

911 MODERNIZATION AND PUBLIC SAFETY ACT OF 2007

NOVEMBER 13, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

[To accompany H.R. 3403]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3403) to promote and enhance public safety by facilitating the rapid deployment of IP-enabled 911 and E-911 services, encouraging the nation’s transition to a national IP-enabled emergency network and improve 911 and E-911 access to those with disabilities, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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AMENDMENTS

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “911 Modernization and Public Safety Act of 2007”.

TITLE I—911 SERVICES AND IP-ENABLED VOICE SERVICE PROVIDERS

SEC. 101. DUTY TO PROVIDE 911 AND E-911 SERVICE.

The Wireless Communications and Public Safety Act of 1999 is amended—

- (1) by redesignating section 6 (47 U.S.C. 615b) as section 7;
- (2) by inserting after section 5 the following new section:

“SEC. 6. DUTY TO PROVIDE 911 AND E-911 SERVICE.

“(a) DUTIES.—It shall be the duty of each IP-enabled voice service provider to provide 911 service and E-911 service to its subscribers in accordance with the requirements of the Federal Communications Commission (in this section referred to as the ‘Commission’), as in effect on the date of enactment of the 911 Modernization and Public Safety Act of 2007 and as such requirements may be modified by the Commission from time to time.

“(b) PARITY FOR IP-ENABLED VOICE SERVICE PROVIDERS.—An IP-enabled voice service provider that seeks capabilities from an entity with ownership or control over such capabilities to comply with its obligations under subsection (a) shall, for the exclusive purpose of complying with such obligations, have the same rights, including rights of interconnection, and on the same rates, terms, and conditions, as apply to a provider of commercial mobile service (as such term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))), subject to such regulations as the Commission prescribes under subsection (c).

“(c) REGULATIONS.—The Commission—

“(1) within 90 days after the date of enactment of the 911 Modernization and Public Safety Act of 2007, shall issue regulations implementing such Act, including regulations that—

“(A) ensure that IP-enabled voice service providers have the ability to exercise their rights under subsection (b);

“(B) take into account any technical, network security, or information privacy requirements that are specific to IP-enabled voice services; and

“(C) provide, with respect to any capabilities that are not required to be made available to a commercial mobile service provider but that the Commission determines under subparagraph (B) of this paragraph or paragraph (2) are necessary for an IP-enabled voice service provider to comply with its obligations under subsection (a), that such capabilities shall be available at the same rates, terms, and conditions as would apply if such capabilities were made available to a commercial mobile service provider; and

“(2) may modify these requirements from time to time, as necessitated by changes in the market or technology, to ensure the ability of an IP-enabled voice service provider to comply with its obligations under subsection (a).

“(d) DELEGATION OF ENFORCEMENT TO STATE COMMISSIONS.—The Commission may delegate authority to enforce the regulations issued under subsection (c) to State commissions or other State agencies or programs with jurisdiction over emergency communications. Nothing in this section is intended to alter the authority of State commissions or other State agencies with jurisdiction over emergency communications, provided that the exercise of such authority is not inconsistent with Federal law or Commission requirements.

“(e) IMPLEMENTATION.—

“(1) LIMITATION.—Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technology standard.

“(2) ENFORCEMENT.—The Commission shall enforce this section as if this section was a part of the Communications Act of 1934. For purposes of this section, any violations of this section, or any regulations promulgated under this section, shall be considered to be a violation of the Communications Act of 1934 or a regulation promulgated under that Act, respectively.

“(f) STATE AUTHORITY OVER FEES.—

“(1) **AUTHORITY.**—Nothing in this Act, the Communications Act of 1934 (47 U.S.C. 151 et seq.), the 911 Modernization and Public Safety Act of 2007, or any Commission regulation or order shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State, political subdivision thereof, or Indian tribe for the support or implementation of 911 or E-911 services, provided that the fee or charge is obligated or expended only in support of 911 and E-911 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge. For each class of subscribers to IP-enabled voice services, the fee or charge may not exceed the amount of any such fee or charge applicable to the same class of subscribers to telecommunications services.

“(2) **FEE ACCOUNTABILITY REPORT.**—To ensure efficiency, transparency, and accountability in the collection and expenditure of fees for the support or implementation of 911 or E-911 services, the Commission shall submit a report within 1 year after the date of enactment of the 911 Modernization and Public Safety Act of 2007, and annually thereafter, to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives detailing the status in each State of the collection and distribution of 911 fees, and including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any fee or charges are presented.

“(g) **AVAILABILITY OF PSAP INFORMATION.**—The Commission may compile a list of public safety answering point contact information, contact information for providers of selective routers, testing procedures, classes and types of services supported by public safety answering points, and other information concerning 911 elements, for the purpose of assisting IP-enabled voice service providers in complying with this section, and may make any portion of such information available to telecommunications carriers, wireless carriers, IP-enabled voice service providers, other emergency service providers, or the vendors to or agents of any such carriers or providers, if such availability would improve public safety.

“(h) **RULE OF CONSTRUCTION.**—Nothing in the 911 Modernization and Public Safety Act of 2007 shall be construed as altering, delaying, or otherwise limiting the ability of the Commission to enforce the rules adopted in the Commission’s First Report and Order in WC Docket Nos. 04–36 and 05–196, as in effect on the date of enactment of the 911 Modernization and Public Safety Act of 2007, except as such rules may be modified by the Commission from time to time.”; and

(3) in section 7 (as redesignated by paragraph (1) of this section) by adding at the end the following new paragraph:

“(8) **IP-ENABLED VOICE SERVICE.**—The term ‘IP-enabled voice service’ has the meaning given the term ‘interconnected VoIP service’ by section 9.3 of the Federal Communications Commission’s regulations (47 CFR 9.3).”.

SEC. 102. MIGRATION TO IP-ENABLED EMERGENCY NETWORK.

Section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) is amended—

(1) in subsection (b)(1), by inserting before the period at the end the following: “and for migration to an IP-enabled emergency network”;

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following new subsection:

“(d) **MIGRATION PLAN REQUIRED.**—

“(1) **NATIONAL PLAN REQUIRED.**—No more than 270 days after the date of the enactment of the 911 Modernization and Public Safety Act of 2007, the Office shall develop and report to Congress on a national plan for migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen-activated emergency communications and improving information sharing among all emergency response entities.

“(2) **CONTENTS OF PLAN.**—The plan required by paragraph (1) shall—

“(A) outline the potential benefits of such a migration;

“(B) identify barriers that must be overcome and funding mechanisms to address those barriers;

“(C) include a proposed timetable, an outline of costs, and potential savings;

“(D) provide specific legislative language, if necessary, for achieving the plan;

“(E) provide recommendations on any legislative changes, including updating definitions, to facilitate a national IP-enabled emergency network;

“(F) assess, collect, and analyze the experiences of the public safety answering points and related public safety authorities who are conducting trial deployments of IP-enabled emergency networks as of the date of enactment of the 911 Modernization and Public Safety Act of 2007;

“(G) identify solutions for providing 911 and E-911 access to those with disabilities and needed steps to implement such solutions, including a recommended timeline; and

“(H) analyze efforts to provide automatic location for E-911 purposes and recommendations on regulatory or legislative changes that are necessary to achieve automatic location for E-911 purposes.

“(3) CONSULTATION.—In developing the plan required by paragraph (1), the Office shall consult with representatives of the public safety community, groups representing those with disabilities, technology and telecommunications providers, IP-enabled voice service providers, Telecommunications Relay Service providers, and other emergency communications providers and others it deems appropriate.”.

SEC. 103. TECHNICAL AMENDMENTS.

Section 3011(b) of the Digital Television Transition and Public Safety Act of 2005 (Public Law 109-171; 47 U.S.C. 309 note), and section 158(b)(4) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(b)(4)) are each amended by striking “the 911 Modernization Act” and inserting “the 911 Modernization and Public Safety Act of 2007”.

TITLE II—PARITY OF PROTECTION

SEC. 201. LIABILITY.

(a) AMENDMENTS.—Section 4 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a) is amended—

(1) by striking “**parity of protection for provision or use of wireless service**” in the section heading and inserting “**service provider parity of protection**”;

(2) in subsection (a)—

(A) by striking “wireless carrier,” and inserting “wireless carrier, IP-enabled voice service provider, or other emergency communications provider.”;

(B) by striking “its officers” the first place it appears and inserting “their officers”;

(C) by striking “emergency calls or emergency services” and inserting “emergency calls, emergency services, or other emergency communications services”;

(3) in subsection (b)—

(A) by striking “using wireless 9-1-1 service shall” and inserting “using wireless 9-1-1 service, or making 9-1-1 communications via IP-enabled voice service or other emergency communications service, shall”; and

(B) by striking “that is not wireless” and inserting “that is not via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service”; and

(4) in subsection (c)—

(A) by striking “wireless 9-1-1 communications, a PSAP” and inserting “9-1-1 communications via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service, a PSAP”; and

(B) by striking “that are not wireless” and inserting “that are not via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service”.

(b) DEFINITION.—Section 7 of the Wireless Communications and Public Safety Act of 1999 (as redesignated by section 101(1) of this Act) is further amended by adding at the end the following new paragraphs:

“(9) OTHER EMERGENCY COMMUNICATIONS SERVICE.—The term ‘other emergency communications service’ means the provision of emergency information to a public safety answering point via wire or radio communications, and may include 911 and enhanced 911 services.

“(10) OTHER EMERGENCY COMMUNICATIONS SERVICE PROVIDER.—The term ‘other emergency communications service provider’ means—

“(A) an entity other than a local exchange carrier, wireless carrier, or an IP-enabled voice service provider that is required by the Federal Communications Commission consistent with the Commission’s authority under the Communications Act of 1934 to provide other emergency communications services; or

“(B) in the absence of a Commission requirement as described in subparagraph (A), an entity that voluntarily elects to provide other emergency communications services and is specifically authorized by the appropriate local or State 911 governing authority to provide other emergency communications services.”.

TITLE III—AUTHORITY TO PROVIDE CUSTOMER INFORMATION FOR 911 PURPOSES

SEC. 301. AUTHORITY TO PROVIDE CUSTOMER INFORMATION.

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

(1) by inserting “or the user of an IP-enabled voice service (as such term is defined in section 7 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615b))” after “section 332(d)” each place it appears in subsections (d)(4) and (f)(1);

(2) by striking “WIRELESS” in the heading of subsection (f); and

(3) in subsection (g)—

(A) by inserting “or a provider of IP-enabled voice service (as such term is defined in section 7 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615b))” after “telephone exchange service”;

(B) by striking “Notwithstanding subsections (b)” and inserting the following:

“(1) IN GENERAL.—Notwithstanding subsections (b)”; and

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

“(2) PROHIBITED USE OF LOCATION INFORMATION DATABASES.—No administrator of any database used for the purpose of facilitating the provision of emergency services may use for any competitive purpose data obtained from unaffiliated telecommunications carriers or IP-enabled voice service providers in the course of maintaining and operating that database. Nothing in this section is intended to prohibit government agencies otherwise authorized under law from requesting information contained in any such database.”.

Amend the title so as to read:

A bill to promote and enhance public safety by facilitating the rapid deployment of IP-enabled 911 and E-911 services, encourage the Nation’s transition to a national IP-enabled emergency network, and improve 911 and E-911 access to those with disabilities.

PURPOSE AND SUMMARY

The purpose of H.R. 3403, the 911 Modernization and Public Safety Act of 2007, is to ensure that consumers using Voice over Internet Protocol (VoIP) service can access enhanced 911 (E-911) emergency services by giving VoIP providers access to the emergency services infrastructure and by extending existing liability protections to VoIP service. H.R. 3403 also requires the development of a national plan to move to an IP-enabled emergency network and alters an existing grant program to allow funding for IP-enabled emergency networks.

BACKGROUND AND NEED FOR LEGISLATION

The evolution of communications networks has repeatedly required that the 911 system be adapted to accommodate new technologies. H.R. 3403 provides necessary legislative solutions to ensure that adaptation for VoIP service.

Dialing 911 is widely recognized as the best way to call for emergency services. Calls to 911 are typically routed by local exchange carriers (LECs) to one of more than 6,000 local public safety answering points (PSAPs) staffed by professionals who assist callers and direct calls to police, fire, and health emergency response providers.

During the last decade, many PSAPs and 911 systems have been upgraded to facilitate the automatic transmission of the caller's telephone number and location. This "E-911" data allow PSAPs to identify automatically the geographic location of the caller and reconnect to the caller, if necessary. It reduces errors in reporting the location of the emergency and in forwarding accurate information to emergency personnel.

In the 1990s, the Federal Communications Commission (Commission) required wireless carriers to provide E-911 data to PSAPs. The mobility of wireless callers required technical adaptations to the wireline E-911 model to successfully transmit E-911 data in a wireless environment. In 1999, Congress passed the Wireless Communications and Public Safety Act, which granted liability protection to wireless carriers and PSAPs receiving wireless 911 calls. Because wireless carriers already had interconnection rights with wireline carriers under a pre-existing statute—including the right to access the wireline infrastructure—the 1999 Act did not specifically address the right of wireless carriers to access the emergency services infrastructure (also referred to herein as the 911 infrastructure) or the rates, terms, and conditions for such access.

The increasing prevalence of VoIP service requires further adaptation of the 911 system. Today, more than 9 million consumers in the United States use VoIP service as a substitute for traditional telephony. Currently, there are two basic types of VoIP service: fixed and nomadic. Fixed VoIP service is tied to a particular location. VoIP service offered by a cable provider to a home or business is an example of fixed VoIP service. Nomadic VoIP service is portable and can be used with a laptop and a broadband connection.

In its First Report and Order in WC Docket Nos. 04-36 and 05-196 in 2005, the Commission adopted rules requiring providers of "interconnected VoIP service" to provide E-911 capabilities to their customers. H.R. 3403 does not reverse the Commission's actions to date. The Commission, however, only imposed E-911 requirements on providers of VoIP services that today serve as a substitute for traditional wireline telephone service. It did not require entities—typically LECs—that control certain key facilities and infrastructure that are needed to complete 911 and E-911 calls to give VoIP providers access to those facilities and that infrastructure. As a result, VoIP providers entered into commercial arrangements with LECs or third parties to gain access to 911 components. The Commission also concluded that it lacked authority to extend the liability protections afforded to wireline and wireless 911 calls to VoIP 911 calls.

H.R. 3403 would resolve these issues by giving VoIP providers, for the exclusive purpose of providing 911 and E-911 service, the same access to the 911 infrastructure on the same rates, terms, and conditions as is provided to wireless carriers. H.R. 3403 also directs the Commission to promulgate rules to give VoIP providers access only to those components of the 911 infrastructure they need to provide 911 and E-911 service. It is not the intent of this legislation to grant providers of VoIP access to any parts of the 911 infrastructure not needed to provide 911 and E-911 service. H.R. 3403 would provide liability protection for VoIP providers, other emergency communications service providers, public safety officials, and end users relating to the provision and use of VoIP 911 and E-911

service and other emergency communications services that is equivalent to the liability protection that wireline and wireless carriers, public safety officials, and end users have with respect to the provision and use of wireline and wireless 911 and E-911 service.

The provision of E-911 service by VoIP providers also implicates section 222 of the Communications Act of 1934, which governs the protection of customer information (known as Customer Proprietary Network Information, or CPNI). Section 222 includes exceptions to its protections to allow wireline and wireless carriers to provide customer information to PSAPs in emergency situations. There is no similar provision governing or granting exceptions for VoIP service. H.R. 3403 would amend section 222 to add VoIP 911 service to the established 911 exceptions. H.R. 3403 would also provide additional protections for customer information by prohibiting a 911-database administrator from using information contained within the database that was supplied by an unaffiliated provider for competitive purposes unrelated to providing emergency services.

As demonstrated by the introduction of wireless and VoIP technologies, our Nation's emergency services infrastructure must continue to evolve. The next step in that evolution is the transition of the 911 infrastructure to an IP-enabled system. An Internet-based emergency network allows for greater flexibility in the types and amount of information that may be transmitted and shared by emergency services providers. This advancement will help resolve impediments that the disabled, in particular the deaf and hard of hearing, face when they try to access 911 and E-911 services. H.R. 3403 would facilitate this transition by requiring the development of a national plan for migration to a national IP-enabled emergency network and by amending an existing E-911 grant program to allow funding for PSAPs migrating to an IP-enabled emergency network.

HEARINGS

The Subcommittee on Telecommunications and the Internet held a legislative hearing on H.R. 3403 on Wednesday, September 19, 2007. The Subcommittee received testimony from Mr. Jason Barbour, ENP, President of the National Emergency Number Association; Ms. Catherine Avgiris, Senior Vice President and General Manager, Voice Services, Comcast Corporation; Mr. Robert Mayer, Vice President of Industry and State Affairs, United States Telecom Association; Mr. Christopher Putala, Executive Vice President of Public Policy, EarthLink, Inc.; and Mr. Craig W. Donaldson, Senior Vice President of Regulatory and Government Affairs, Intrado Incorporated.

COMMITTEE CONSIDERATION

On Wednesday, October 10, 2007, the Subcommittee on Telecommunications and the Internet met in open markup session and favorably forwarded H.R. 3403, amended, to the full Committee for consideration, by a voice vote. On Tuesday, October 30, 2007, the full Committee met in open markup session and ordered H.R. 3403 favorably reported to the House, amended, by a voice vote, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken on amendments or in connection with ordering H.R. 3403 reported. A motion by Mr. Dingell to order H.R. 3403 favorably reported to the House, amended, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Regarding clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Subcommittee on Telecommunications and the Internet held a legislative hearing on September 19, 2007, and the oversight findings of the Committee are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The purpose of H.R. 3403 is to ensure that consumers using VoIP service can access E-911 emergency services by giving VoIP providers access to the 911 infrastructure and by extending existing liability protections to VoIP service. It is also the purpose of H.R. 3403 to develop a national plan to move to an IP-enabled emergency network and alter an existing grant program to allow funding for IP-enabled emergency networks.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Regarding compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3403 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARKS AND TAX AND TARIFF BENEFITS

Regarding compliance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3403 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 3403 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate on H.R. 3403 provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 8, 2007.

Hon. JOHN D. DINGELL,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3403, the 911 Modernization and Public Safety Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

ROBERT A. SUNSHINE
(For Peter R. Orszag, Director).

Enclosure.

H.R. 3403—911 Modernization and Public Safety Act of 2007

Summary: H.R. 3403 would amend current law to require companies offering Voice-over-Internet-Protocol (VoIP) services to provide emergency 911 telephone service. The bill would direct the Federal Communications Commission (FCC) to develop regulations granting VoIP providers access to the network and systems needed to complete 911 or enhanced-911 calls. Enhanced-911 (E-911) service automatically associates a physical address with the calling party's telephone number. The bill also would direct the E-911 Implementation Coordination Office to create a plan for a transition to an emergency network that is Internet-based.

Based on information from the FCC, CBO estimates that implementing the bill would cost about \$1 million over the 2008–2012 period, assuming availability of the appropriated amounts. CBO expects that enacting the bill would not have a significant effect on direct spending or revenues.

H.R. 3403 contains several intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), including limitations on the imposition and use of certain fees that state and local governments can levy on VoIP Services. CBO estimates that the costs of those provisions to state, local, and tribal governments would be small; while they would grow over time, they would not exceed the threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation) in any of the first five years that the mandates are in effect.

H.R. 3403 would impose private-sector mandates, as defined in UMRA, on certain entities in the telecommunications industry. The bill would require entities that own the 911 components necessary to transmit VoIP emergency calls to allow VoIP providers full access to those components. CBO estimates that the direct cost of complying with this mandate would be small. The bill also would impose a mandate on certain consumers and third-party users of VoIP services by eliminating an existing right to seek compensation in court.

Because we lack information about the potential value of compensation in such cases, CBO has no basis for determining whether the aggregate cost of all the mandates in the bill would exceed the

annual threshold for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

Estimated cost to the Federal Government: Under FCC rules, VoIP providers were required to connect their customers to emergency 911 services by November 28, 2005. H.R. 3403 would codify this regulation. The bill also would require the E-911 Implementation Coordination Office to develop a plan to establish a national system for 911 communications that is Internet-based.

Based on information provided by the FCC, CBO estimates that administrative costs for various rulemakings called for in the bill would cost about \$1 million in 2008. We estimate that planning for an emergency system that is Internet-based would cost less than \$500,000 over the 2008–2012 period.

Enacting H.R. 3403 could increase federal revenues as the result of the collection of additional civil and forfeiture penalties assessed for violations of FCC laws and regulations. Collections of such penalties are recorded in the budget as revenues. CBO estimates that any additional revenues that would result from enacting H.R. 3403 would not be significant because of the relatively small number of cases likely to be involved.

Estimated impact on state, local, and tribal governments: H.R. 3403 contains several intergovernmental mandates as defined in the Unfunded Mandates Reform Act, including limitations on certain fees that state and local governments impose on VoIP services, and a preemption of state liability laws. CBO estimates that the costs of those provisions to state, local, and tribal governments would be small; while they would grow over time, they would not exceed the threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation) in any of the first five years that the mandates are in effect.

Limitations on Fees

The bill would prohibit state, local, and tribal governments from imposing fees on VoIP subscribers that exceed those imposed on the same class of subscribers (business or residential) of other telecommunications services. The bill also would require that intergovernmental entities spend 911 fees collected on VoIP services only for support of emergency communications.

Thirteen states currently levy 911 fees on VoIP services. Nine of those states impose fees that are lower than or equal to the lowest fee charged on wireless and wireline services; CBO assumes that fees in those states would not be affected by the bill's limitation. One state currently charges a VoIP 911 fee that is higher than the residential wireline fee but lower than the business wireline fee, and presumably that state's fee on residential consumers of VoIP would be preempted by the bill. The remaining three states allow local governments to set fees; CBO cannot estimate the extent to which the bill would result in lost fees in those three states because information on the level of local fees is not readily available. We expect, however, that the costs to state and local governments from the bill's limitation on fees would likely be small because the number of VoIP users in those four states is not likely to be large, and local governments are not likely to levy fees on VoIP users that are significantly different from those levied on the same class of users of other telecommunications services.

It also is possible that some state and local governments might impose such fees at a rate higher than those charged on other telephone services, but CBO has no information upon which to make such a judgment at this time. Most states impose 911 fees on wireline and wireless services that are similar, suggesting that such fees on VoIP also would be similar. In total, CBO estimates that the costs to state and local governments from the bill's limitation on fees, while they might grow over time, would likely be small over the next five years.

The most recent data available indicate that four states use 911 fees, including wireless and wireline fees, for purposes other than 911 or emergency communications services. Two of those states currently levy 911 fees on VoIP and would be prevented by the bill from using those fees for nonemergency communications purposes. One additional state that currently has a 911 fee on VoIP allows counties and local governments to collect and use those revenues. CBO cannot estimate the extent to which counties and local governments use that revenue for nonemergency communications purposes because that information is not maintained by the states. CBO believes, however, that the costs to state and local governments from the bill's limitation on the use of fees, while they also might grow over time, would likely be small over the next five years.

Preemption of State Liability Laws and Requirements on Public Safety Access Points (PSAPs)

The bill would preempt state liability laws covering PSAPs and other governmental entities that answer 911 calls connected using VoIP. This provision would give PSAPs, a provider, or a user of VoIP the same protection from liability claims granted to wireless and wireline entities, and ultimately would benefit intergovernmental entities by protecting them from such claims.

Estimated impact on the private sector: H.R. 3403 contains private-sector mandates, as defined in UMRA, on certain entities in the telecommunications industry. The bill would require entities that own the 911 components necessary to transmit VoIP emergency calls to allow VoIP providers to have full access to those components. Owners of 911 components would be required to enter into such agreements, but they would be able to charge VoIP providers a fee for using their network components. Some small entities could incur costs to install equipment, but information from industry sources indicates that many entities already have the necessary equipment in place. Thus, CBO expects that the direct costs of complying with this mandate would be minimal.

The bill also would impose a private-sector mandate on certain consumers and third-party users of VoIP services by eliminating an existing right to seek compensation for injury caused by negligent acts. The direct cost of the mandate would be the forgone net value of any awards and settlements in such claims. CBO has found no pending lawsuit with a claim that would be barred by the bill and has no basis for estimating the number of claims that would be filed in the future in absence of this legislation. Furthermore, CBO has no basis for predicting the level of potential damage awards in such cases, if any. Thus, CBO cannot estimate the cost of this mandate or whether the aggregate cost of all the mandates in the bill

would exceed the annual threshold for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

Previous CBO estimate: On May 25, 2007, CBO transmitted an estimate for S. 428, the IP-Enabled Voice Communications and Public Safety Act of 2007, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on April 25, 2007. H.R. 3403 and S. 428 are similar, and the cost estimates are the same.

Estimate prepared by: Federal Costs: Susan Willie; Impact on State, Local, and Tribal Governments: Elizabeth Cove; Impact on the Private Sector: MarDestinee Perez.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 3403 prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII 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.

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 of 1995.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 establishes the short title of the Act as the “911 Modernization and Public Safety Act of 2007”.

TITLE I—911 SERVICES AND IP-ENABLED VOICE SERVICE PROVIDERS

Section 101. Duty to provide 911 and E-911 service

Section 101 amends the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615b) and would redesignate section 6 as section 7 and add a new section 6.

New subsection 6(a) would obligate every IP-enabled voice service provider to provide 911 and E-911 service in accordance with the Commission requirements in effect on the date of enactment of H.R. 3403 as such requirements may be modified by the Commission from time to time. New subsection 6(a) is not intended to re-

verse the Commission's actions to date concerning the duty of VoIP providers to provide 911 and E-911 services. The Commission's General Counsel has supplied the Committee with a letter, which has been made part of the record, stating that the Commission's existing regulations fully implement the duty of VoIP providers to provide 911 and E-911 services, and the Committee is satisfied by the Commission's statement in this regard. Should changes in the marketplace or in technology merit, the Committee expects that the Commission will reexamine its regulations as necessary, consistent with the Commission's general authority under section 1 of the Communications Act of 1934 to promote the "safety of life and property" through the use of wire and radio communications.

New subsection 6(b) would give VoIP providers, when they seek access to the capabilities needed to provide 911 and E-911 service from any entity with ownership or control over those capabilities, the same rights, including rights of interconnection, and on the same rates, terms, and conditions as would be applicable to providers of commercial mobile service (also referred to herein as wireless service), subject to regulations promulgated by the Commission under new subsection 6(c).

The rights new subsection 6(b) affords to VoIP providers, including the rights of interconnection, are for the sole purpose of transmitting, delivering, and completing 911 and E-911 calls and associated E-911 information and for no other purpose, consistent with the limited purposes of H.R. 3403. The phrase "including rights of interconnection" makes clear that, to the extent that wireless carriers have rights of interconnection with entities that own or control the capabilities needed to provide 911 and E-911 service, VoIP providers have interconnection rights commensurate with those of wireless carriers as established by the Commission for the sole purpose of transmitting, delivering, and completing 911 and E-911 calls and associated E-911 information. H.R. 3403 is not intended to abrogate existing commercial arrangements relating to the provision of 911 and E-911 service entered into by VoIP providers prior to the enactment of H.R. 3403. H.R. 3403 does not give VoIP providers a right of access to the 911 infrastructure beyond what is needed to transmit, deliver, and complete 911 and E-911 calls and associated E-911 information.

New subsection 6(c) would require the Commission to issue regulations implementing H.R. 3403 within 90 days of the date of enactment. Such regulations shall ensure that VoIP providers have the ability to exercise the rights granted under new subsection 6(b). New subsection 6(c) would require the Commission to promulgate regulations that take into account any technical, network security, or information privacy requirements specific to VoIP service. It would further require that any such capabilities that VoIP, but not wireless, providers need to provide 911 and E-911 services are made available at the same rates, terms, and conditions as if such capabilities were made available to wireless carriers. Such regulations should not confer a right to capabilities that are more than what is needed to enable a VoIP provider to transmit, deliver, and complete 911 and E-911 calls and associated E-911 information or give VoIP providers access to capabilities needed to transmit, deliver, and complete 911 and E-911 calls and associated E-911 information on better rates, terms, and conditions than such capabili-

ties would be made available to wireless carriers. New subsection 6(c) would direct the Commission to update its regulations in the future as changes in the market or technology warrant.

The term “capabilities” should be construed to include both those components that wireless carriers use to provide 911 and E-911 service that VoIP providers also need to provide 911 and E-911 service and those components that VoIP providers need to provide 911 and E-911 service that wireless carriers do not need because of differences in the ways that wireless carriers and VoIP providers transmit, deliver, and complete 911 and E-911 calls and related E-911 information. In promulgating regulations, the Commission should therefore consider equipment; interfaces, such as PSAP interface and integration capabilities; networks, such as Emergency Service Numbers, Emergency Service Query Keys, and Emergency Service Routing Numbers; selective routers; trunklines; non-dialable pseudo automatic number identification numbers (p-ANIs); facilities, including access to voice and data communication ports; databases; and other components only to the extent that any of these are needed to support the seamless transmission, delivery, and completion of 911 and E-911 calls and associated E-911 information.

The term “any entity” should be broadly construed because critical components of the 911 infrastructure may reside with an incumbent carrier, a PSAP, or some other entity.

When developing its regulations, the Commission should account for existing differences in the emergency services infrastructure, including differences in the technical capabilities of PSAPs. The Commission should also reexamine its existing regulations and make any necessary changes to comply with H.R. 3403, which include, but are not limited to, ensuring that VoIP providers that have a duty to provide 911 and E-911 services but are not competitive LECs have direct access to p-ANIs.

The Commission should take into account technical feasibility as it implements the provisions of H.R. 3403, particularly for nascent technologies such as mobile VoIP service. Mobile VoIP service is a version of nomadic VoIP service that permits a consumer using a wireless phone to bypass the traditional cellular network and send or receive data using Internet protocol services. As mobile VoIP develops into a full-fledged, widely-used service, providers should strive to use E-911 technologies that comply with the same accuracy standards as wireless services.

Under new subsection 6(c), the Commission should address technical or architectural differences between the services and networks of VoIP providers and the services and networks of wireless carriers. The regulations should adhere to the basic tenet established in new subsection 6(b) that the rights given to VoIP providers in H.R. 3403 are for the sole purpose of transmitting, delivering, and completing 911 and E-911 calls and associated E-911 information and do not extend beyond a right of access only to the 911 infrastructure needed to transmit, deliver, and complete 911 and E-911 calls and associated E-911 information.

New subsection 6(d) would permit the Commission to delegate to States enforcement of regulations implementing new subsection 6(c). It would also clarify that nothing in this section is intended to alter existing State authority over emergency communications,

provided that the exercise of that authority is not inconsistent with Federal law or Commission requirements.

New subsection 6(e) would provide that nothing in H.R. 3403 be construed to permit the Commission to require or impose a specific technology or technology standard. The Commission may, however, adopt technology-neutral, performance-based standards or requirements. New subsection 6(e) would also require that any violations of this section or the regulations adopted by the Commission thereunder be considered a violation of the Communications Act of 1934, or a regulation promulgated under that Act, respectively.

New subsection 6(f) would provide that nothing in H.R. 3403, the Communications Act of 1934, or any Commission regulation or order prevents States or their political subdivisions from imposing or collecting 911 or E-911 fees, so long as those fees are obligated or spent in support of 911 or E-911 services and do not exceed fees imposed or collected from other telecommunications service providers for specific classes of customers. For example, if a State or its political subdivision imposes a 911 fee on wireless or wireline carriers that consists of one rate for residential customers and another rate for business customers, the State or its political subdivision may collect no more from VoIP providers for the same classes of customers.

New subsection 6(f) would also provide that fees collected by States or their political subdivisions may only be used for 911 or E-911 services, or enhancements of such services, as specified in the law adopting the fee. States and their political subdivisions should use 911 or E-911 fees only for direct improvements to the 911 system. Such improvements could include improving the technical and operational aspects of PSAPs; establishing connections between PSAPs and other public safety operations, such as a poison control center; or implementing the migration of PSAPs to an IP-enabled emergency network. This provision is not intended to allow 911 or E-911 fees to be used for other public safety activities that, although potentially worthwhile, are not directly tied to the operation and provision of emergency services by the PSAPs. The Committee also encourages States and their political subdivisions to apply 911 fees equitably to providers of different types of communications services to the extent possible. In particular, the Committee urges States and their political subdivisions, when adopting 911 and E-911 fees, to examine fee structures that accommodate pre-paid telecommunications services.

New subsection 6(f) would also require the Commission to submit an annual report to Congress on the status of the collection and distribution of 911 and E-911 fees by States and their political subdivisions, including whether fees were used for the purposes specified by each State.

New subsection 6(g) would authorize the Commission to compile and make available information about PSAPs and 911 components to assist VoIP providers in complying with the requirements of H.R. 3403 if the availability of such information would improve public safety. Such information may include PSAP contact information, contact information for providers of selective routers, testing procedures, classes and types of services supported by PSAPs, or other information concerning 911 elements that the Commission concludes would assist VoIP providers in complying with this sec-

tion. New subsection 6(g) would permit the Commission to give such information only to wireline carriers, wireless carriers, VoIP providers, other emergency services providers, or the vendors to, or agents of, any such carriers or providers. The Commission should make such information available in a manner that protects the security of the emergency services infrastructure. The Committee notes with approval a request from public safety representatives to establish a list of all emergency services providers, with a point of contact and contact information. The Committee believes such a list would be helpful to PSAPs and improve public safety and could be included in the Commission's implementation of new subsection 6(g).

New subsection 6(h) would provide that nothing in H.R. 3403 be construed as altering, delaying, or otherwise limiting the ability of the Commission to enforce the rules adopted in the Commission's First Report and Order in WC Docket Nos. 04-36 and 05-196, as in effect on the date of enactment of the 911 Modernization and Public Safety Act of 2007, except as those rules are modified by the Commission from time to time. New subsection 6(h) would not grant additional enforcement authority to the Commission but instead would preserve the Commission's existing rules concerning the provision of 911 and E-911 services by VoIP providers, except as required to be modified by the provisions of H.R. 3403.

New section 7, as redesignated by H.R. 3403, would add a definition of "IP-enabled voice service" that is tied to the Commission's definition of "interconnected VoIP service" at 47 C.F.R. 9.3. The Committee recognizes that new technologies or successor protocols may enter the marketplace. As these new technologies or successor protocols become widely accepted and fungible substitutes for telephony, the Committee recognizes that the Commission may need to modify its definition from time to time.

Section 102. Migration to IP-enabled emergency network

Section 102 amends section 158 of the National Telecommunications and Information Organization Act (47 U.S.C. 942) to allow the use of 911 PSAP grant funds for migration to IP-enabled emergency networks. It also amends section 158 to require the E-911 Coordination and Implementation Office to report to Congress within 270 days of the date of enactment of H.R. 3403 on a national plan for migrating to a national IP-enabled emergency network.

Section 102 sets forth specific requirements for what should be included in the plan and requires the E-911 Implementation Coordination Office to consult with representatives from public safety, groups representing those with disabilities, technology and telecommunications providers, VoIP providers, telecommunications relay service providers, and other emergency communications service providers as appropriate. H.R. 3403 does not define the term "national IP-enabled emergency network" because this definition should be developed as part of creating the national plan.

The national plan required by section 102 should address the potential benefits of an IP-enabled emergency network. It should also examine the costs and potential savings of an IP-enabled emergency network and provide recommendations for legislative changes, including specific legislative language. The report should

examine the experiences of PSAPs and public safety officials that conduct trial deployments of IP-enabled emergency networks and analyze efforts to provide automatic location for E-911 purposes.

The E-911 Implementation Coordination Office should also examine and explain how the migration plan will incorporate solutions for providing 911 and E-911 access to people with disabilities. Certain people with disabilities may not be able to speak to or hear an emergency operator and the report should consider ways to address this issue.

The report should also include an examination of the technical requirements for transitioning to a national IP-enabled emergency network. This includes examining the need for new, modified, or expanded capabilities of existing technologies. The report should also identify the various systems integral to PSAP operation and performance, the interaction between PSAPs, and what changes or modifications would be required to move PSAPs to an IP-enabled emergency network. This would include changes or modifications to computer-aided dispatch, radio dispatch, records management systems, incident management systems, geographic information systems, access to external databases or systems necessary to support the effective management of IP-enabled 911 and E-911 calls, and other information related to emergency services.

Section 103. Technical amendments

Section 103 would correct a technical error in section 2301 of Public Law 110-53. Section 103 amends section 3011(b) of the Digital Television Transition and Public Safety Act of 2005 (Public Law 109-171; 47 U.S.C. 309 note), and section 158(b)(4) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(b)(4)) by striking “the 911 Modernization Act” and inserting “the 911 Modernization and Public Safety Act of 2007”. This technical correction would allow NTIA to use its borrowing authority in Public Law 110-53 to fund a grant program contained in the Enhance 911 Act of 2004, which funds upgrades to the emergency services system.

TITLE II—PARITY OF PROTECTION

Section 201. Liability

Section 201 amends the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a) to provide liability protection for VoIP providers, other emergency communications service providers, public safety officials, and end users relating to the provision and use of VoIP 911 and E-911 service and other emergency communications services that is equivalent to the liability protection that wireline and wireless carriers, public safety officials, and end users have with respect to the provision and use of wireline and wireless 911 and E-911 service.

Section 201 also adds two definitions to the Wireless Communications and Public Safety Act of 1999. The term “other emergency communications service” is defined as emergency information that is provided to a PSAP via wireline or wireless communications, and may include 911 and E-911 services. Such services could include the provision of data and video information that is designed to improve the ability of first responders to react to emergencies. The

term “other emergency communications service provider” means an entity required by the Commission to provide other emergency communications services or, in the absence of a Commission requirement, an entity that voluntarily elects to provide other emergency communications services and is authorized by the appropriate State or local governing authority to provide such services.

Providers of new and innovative emergency services should be able to freely enter the emergency communications market. The requirement that other emergency communications service providers be authorized by the appropriate State or local governing authority should not be a barrier to providing such services. State or local governing authorities should strive to provide a broad array of options for authorizing legitimate emergency communications service providers, consistent with its public safety needs and ability to oversee such service offerings. For example, it would be appropriate for State or local authorities to use, for authorization purposes, compliance with standards established by national emergency service groups such as the National Emergency Number Association, the National Association of State 9–1–1 Administrators, or the Association of Public-Safety Communications Officials.

TITLE III—AUTHORITY TO PROVIDE CUSTOMER INFORMATION FOR 911 PURPOSES

Section 301. Authority to provide customer information

Section 301 amends section 222 of the Communications Act of 1934 and would add IP-enabled voice services to the list of Customer Proprietary Network Information exceptions in section 222, so that VoIP providers may give customer information, including location information, to the appropriate PSAP in an emergency. Section 301 would also prohibit administrators of 911 databases from using for competitive purposes data obtained from unaffiliated telecommunications carriers or VoIP providers in the course of maintaining and operating such databases. Unaffiliated voice service providers are required to provide certain information about their customers, including location information, to 911 database administrators for the 911 system to function. Administrators of 911 databases should not use that information for other purposes that are unrelated to the provision of emergency services.

Nothing in section 301, however, is intended to prohibit government agencies, including appropriate State agencies, otherwise authorized by law from requesting information contained in any such database. Federal or State agencies may wish to examine such information to assist their decision-making. If an agency decides to request such information, then the database administrator should provide the information to the agency in a usable format and as expeditiously as possible to allow the agency to fulfill its duties. This provision should be construed broadly to allow agencies to access such information if they are permitted to do so by law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) 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 omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**WIRELESS COMMUNICATIONS AND PUBLIC SAFETY ACT
OF 1999**

* * * * *

SEC. 4. [PARITY OF PROTECTION FOR PROVISION OR USE OF WIRELESS SERVICE] SERVICE PROVIDER PARITY OF PROTECTION.

(a) PROVIDER PARITY.—A [wireless carrier,] *wireless carrier, IP-enabled voice service provider, or other emergency communications provider,* and [its officers] *their officers,* directors, employees, vendors, and agents, shall have immunity or other protection from liability in a State of a scope and extent that is not less than the scope and extent of immunity or other protection from liability that any local exchange company, and its officers, directors, employees, vendors, or agents, have under Federal and State law (whether through statute, judicial decision, tariffs filed by such local exchange company, or otherwise) applicable in such State, including in connection with an act or omission involving the 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] *emergency calls, emergency services, or other emergency communications services.*

(b) USER PARITY.—A person [using wireless 9-1-1 service shall] *using wireless 9-1-1 service, or making 9-1-1 communications via IP-enabled voice service or other emergency communications service,* 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 under applicable law in similar circumstances of a person using 9-1-1 service [that is not wireless] *that is not via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service.*

(c) PSAP PARITY.—In matters related to [wireless 9-1-1 communications, a PSAP] *9-1-1 communications via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service, a PSAP,* and its employees, vendors, agents, and authorizing government entity (if any) 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 under applicable law accorded to such PSAP, employees, vendors, agents, and authorizing government entity, respectively, in matters related to 9-1-1 communications [that are not wireless] *that are not via wireless 9-1-1 service, IP-enabled voice service, or other emergency communications service.*

* * * * *

SEC. 6. DUTY TO PROVIDE 911 AND E-911 SERVICE.

(a) DUTIES.—*It shall be the duty of each IP-enabled voice service provider to provide 911 service and E-911 service to its subscribers in accordance with the requirements of the Federal Communications Commission (in this section referred to as the "Commission"), as in effect on the date of enactment of the 911 Modernization and Public*

Safety Act of 2007 and as such requirements may be modified by the Commission from time to time.

(b) *PARITY FOR IP-ENABLED VOICE SERVICE PROVIDERS.*—An IP-enabled voice service provider that seeks capabilities from an entity with ownership or control over such capabilities to comply with its obligations under subsection (a) shall, for the exclusive purpose of complying with such obligations, have the same rights, including rights of interconnection, and on the same rates, terms, and conditions, as apply to a provider of commercial mobile service (as such term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))), subject to such regulations as the Commission prescribes under subsection (c).

(c) *REGULATIONS.*—The Commission—

(1) *within 90 days after the date of enactment of the 911 Modernization and Public Safety Act of 2007, shall issue regulations implementing such Act, including regulations that—*

(A) *ensure that IP-enabled voice service providers have the ability to exercise their rights under subsection (b);*

(B) *take into account any technical, network security, or information privacy requirements that are specific to IP-enabled voice services; and*

(C) *provide, with respect to any capabilities that are not required to be made available to a commercial mobile service provider but that the Commission determines under subparagraph (B) of this paragraph or paragraph (2) are necessary for an IP-enabled voice service provider to comply with its obligations under subsection (a), that such capabilities shall be available at the same rates, terms, and conditions as would apply if such capabilities were made available to a commercial mobile service provider; and*

(2) *may modify these requirements from time to time, as necessitated by changes in the market or technology, to ensure the ability of an IP-enabled voice service provider to comply with its obligations under subsection (a).*

(d) *DELEGATION OF ENFORCEMENT TO STATE COMMISSIONS.*—The Commission may delegate authority to enforce the regulations issued under subsection (c) to State commissions or other State agencies or programs with jurisdiction over emergency communications. Nothing in this section is intended to alter the authority of State commissions or other State agencies with jurisdiction over emergency communications, provided that the exercise of such authority is not inconsistent with Federal law or Commission requirements.

(e) *IMPLEMENTATION.*—

(1) *LIMITATION.*—Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technology standard.

(2) *ENFORCEMENT.*—The Commission shall enforce this section as if this section was a part of the Communications Act of 1934. For purposes of this section, any violations of this section, or any regulations promulgated under this section, shall be considered to be a violation of the Communications Act of 1934 or a regulation promulgated under that Act, respectively.

(f) *STATE AUTHORITY OVER FEES.*—

(1) *AUTHORITY.*—Nothing in this Act, the Communications Act of 1934 (47 U.S.C. 151 et seq.), the 911 Modernization and Public Safety Act of 2007, or any Commission regulation or order shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State, political subdivision thereof, or Indian tribe for the support or implementation of 911 or E-911 services, provided that the fee or charge is obligated or expended only in support of 911 and E-911 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge. For each class of subscribers to IP-enabled voice services, the fee or charge may not exceed the amount of any such fee or charge applicable to the same class of subscribers to telecommunications services.

(2) *FEE ACCOUNTABILITY REPORT.*—To ensure efficiency, transparency, and accountability in the collection and expenditure of fees for the support or implementation of 911 or E-911 services, the Commission shall submit a report within 1 year after the date of enactment of the 911 Modernization and Public Safety Act of 2007, and annually thereafter, to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives detailing the status in each State of the collection and distribution of 911 fees, and including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any fee or charges are presented.

(g) *AVAILABILITY OF PSAP INFORMATION.*—The Commission may compile a list of public safety answering point contact information, contact information for providers of selective routers, testing procedures, classes and types of services supported by public safety answering points, and other information concerning 911 elements, for the purpose of assisting IP-enabled voice service providers in complying with this section, and may make any portion of such information available to telecommunications carriers, wireless carriers, IP-enabled voice service providers, other emergency service providers, or the vendors to or agents of any such carriers or providers, if such availability would improve public safety.

(h) *RULE OF CONSTRUCTION.*—Nothing in the 911 Modernization and Public Safety Act of 2007 shall be construed as altering, delaying, or otherwise limiting the ability of the Commission to enforce the rules adopted in the Commission's First Report and Order in WC Docket Nos. 04–36 and 05–196, as in effect on the date of enactment of the 911 Modernization and Public Safety Act of 2007, except as such rules may be modified by the Commission from time to time.

SEC. [6.] 7. DEFINITIONS.

As used in this Act:

(1) * * *

* * * * *

(8) *IP-ENABLED VOICE SERVICE.*—The term “IP-enabled voice service” has the meaning given the term “interconnected VoIP

service” by section 9.3 of the Federal Communications Commission’s regulations (47 CFR 9.3).

(9) *OTHER EMERGENCY COMMUNICATIONS SERVICE.*—The term “other emergency communications service” means the provision of emergency information to a public safety answering point via wire or radio communications, and may include 911 and enhanced 911 services.

(10) *OTHER EMERGENCY COMMUNICATIONS SERVICE PROVIDER.*—The term “other emergency communications service provider” means—

(A) an entity other than a local exchange carrier, wireless carrier, or an IP-enabled voice service provider that is required by the Federal Communications Commission consistent with the Commission’s authority under the Communications Act of 1934 to provide other emergency communications services; or

(B) in the absence of a Commission requirement as described in subparagraph (A), an entity that voluntarily elects to provide other emergency communications services and is specifically authorized by the appropriate local or State 911 governing authority to provide other emergency communications services.

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NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION ORGANIZATION ACT

* * * * *

TITLE I—NATIONAL TELECOMMUNI- CATIONS AND INFORMATION ADMIN- ISTRATION

* * * * *

PART C—SPECIAL AND TEMPORARY PROVISIONS

* * * * *

SEC. 158. COORDINATION OF E-911 IMPLEMENTATION.

(a) * * *

(b) PHASE II E-911 IMPLEMENTATION GRANTS.—

(1) *MATCHING GRANTS.*—The Assistant Secretary and the Administrator, after consultation with the Secretary of Homeland Security and the Chairman of the Federal Communications Commission, and acting through the Office, shall provide grants to eligible entities for the implementation and operation of Phase II E-911 services *and for migration to an IP-enabled emergency network.*

* * * * *

(4) *CRITERIA.*—The Assistant Secretary and the Administrator shall jointly issue regulations within 180 days after the

date of enactment of the ENHANCE 911 Act of 2004, after a public comment period of not less than 60 days, prescribing the criteria for selection for grants under this section, and shall update such regulations as necessary. The criteria shall include performance requirements and a timeline for completion of any project to be financed by a grant under this section. Within 180 days after the date of enactment of ~~the 911 Modernization Act~~ *the 911 Modernization and Public Safety Act of 2007*, the Assistant Secretary and the Administrator shall jointly issue regulations updating the criteria to allow a portion of the funds to be used to give priority to grants that are requested by public safety answering points that were not capable of receiving 911 calls as of the date of enactment of that Act, for the incremental cost of upgrading from Phase I to Phase II compliance. Such grants shall be subject to all other requirements of this section.

* * * * *

(d) *MIGRATION PLAN REQUIRED.*—

(1) *NATIONAL PLAN REQUIRED.*—*No more than 270 days after the date of the enactment of the 911 Modernization and Public Safety Act of 2007, the Office shall develop and report to Congress on a national plan for migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen-activated emergency communications and improving information sharing among all emergency response entities.*

(2) *CONTENTS OF PLAN.*—*The plan required by paragraph (1) shall—*

(A) *outline the potential benefits of such a migration;*

(B) *identify barriers that must be overcome and funding mechanisms to address those barriers;*

(C) *include a proposed timetable, an outline of costs, and potential savings;*

(D) *provide specific legislative language, if necessary, for achieving the plan;*

(E) *provide recommendations on any legislative changes, including updating definitions, to facilitate a national IP-enabled emergency network;*

(F) *assess, collect, and analyze the experiences of the public safety answering points and related public safety authorities who are conducting trial deployments of IP-enabled emergency networks as of the date of enactment of the 911 Modernization and Public Safety Act of 2007;*

(G) *identify solutions for providing 911 and E-911 access to those with disabilities and needed steps to implement such solutions, including a recommended timeline; and*

(H) *analyze efforts to provide automatic location for E-911 purposes and recommendations on regulatory or legislative changes that are necessary to achieve automatic location for E-911 purposes.*

(3) *CONSULTATION.*—*In developing the plan required by paragraph (1), the Office shall consult with representatives of the public safety community, groups representing those with disabilities, technology and telecommunications providers, IP-enabled voice service providers, Telecommunications Relay Service*

providers, and other emergency communications providers and others it deems appropriate.

[(d)] (e) AUTHORIZATION; TERMINATION.—

(1) * * *

* * * * *

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

(1) * * *

* * * * *

SECTION 3011 OF THE DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY ACT OF 2005

SEC. 3011. ENHANCE 911.

(a) * * *

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury, upon enactment of [the 911 Modernization Act] *the 911 Modernization and Public Safety Act of 2007*, such sums as necessary, but not to exceed \$43,500,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

COMMUNICATIONS ACT OF 1934

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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) * * *

* * * * *

(4) to provide call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d)) *or the user of an IP-enabled voice service (as such term is defined in section 7 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615b))*—

(A) * * *

* * * * *

(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 or disclosure of or access to—

(1) call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d)) or the user of an IP-enabled voice service (as such term is defined in section 7 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615b)), other than in accordance with subsection (d)(4); or

* * * * *

(g) SUBSCRIBER LISTED AND UNLISTED INFORMATION FOR EMERGENCY SERVICES.—**[Notwithstanding subsections (b)]**

(1) *IN GENERAL.*—*Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service or a provider of IP-enabled voice service (as such term is defined in section 7 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615b)) shall provide information described in subsection (i)(3)(A) (including information pertaining to subscribers whose information is unlisted or unpublished) that is in its possession or control (including information pertaining to subscribers of other carriers) on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions to providers of emergency services, and providers of emergency support services, solely for purposes of delivering or assisting in the delivery of emergency services.*

(2) *PROHIBITED USE OF LOCATION INFORMATION DATABASES.*—*No administrator of any database used for the purpose of facilitating the provision of emergency services may use for any competitive purpose data obtained from unaffiliated telecommunications carriers or IP-enabled voice service providers in the course of maintaining and operating that database. Nothing in this section is intended to prohibit government agencies otherwise authorized under law from requesting information contained in any such database.*

* * * * *

