of about \$1 million over the 2000–2003 period.

*Costs to the Food and Drug Administration.* Section 7 would direct the Food and Drug Administration to conduct a study using animal bioassay techniques to analyze the effects of radio-frequency emissions from wireless telephones operating on certain frequencies. It would also require the Commissioner of the FDA to convene an advisory panel of scientific and industry experts to advise the FDA on substantive matters surrounding the preparation, conduct, and evaluation of the study. Finally, section 7 would allow the FDA to use its appropriated funds (authorized in this bill) to cover expenses incurred by FDA personnel to attend meetings related to the topic of the study.

The bill would cap the authorization of appropriations to implement section 7 at the lesser of \$2 million a year or 5 percent of the annual appropriation from the WICAPS fund for making grants to states. As noted above, CBO estimates the authorization for such grants at a level of \$20 million a year, beginning in fiscal year 2000. Applying the 5-percent annual cap, CBO estimates that the FDA study and related expenses would have an authorized funding level of \$1 million a year over the 2000–2003 period.

*Reduced Need for Appropriations to Process Antenna Applications.* By allowing agencies to retain and spend a portion of the income generated from antenna leases to process new applications, H.R. 3844 would reduce the amount of appropriations required to process such applications. As a result, CBO estimates that implementing the bill would reduce the annual discretionary costs for agencies to process new applications by about \$1 million—an amount which is roughly equivalent to the new direct spending.

*Pay-as-you-go considerations:* The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays .....	0	1	1	1	1	1	1	1	0	0	0
Changes in receipts <sup>1</sup> .....											

<sup>1</sup> Not applicable.

*Estimated impact on State, local, and tribal governments: Mandates.* H.R. 3844 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act but CBO estimates that the costs would not be significant and would not exceed the threshold established by that act (\$50 million in 1996, adjusted annually for inflation). First, states would be required to provide users of wireless 911 service with protection from liability that is not less than that provided to users of 911 wireline service. Second, the bill would require that states give wireless communications companies

protection from liability that is not less than that provided to wireless communication companies. States would have the ability to pass legislation which could alter some aspects of the parity of liability protection afforded to wireless companies, if they did so within two years of the passage of this bill. After two years, in the absence of state legislation, wireless companies would have liability protection equal to that of wireline companies. CBO estimates that the only costs would be those associated with passing state legislation to alter the liability protections to comply with those established by this bill.

In addition, the bill would prevent states from applying a higher standard of liability to 911 services provided by wireless companies than is applied to 911 services provided through wireline. Any non-conforming laws would become void under this legislation. Information from industry and state and local trade associations indicates that many states currently have no wireless liability laws, and in states that do, they are modeled after and in no case exceed the standards applied to wireline communication companies. Consequently, this provision would not affect state and local budgets.

*Other Impacts.* Section 3 of the bill directs the FCC to designate 911 as the universal emergency telephone number. Currently 911 emergency systems are designated at the local level and many jurisdictions use numbers other than 911 for emergency wireless service (for instance, “\*55” or “#77”). Because the FCC’s authority over 911 service does not extend to state and local governments, CBO believes that it is unlikely that this section would result in an intergovernmental mandate requiring state and local governments to change their emergency number systems.

As an encouragement to states to adopt 911 as the universal emergency service number, the bill would authorize a grant program that CBO estimates would provide \$20 million annually to states over the 2000–2003 period. The grant program would require states to fund at least 25 percent of the cost of activities related to receiving wireless 911 services and establishing a comprehensive 911 system. Grants could be made to states without a match, if the assistance would be directed to rural communities.

Estimated impact on the private sector: H.R. 3844 would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Transportation Programs: Clare Doherty; Antennas on Federal Property: John Righter; Health Programs: Julia Christensen; Impact on State, Local, and Tribal Governments: Lisa Cash Driskill.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

Subsection 7(c) of the legislation establishes a “panel of scientific and industry experts to advise the Food and Drug Administration,

on an ongoing basis, on the preparation, conduct, and evaluation of” a 2-year animal bioassay of radiofrequency emissions from wireless telephones operating on frequencies between 825 and 1900 megahertz, inclusive. Pursuant to the requirements of subsection 5(b) of the Federal Advisory Committee Act, the Committee finds that the functions of the proposed advisory committee are not and cannot be performed by an existing Federal agency or advisory commission or by enlarging the mandate of an existing advisory committee.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes, and in Article IV, section 3, clause 2, which grants Congress the power to dispose of and make all needed rules and regulations respecting property belonging to the Federal government.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

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U.S. HOUSE OF REPRESENTATIVES  
 COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING  
 WASHINGTON, DC 20515-6301  
 (202) 225-6371  
 TTY: (202) 226-4410  
<http://www.house.gov/science/welcome.htm>

September 17, 1998

The Honorable Thomas Bliley  
 Chairman  
 Committee on Commerce  
 U.S. House of Representatives  
 Washington, DC 20515

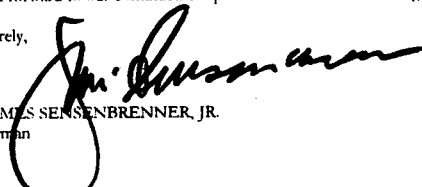
Dear Chairman Bliley:

Thank you very much for your letter regarding H.R. 3844, the Wireless Communications Safety Act of 1998.

I understand that you wish to have the House expeditiously consider this legislation on the floor. In consideration of this I hereby agree to forgo further action which the Committee on Commerce might wish to take on this bill. I appreciate the fact that you recognize the Science Committee's jurisdictional prerogatives in this matter and that you will support the Science Committee for the appropriate number of conferees should H.R. 3844 be the subject of a House-Set Conference.

I look forward to our continued cooperation on this and other legislation.

Sincerely,



F. JAMES SENSENBRENNER, JR.  
 Chairman

ONE HUNDRED FIFTH CONGRESS

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**U.S. House of Representatives**  
**Committee on Commerce**  
 Room 2125, Rayburn House Office Building  
 Washington, DC 20515-6115  
 September 18, 1998

JAMES E. DERDERIAN, CHIEF OF STAFF


The Honorable F. James Sensenbrenner, Jr.  
 Chairman  
 House Committee on Science  
 2320 Rayburn House Office Building  
 Washington, DC 20515

Dear Chairman Sensenbrenner,

Thank you for your letter regarding your Committee's jurisdictional interest in H.R. 3844, the Wireless Communications and Public Safety Act of 1998.

I acknowledge your interest in this legislation and appreciate your cooperation in moving the bill to the House floor expeditiously. I agree that your decision to forgo further action on the bill will not prejudice the Science Committee with respect to its jurisdictional prerogatives on this or similar provisions, and will support your request for conferees on those provisions within the Committee on Science's jurisdiction should they be the subject of a House-Senate conference. I will also include a copy of your letter and this response in the Committee's report on H.R. 3844.

Thank you again for your cooperation.

Sincerely,  
  
 Tom Biiley  
 Chairman

cc: The Honorable George E. Brown, Jr., Ranking Minority Member  
Committee on Science,

The Honorable John D. Dingell, Ranking Minority Member  
Committee on Commerce

The Honorable F. James Sensenbrenner, Jr.  
Page 2

The Honorable Charles W. Johnson, III  
Parliamentarian

DON YOUNG, CHAIRMAN

**U.S. House of Representatives**  
**Committee on Resources**  
Washington, DC 20515  
28 September 1998

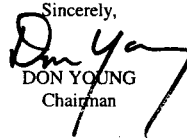
The Honorable Tom Bliley  
Chairman  
Committee on Commerce  
2125 Rayburn HOB  
Washington, D.C. 20515

Dear Mr. Chairman:

I understand that the Committee on Commerce has ordered reported H.R. 3844, the Wireless Communications and Public Safety Act of 1998. Section 8 of the bill amends the Telecommunications Act of 1996 regarding the use of Federal property to provide personal wireless services. In new paragraph 704(d)(7) of the 1996 Act, the bill as reported limits environmental processing of requests for, access to and use of real property for wireless service facility siting to a particular section of title 47 of the Code of Federal Regulations. This language appears to waive the application of the National Environmental Policy Act, a statute within the jurisdiction of the Committee on Resources.

Because of the great degree of cooperation you have shown in the past and the very limited numbers of days left in this legislative session, I will not seek a sequential referral of H.R. 3844. However, this waiver should not be construed as a waiver of the Committee on Resources' jurisdiction over the bill. Therefore, I ask that you include this letter in any report on the bill and to support my request to be represented on the conference on H.R. 3844 (or other similar legislation) should one be necessary.

I look forward to seeing Congressman Tauzin's bill on the Floor soon.

Sincerely,  
  
DON YOUNG  
Chairman

cc: The Honorable George Miller  
The Honorable Richard K. Arney  
The Honorable Charles W. Johnson III

ONE HUNDRED FIFTH CONGRESS

TOM BILLEY, VIRGINIA, CHAIRMAN

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U.S. House of Representatives  
 Committee on Commerce  
 Room 2125, Rayburn House Office Building  
 Washington, DC 20515-6115  
 September 24, 1998

JAMES E. DERDERIAN, CHIEF OF STAFF

The Honorable Don Young  
 Chairman  
 Committee on Resources  
 U.S. House of Representatives  
 1324 Longworth House Office Building  
 Washington, D.C. 20515

Dear Don:

Thank you for your letter regarding your Committee's jurisdictional interest in H.R. 3844, the Wireless Communications and Public Safety Act of 1998.

I acknowledge your interest in this legislation and appreciate your cooperation in moving the bill to the House floor expeditiously. I agree that your decision to forgo further action on the bill will not prejudice the Resources Committee with respect to its jurisdictional prerogatives on this or similar provisions, and will support your request for conferees on those provisions within the Committee on Resources' jurisdiction should they be the subject of a House-Senate conference. I will also include a copy of your letter and this response in the Committee's report on H.R. 3844.

Thank you again for your cooperation.

Sincerely;



Tom Bliley  
 Chairman

cc: The Honorable George Miller, Ranking Minority Member  
 Committee on Resources



The Honorable Don Young  
Page 2

The Honorable John D. Dingell, Ranking Minority Member  
Committee on Commerce

The Honorable Charles W. Johnson, III  
Parliamentarian

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

Section 1 designates the short title of the bill as the “Wireless Communications and Public Safety Act of 1998.”

*Section 2. Findings and purpose*

Section 2 contains the findings and purpose of H.R. 3844. The findings include, inter alia, that an end-to-end communications infrastructure will reduce response times for the delivery of emergency care, thereby preventing fatalities and reducing the severity of injuries, among other benefits. The section also finds that state-wide coordination among all interested parties is required for the rapid and efficient deployment of emergency services. The Committee intends for purposes of this section that “emergency safety” and “public safety” officials include all those parties engaged in the provision of emergency or safety services, including governmental and non-governmental emergency dispatch and road service providers, such as the American Automobile Association. The Committee notes that the broader the coordination by interested parties, the more rapid the establishment of an end-to-end system to deliver emergency service and care will be.

Section 2 also describes the finding that automatic crash notification systems can be a critical component of an end-to-end system, and that the contributions of wireless communications to such a system will be enhanced by a State grant program.

*Section 3. Universal emergency telephone number*

Section 3 amends Section 251(e) of the Communications Act of 1934 by adding a paragraph requiring the Commission, in its existing role as the sole numbering authority in the United States, to designate 911 as the universal emergency telephone number within the United States for reporting an emergency using both wireline and wireless telephone service. The section requires the Commission, and any agency to whom it has delegated designation authority, to provide appropriate transition rules for areas in which 911 is not in use upon date of enactment of the bill.

In designating 911 as the universal emergency telephone number, the Committee does not intend that this provision govern emergency calls initiated from private business exchanges (PBXs) or other similarly situated private telephone systems. Making PBX equipment compatible with 911 emergency calling systems is a difficult task. In particular, many current PBXs require that to obtain an outside line the user must first dial “9.” Thus, users of PBX systems may be required to dial “9-9-1-1” to connect with public safety officials in emergency situations. By including this provision, the Committee does not intend to alter this situation.

However, the Committee is aware that the Commission has before it a notice of proposed rulemaking addressing this situation and others relating to PBX compatibility with 911 calling systems. This provision is not intended to affect that decision in any way and the Committee expects that the Commission will proceed in whatever manner it deems to be in the public interest.

*Section 4. Wireless communications and public safety fund*

Section 4 establishes the Wireless Communications and Public Safety Fund (WICAPS Fund) in the Treasury, which will be administered by the Department of the Treasury. The Treasury Department is directed to invest those portions of the WICAPS Fund not necessary to meet current withdrawals in interest-bearing obligations of the United States.

*Section 5. Assistance to states*

Section 5 governs the distribution of funds to the States for purposes of facilitating an end-to-end communications system for emergency services. Section 5(a) governs population-based grants to the States, and the plans States must submit to the Secretary of Transportation in order to qualify for a grant. As provided by Section 5(a), an applying State must submit a plan that contains a certification by the Governor or his designee that the State, inter alia: will implement the designation of 911 as a universal emergency number in the State; has policies to encourage public reporting of safety risks; will make efforts to minimize risky driving by motorists on its roads; will provide a 25 percent matching amount from a source other than a surcharge or tax on wireless carriers or subscribers; has consulted with interested parties in the development of the plan; will, through an entity designated by the Governor, coordinate the deployment of an end-to-end emergency communications system on a statewide basis; and has a mechanism for wireless carrier recovery of costs related to the provision of automatic numbering identification and call location services.

Paragraph (3) provides that the Secretary of Transportation shall allocate grants at an amount based on population. If any WICAPS amounts are unallocated because a State failed to provide a 25 percent matching amount, then the Secretary shall reallocate such funds among the other qualifying States, based on population.

Paragraph (4) governs the permissible use of funds and permits States to use grant funds for: the payment of costs for the acquisition, upgrades to or modifications of equipment used to receive enhanced wireless 911 service information; and emergency prevention, educational, or pre-hospital emergency medical programs.

Subsection (b) governs rural assistance grants to the States. As with the population-based grants, States are required to submit a plan detailing their commitment to the development of an end-to-end communications system to enhance wireless emergency response and provide a 25 percent matching amount as a pre-condition of receipt of a rural assistance grant. States may use a rural assistance grant for the same purposes as a population-based grant.

Subsection (c) governs the administration within a State of the grant funds. Under the subsection, a State may permit the administration of the funds through a political subdivision of the State or other entity if that subdivision or entity uses or plans to use 911 as the wireless and wireline emergency telephone number. Subsection (d) permits States to receive both a population-based grant and a rural assistance grant.

*Section 6. Research and development on crash information systems*

Section 6 requires that, within 90 days of enactment, the Secretary of Transportation establish a program funded by the WICAPS Fund for research and development of an automatic crash notification (ACN) system and an interface in motor vehicles for wireless telephones to transmit crash data and permit hands-free use. Under Section 6, the Secretary has 90 days from enactment to establish such a research and development program. For purposes of research into the operation of an ACN system that would use a wireless telephone or other communications system to transmit crash data to appropriate emergency personnel, the Committee does not intend to exclude research into transmission of such data to emergency dispatch providers. The Committee intends that the term “appropriate emergency personnel” as used in paragraph 6(a)(1) include emergency dispatch providers.

Subsection (b) requires the Secretary to consult with representatives of interested industries and public sector entities in planning such research and development. The Committee does not intend that the list enumerated in this subsection be exhaustive; rather, it is intended to suggest parties who should be included in any consultative process.

Finally, subsection (c) governs the use of research and development funds, which includes investments by trauma centers throughout the United States in coordination with other emergency medical services providers.

*Section 7. Radiofrequency study*

Section 7 requires the Food and Drug Administration (FDA) to conduct a 2-year bioassay of radiofrequency emissions from wireless telephones operating on frequencies between 825 and 1900 MHz. As provided in Section 11(b)(2), the study will be funded at the lesser of 5 percent of the WICAPS Fund or \$2 million, annually, for Fiscal Years 1999–2003.

Subsection (b) requires that, to the maximum extent practicable, the study be consistent with the research needs of the World Health Organization’s International Electromagnetic Frequency Project and be scientifically objective. It also emphasizes that the bioassay study provide a careful analysis of the weight of the evidence and a description of the results that neither minimizes nor exaggerates the risks to human health. Subsection (c) requires the FDA Commissioner to designate a panel of scientific and industry experts to advise the FDA on the preparation, conduct and evaluation of the study. The advisory panel shall be designated after the Commissioner consults with the Center for Devices and Radiological Health and representatives of the scientific community and wireless industry. Finally, subsection (d) authorizes the FDA’s use of appropriated funds for its personnel to attend meetings of the International Electromagnetic Frequency Project and other scientific symposia.

*Section 8. Emergency services support from use of federal property*

Section 8 adds a new subsection (d) to section 704 of the Telecommunications Act of 1996 (47 U.S.C. 332 note) governing access to and use of Federal property for siting of facilities used in provid-

ing personal wireless services. The purpose of this provision is to enhance public safety by making property owned by the Federal government available to the maximum extent practicable, on an expeditious basis, for the siting of personal wireless facilities and thus improving the ability of the traveling public to reach emergency personnel from a wireless phone.

The portion of the lease fees in excess of the amount necessary to reimburse the agency's processing costs is credited to the WICAPS Fund, except where an agency's ability to retain those fees is otherwise governed by existing law. Those fees are distributed to the States by the Secretary of Transportation for upgrading the PSAPs and funding emergency educational programs.

Paragraph (2) requires that not later than 60 days after an agency receives a personal wireless facilities siting request, it must decide whether the request will conflict with either the agency's mission or its planned use of the property. The lease fee must be reasonable and non-discriminatory and no more than fair market value. Under new paragraph (3), if the decision is to be favorable to the provider of personal wireless services, then the agency has 30 additional days, or 90 days from the date of receiving the request, to conclude a lease or other document necessary to implement the request.

If the agency finds that the request will raise a conflict with its mission or planned use for its property, the agency must notify the requesting party of the conflict by the end of the 60 day period following the request. Paragraph (4) provides for an informal hearing upon request by a rejected applicant. That hearing must commence within 60 days of the agency's receipt of the application and be concluded within 90 days. The agency will, therefore, have any length of time between 30 and 90 days to conduct an informal hearing, if it believes the siting request will conflict with its mission or planned use of its property.

Section 8 in no way changes Section 332(c)(7) of the Communications Act (47 U.S.C. 332(c)(7)), added by the Telecommunications Act of 1996, which preserved local zoning authority over personal wireless facilities for property under local control. Rather, Section 8 governs siting of personal wireless facilities on Federal property. Section 704(c) of the Telecommunications Act of 1996 was enacted as a clear policy statement that the Federal government is to make its property available, to the greatest extent possible, for wireless facilities. The Conference Report for the Telecommunications Act of 1996 differentiates between local zoning authority under Section 332(c)(7) and procedures in Section 704(c) for siting wireless facilities on property under the control of Federal departments and agencies for "new telecommunications services that are dependent upon the utilization of Federal spectrum rights." Section 8 of the bill adds a new subsection to Section 704 to provide more detailed guidance for siting requests on Federal property for a particular subset of such services—personal wireless services—and, therefore, does not alter the operation of section 332(c)(7).

Paragraph (5) governs the information a provider of personal wireless services must include in its request for access to and use of Federal property for its facilities. Such information includes the following: name and address of the requestor; site-specific identi-

fication; type and size of antenna installation and support required, including access to the site, utility requirements, foot-capacity for rooftops and any site modification requirements; antenna frequencies and other specifications; term of property use; terms of removal of equipment and supporting structures and property restoration; description of related projects; and a description of methods of achieving compliance with any applicable environmental or historic preservation statutes.

Judicial review of an agency denial is governed by paragraph (6). An applicant may seek judicial review of (1) an agency determination that a request to use the agency's facilities for the siting of the applicant's equipment conflicts with the agency's mission or its planned use of the property; (2) the reasonableness of the lease fee charged by the agency; or (3) an agency's failure to act within the deadlines specified by this section. These actions are governed by chapter 7 of title 5, United States Code, although paragraph (6) provides that the burden of proof shall be on the agency to sustain its decision, rather than on the provider of personal wireless services.

Paragraph (7) provides for implementation of the National Environmental Policy Act (NEPA) with respect to access to and use of Federal property for siting of personal wireless facilities. Under this new subsection, Federal agencies that receive access and use requests must apply the existing FCC environmental processing regulations to the request. The FCC regulations implement and incorporate by reference all Federally-mandated environmental statutes. The FCC rules therefore require compliance with all other Federal environmental laws. Limiting Federal agency wireless siting procedures to the FCC rules will ensure predictability and uniformity among Federal agencies in the environmental processing of such requests, as well as consistency with Federal environmental regulation of the telecommunications industries.

The FCC environmental rules establish a process for requests to construct radiofrequency facilities. First, an applicant whose proposed facilities may significantly affect the environment must submit an Environmental Assessment to the FCC and undergo environmental review prior to commencing construction (See 47 C.F.R. §§ 1.1307–08, 1.1311–12). These potential environmental effects include: harm to threatened or endangered species or designated critical habitats; changes which interfere with historic sites listed or eligible for listing on the National Register of Historic Places or Indian religious sites; location in a flood-plane; changes in surface features (e.g., wetland fills, deforestation, water diversion); location in a wilderness area or wildlife preserve; utilizing high intensity lighting in a residential area; or emitting radiofrequency radio in excess of health and safety standards (See 47 C.F.R. § 1.1307).

Under the Commission's procedures, the FCC reviews the Environmental Assessment (EA), and, if appropriate, solicits the views of other expert and affected Federal agencies and interested parties, to determine whether the proposal will have a significant effect on the environment (47 C.F.R. §§ 1.1307(c), 1.1308). The Committee notes that the FCC relies upon the input of other Federal agencies, particularly the agency which owns the property upon

which the tower is to be located, in order to obtain an accurate environmental assessment, and expects that practice to continue.

If the FCC finds no significant impact, the application is processed without further documentation of environmental effect (47 C.F.R. § 1.1308(d)). If the FCC does find that the request will have significant environmental effects, it informs the applicant, who then has an opportunity to amend the application to reduce, minimize, or eliminate the problem, (47 C.F.R. §§ 1.1308(c), 1.1309). If the problem is not eliminated, the FCC prepares a Draft Environmental Impact Statement (DEIS) and, after comment, a Final Environmental Impact Statement (FEIS) (47 C.F.R. §§ 1.1314–19).

Paragraph (7), requires that Federal agencies receiving siting requests must complete environmental processing within the time frames established by new subsection 704(d) for considering such requests. Likewise, any notification of and discussion with local land use authorities of proposals to site wireless facilities is required to be conducted within the period established by that subsection. The Committee does not intend to affect local zoning authority through the enactment of this legislation. To the extent siting personal wireless services facilities is considered “alteration” of a Federal building, the manager of that building still is required to consider the views of, and consult with, local authorities, but would have to do so within the 90 day time-frame established by this section. The Committee notes that Section 8 addresses siting requests on Federal property, as opposed to State, local, or private property that may be subject to State or local zoning law.

Paragraph (8) provides that existing General Service Administration (GSA) bulletins implementing existing subsection 704(c) shall continue to apply for purposes of site requests for personal wireless services facilities, to the extent consistent with the terms of new subsection 704(d), until modified as necessary by GSA. The purpose of this new subsection is to ensure that there is no regulatory delay in implementing new subsection 704(d).

Paragraph (9) defines terms for this subsection. Subparagraph (9)(C) contains the definition for “personal wireless services facilities.” Those facilities are the antenna and supporting equipment, including the ground-based electronics connected to such equipment. The Committee intends that this definition include structures for housing the ground-based electronics used in connection with antennas and supporting equipment that are sited on Federal property.

*Section 9. Parity of protection for provision or use of wireless services*

Section 9 provides wireless carriers with the same degree of liability protection as enjoyed by wireline carriers in their provision of telecommunications services. The Committee received testimony regarding wireless carriers’ concerns about liability arising from the provision of 911 services. The Committee recognizes that wireline carriers derive their protection from liability from a variety of sources—including statutes, court decisions, and limitations contained in the tariffs they file. Subsection 9(a) provides wireless carriers the highest degree of protection from liability that any wireline carrier has in any State under Federal and State law,

without any need for wireless carriers to file tariffs or to obtain a judicial ruling or the passage of a new State statute. Activities provided such protection include a wireless provider's development, design, installation, operation, maintenance, performance or provision of wireless service; transmission errors, failures, network outages, or other technical difficulties arising in transmission of emergency calls; and release to a PSAP, emergency medical or trauma center personnel, or dispatch providers or other public safety personnel of subscriber information.

Subsection (b) provides that a wireless user using wireless 911 shall have the same protection from liability that a user of wireline 911 has in a particular jurisdiction.

On the date of enactment, section (c) gives wireless carriers the same level of liability protection granted wireline carriers in the State for the same services. States would then have two years to enact separate immunity statutes for wireless services, with the exception of wireless 911 service, which will continue to receive liability parity. If the State failed to act within two years, liability parity would continue for all services.

*Section 10. Authority to provide location information*

Section 10 amends Section 222 of the Communications Act of 1934 to permit carriers to provide call location information concerning a user of a commercial mobile service to emergency dispatch providers and emergency service personnel to respond to the user's emergency call or to the user's immediate family in a life-threatening situation. Section 10 also permits carriers to provide call location information to transmit crash information through a motor vehicle's automatic crash notification system. Section 10 requires the customer's express prior authorization for disclosure to any other person. Section 222 is amended to expressly include location information in that section's definition of "customer proprietary network information."

*Section 11. Authorizations of appropriations and disposition of fees*

Section 11 authorizes appropriations to the WICAPS Fund and the disposition of such sums. Subsection (a) authorizes funds for the Secretary of Transportation's administration of his duties under the bill. Paragraph (b)(1) authorizes appropriations for the research and development of automatic crash notification systems under Section 6, at 25 percent of the annual remainder of the WICAPS Fund, after the administrative expenses under subsection (a) and 5 percent funding of the FDA bioassay under paragraph (b)(2) are subtracted. Paragraph (b)(1) caps the amount that may be appropriated for ACN research at \$60,000,000 in total over the course of all fiscal years.

Subsection (c) authorizes appropriations for the State block grants under Section 5 of the bill. Subsection (d) allocates two-thirds of those funds to the population-based State grants, and one-third to the rural assistance grants.

Subsection (e) permits appropriations from the general fund to the WICAPS Fund, while subsection (f) ensures that funds appropriated pursuant to the authorizations contained in the legislation are available without fiscal year limitation, except as provided for



in appropriations acts. Subsection (g) provides that agencies may credit to the appropriations accounts funds used to process requests for access to and use of Federal property for personal wireless services facilities. Paragraph (4) grandfathers the ability of agencies to retain funds in excess of processing costs for such requests, if such authority predates enactment of the bill.

*Section 12. Definitions*

Section 12 defines “WICAPS Fund,” “personal wireless services,” “public safety answering point,” “wireless carrier,” “enhanced wireless 911 service,” “wireless 911 service,” and other terms.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**COMMUNICATIONS ACT OF 1934**

\* \* \* \* \*

**TITLE II—COMMON CARRIERS**

\* \* \* \* \*

**PART I—COMMON CARRIER REGULATION**

\* \* \* \* \*

**SEC. 222. PRIVACY OF CUSTOMER INFORMATION.**

(a) \* \* \*

\* \* \* \* \*

(d) EXCEPTIONS.—Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—

(1) to initiate, render, bill, and collect for telecommunications services;

(2) to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; **[or]**

(3) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service~~].~~;

(4) to provide call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d)) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or

*trauma care facility, in order to respond to the user's call for emergency services; or to inform the user's legal guardian or members of the user's immediate family of the user's location in an emergency situation that involves the risk of death or serious physical harm; and*

*(5) to transmit automatic crash notification information as part of the operation of an automatic crash notification system.*

\* \* \* \* \*

*(f) AUTHORITY TO USE WIRELESS LOCATION INFORMATION.—For purposes of subsection (c)(1), without the express prior authorization of the customer, a customer shall not be considered to have approved the use, disclosure, or access to—*

*(1) call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d)) to any person other than—*

*(A) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or trauma care facility, in order to respond to the user's call for emergency services; or*

*(B) to inform the user's legal guardian or members of the user's immediate family of the user's location in an emergency situation that involves the risk of death or serious physical harm; or*

*(2) automatic crash notification information to any person other than for use in the operation of an automatic crash notification system.*

**[(f)] (g) DEFINITIONS.—**As used in this section:

(1) \* \* \*

\* \* \* \* \*

**(1) CUSTOMER PROPRIETARY NETWORK INFORMATION.—**The term “customer proprietary network information” means—

**(A)** information that relates to the quantity, technical configuration, type, destination, *location*, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

\* \* \* \* \*

## **PART II—DEVELOPMENT OF COMPETITIVE MARKETS**

### **SEC. 251. INTERCONNECTION.**

(a) \* \* \*

\* \* \* \* \*

(e) **NUMBERING ADMINISTRATION.—**

(1) \* \* \*

\* \* \* \* \*

**(3) UNIVERSAL EMERGENCY TELEPHONE NUMBER.—***The Commission and any agency or entity to which the Commission has*

*delegated authority under this subsection shall designate 911 as the universal emergency telephone number within the United States for reporting an emergency to appropriate authorities and requesting assistance. Such designation shall apply to both wireline and wireless telephone service. In making such designation, the Commission (and any such agency or entity) shall provide appropriate transition periods for areas in which 911 is not in use as an emergency telephone number on the date of enactment of the Wireless Communications and Public Safety Act of 1998.*

\* \* \* \* \*

**SECTION 704 OF THE TELECOMMUNICATIONS ACT OF 1996**

**SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.**

(a) \* \* \*

\* \* \* \* \*

*(d) USE OF FEDERAL PROPERTY TO PROVIDE PERSONAL WIRELESS SERVICES.—*

*(1) POLICY.—It is the policy of the United States to encourage rapid construction and expansion of the wireless communications infrastructure in the United States and, to that end, to make the real property of the United States Government available to the maximum extent practicable for the siting of facilities that are part of that infrastructure.*

*(2) AVAILABILITY OF FEDERAL PROPERTY FOR PERSONAL WIRELESS SERVICES.—Not later than 60 days after a department, agency, officer, or instrumentality of the United States with control of real property (including rights-of-way and easements) owned by the United States receives a request containing the information set forth in paragraph (5) from a provider of personal wireless services for access to and use of such real property for siting of facilities used in providing such services, the department, agency, officer, or instrumentality shall make that real property available on a fair, reasonable, and nondiscriminatory basis and at not more than a reasonable fee (which shall in no event exceed fair market value), to the provider for that purpose, unless and to the extent that the head of the department, agency, officer, or instrumentality determines and notifies the provider prior to the expiration of that 60-day period that making such real property available will present an unavoidable direct conflict with—*

*(A) the mission of the department, agency, or instrumentality; or*

*(B) the current use of the real property or the use of the real property that was planned at the time of the request.*

*(3) FAVORABLE DECISION.—Unless the department, agency, officer, or instrumentality determines pursuant to paragraph (2) that an unavoidable conflict exists (as described in such paragraph), such department, agency, officer, or instrumentality shall, within 90 days after the date of the receipt of the request*

under paragraph (2), execute any documents, such as a lease, that are necessary to implement the request.

(4) *UNFAVORABLE DECISION.*—With regard to a request under paragraph (2), a department, agency, officer, or instrumentality shall not make a determination that an unavoidable conflict exists (as described in such paragraph) unless—

(A) an opportunity for an informal hearing is afforded to interested persons commencing within 60 days, and concluding within 90 days, after receipt of the request and prior to the making of the determination;

(B) the determination is in writing, constitutes a final agency action, and discloses the specific grounds therefor.

(5) *INFORMATION REQUIRED IN REQUEST FOR ACCESS TO AND USE OF FEDERAL PROPERTY.*—A request by a provider of personal wireless services under paragraph (2) shall contain the following information:

(A) The name, address and telephone number of the provider and the provider's authorized or legal representative for the request.

(B) Site-specific identification of the real property to which access is requested, such as a specific building name and address or site latitude and longitude.

(C) The type and size of antenna installation and support required for the provider's proposed wireless site, including access to the site, utility requirements, acreage of land, or foot-pound capacity for rooftops, and any special site modification requirements.

(D) A summary of antenna specifications, including frequencies.

(E) The term of the requirement for use of the real property.

(F) The terms of removal of the equipment and structures or property restoration.

(G) A description of any project or larger antenna program to which the site relates.

(H) A description of methods of achieving compliance with any applicable environmental or historic preservation statutes.

(6) *JUDICIAL REVIEW.*—A provider of personal wireless services adversely affected by a final action or failure to act by a department, agency, officer, or instrumentality concerning a request under paragraph (2) (including any decision relating to a fair, reasonable, and nondiscriminatory basis for access and use or what constitutes a reasonable fee) may obtain judicial review of the action or failure to act in accordance with the provisions of chapter 7 of title 5 of the United States Code, except that the burden shall be on the department, agency, officer, or instrumentality to sustain its action.

(7) *REGULATORY COMPLIANCE.*—A request under paragraph (2) and the access to and use of real property pursuant to this subsection shall be subject to environmental processing only under subpart I of part 1 of title 47 of the Code of Federal Regulations.

(8) *AVOIDANCE OF REDUNDANT REGULATIONS.*—*Bulletins issued by the Administrator of General Services pursuant to subsection (c) of this section shall continue to apply, to the extent otherwise consistent with this subsection, to the administration of this subsection until modified or superseded by the Administrator as necessary for the purposes of this subsection.*

(9) *DEFINITIONS.*—*As used in this subsection:*

(A) *The term “instrumentality of the United States” includes any independent establishment of the United States.*

(B) *The term “personal wireless services” has the meaning specified for that term in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i)).*

(C) *Facilities used in the provision of personal wireless services are the antenna and supporting equipment, including ground-based electronics connected to such equipment, for the provision of such service.*

