

Calendar No. 86

110TH CONGRESS }
1st Session

SENATE

{ REPORT
110-38

911 MODERNIZATION ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 93



MARCH 26, 2007.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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Mr. INOUE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 93]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 93) to authorize NTIA to borrow against anticipated receipts of the Digital Television Transition and Public Safety Fund to initiate migration to a national IP-enabled emergency network capable of receiving and responding to all citizen activated emergency communications, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 93 is to expedite upgrades to the 9-1-1 emergency systems of public safety answering points (PSAPs) and to improve the Nation's 9-1-1 infrastructure.

BACKGROUND AND NEEDS

The grave tragedies of September 11, 2001, and hurricanes Katrina and Rita have highlighted the importance of 9-1-1 as an essential link between public safety personnel and the public. 9-1-1 calls save lives on a daily basis with an estimated 200 million such calls made within the United States each year.

Digital technologies allow 9-1-1 callers to transmit additional information to public safety officials in connection with a 9-1-1 call such as the caller's location and telephone number. However, in order to use such information, PSAPs must have access to upgraded 9-1-1 systems that are capable of receiving such life-saving information. Too often, PSAPs lack funding to make such upgrades. The National Emergency Number Association reports that 20 per-

cent of the Nation's PSAPs do not have enhanced 9-1-1 (E-911) capability, which represents 50 percent of the Nation's counties.

In December 2004, Congress enacted the ENHANCE 911 Act of 2004 to accelerate the deployment of lifesaving, E-911 technology, which helps first responders pinpoint the location of individuals in need of emergency assistance. As part of that Act, Congress authorized a new \$250 million grant program over 5 years to assist PSAPs in upgrading their 9-1-1 systems to receive E-911 location data from wireless callers dialing 9-1-1.

Subsequently, Congress provided funding for this grant program as part of the Deficit Reduction Act of 2005, which directed the Assistant Secretary of Commerce for Communications and Information to use \$43.5 million from spectrum auction revenues—deposited in the Digital Television Transition and Public Safety Fund—to implement the ENHANCE 911 Act of 2004. However, under current law, these funds will not be available for use until after the auction occurs and sufficient revenues are deposited into the Digital Television Transition and Public Safety Fund. S. 93 would eliminate this temporary delay by allowing the Assistant Secretary to borrow against these anticipated receipts upon enactment of this legislation.

SUMMARY OF PROVISIONS

The bill, S. 93, would allow the Assistant Secretary of the National Telecommunications and Information Administration to borrow funds from the Treasury to implement the ENHANCE 911 Act. The bill also would provide priority funding for applications covering areas for which no 9-1-1 service currently exists.

LEGISLATIVE HISTORY

The 9-1-1 Modernization Act was introduced by Senator Stevens on January 4, 2007, and is cosponsored by Senators Clinton, Hutchison, Snowe, and Vitter. On February 13, 2007, the Committee held an Executive Session during which S. 93 was considered and ordered to be reported without amendment.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

FEBRUARY 26, 2007.

Hon. DANIEL K. INOUE,
Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 93, the 911 Modernization Act.

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

Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 93—911 Modernization Act

Summary: S. 93 would allow the National Telecommunications and Information Agency (NTIA) to borrow up to \$44 million from the U.S. Treasury in 2007 to carry out provisions of title III of the Deficit Reduction Act of 2005 (Public Law 109–171) concerning emergency communications services. The Secretary would repay any borrowing with proceeds from the government’s planned 2008 auctions of the electromagnetic spectrum. The Deficit Reduction Act authorized spending of up to \$44 million in 2008, to be derived from auction proceeds, to provide grants to state and local governments and tribal organizations for improving emergency communications services.

CBO estimates that using the borrowing authority provided by S. 93 would cause spending for this purpose to commence in 2007 instead of 2008. We estimate that outlays would rise by \$1 million in 2007. The bill would thus increase direct spending in fiscal year 2007 and reduce direct spending in fiscal year 2008. We expect that total direct spending by NTIA over the two years would remain unchanged under the bill.

S. 93 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the federal government: The estimated budgetary impact of S. 93 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—					
	2007	2008	2009	2010	2011	2012
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority ¹	44	–44	0	0	0	0
Estimated Outlays	1	–1	0	0	0	0

¹ Implementing S. 93 also could increase spending subject to appropriation, but CBO estimates that any such effects would be less than \$500,000 a year.

Basis of estimate: Under current law, NTIA is authorized to make grants to state and local governments and tribal organizations to improve the implementation and coordination of emergency communication services (known as E–911 services). Funding for the grants is to be derived from proceeds of the government’s planned 2008 auction of electromagnetic spectrum. S. 93 would authorize NTIA to borrow up to \$44 million in 2007 and repay the borrowed funds with proceeds from the spectrum auction as they are received.

CBO estimates that providing borrowing authority in 2007 would allow NTIA to start entering into agreements with state and local governments prior to 2008. Direct spending would increase by \$1 million in 2007 to cover administrative costs. That spending would be offset by a decrease of \$1 million in direct spending in 2008. Accordingly, CBO estimates that there would be no net change in direct spending over the two years—and no impact on the budget after 2008.

S. 93 also would require NTIA to amend the criteria for awarding E–911 grants to give priority to emergency call centers that are incapable of receiving 911 calls. CBO estimates that the cost of

issuing regulations to amend those criteria would be insignificant and would be subject to the availability of appropriated funds.

Intergovernmental and private-sector impact: S. 93 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Susan Willie; Impact on State, Local, and Tribal Governments: Sarah Puro; Impact on the Private Sector: Fatimot Ladipo.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

The bill would expedite the funding of grants authorized under the ENHANCE 911 Act to PSAPs for 9-1-1 system upgrades and would improve coordination between local, State and Federal officials. There are an estimated 200 million 9-1-1 calls made in the United States each year. The bill would not expand the scope of the ENHANCE 911 Act and would not increase the number of persons covered by the ENHANCE 911 Act.

ECONOMIC IMPACT

S. 93 would not have an adverse economic impact on the Nation's economy. The Act would provide funding for the implementation of E-911 services and for better coordination. As a result, the bill should enhance public safety and increase 9-1-1 efficiency.

PRIVACY

The reported bill would not impact the personal privacy of U.S. citizens.

PAPERWORK

The reported bill should not significantly increase paperwork requirements for individuals and businesses.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would provide the short title, "911 Modernization Act".

Section 2. Funding for program

This section would accelerate funding for the ENHANCE 911 Act, enacted in 2004, by allowing the Assistant Secretary of Commerce for Communication and Infrastructure to borrow funds from the Treasury in advance of the digital television (DTV) spectrum auction and the collection of auction revenues.

Section 3. NTIA coordination of E-911 implementation.

This section would require the NTIA to give priority to applications from public safety answering points that were not capable of receiving 9-1-1 calls as of the date of enactment of the ENHANCE 911 Act, so long as the application is consistent with the other eligibility criteria.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, 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 material is printed in *italic*, existing law in which no change is proposed is shown in roman):

DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY
ACT OF 2005

[47 U.S.C. 309 note]

SEC. 3011. ENHANCE 911.

[The] *(a) IN GENERAL.*—The Assistant Secretary shall make payments of not to exceed \$43,500,000, in the aggregate, from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement the ENHANCE 911 Act of 2004.

(b) CREDIT.—*The Assistant Secretary may borrow from the Treasury, upon enactment of this provision, 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.*

NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION ORGANIZATION ACT

[47 U.S.C. 942]

SEC. 158. COORDINATION OF E-911 IMPLEMENTATION.

(a) E-911 IMPLEMENTATION COORDINATION OFFICE.—

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

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

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

(2) MANAGEMENT PLAN.—The Assistant Secretary and the Administrator shall jointly develop a management plan for the program established under this section. Such plan shall include the organizational structure and funding profiles for the 5-year duration of the program. The Assistant Secretary and the Administrator shall, within 90 days after the date of enact-

ment of this Act, submit the management plan to the Committees on Energy and Commerce and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

(3) PURPOSE OF OFFICE.—The Office shall—

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

(B) develop, collect, and disseminate information concerning practices, procedures, and technology used in the implementation of E-911 services;

(C) advise and assist eligible entities in the preparation of implementation plans required under subsection (b)(3)(A)(iii);

(D) receive, review, and recommend the approval or disapproval of applications for grants under subsection (b); and

(E) oversee the use of funds provided by such grants in fulfilling such implementation plans.

(4) REPORTS.—The Assistant Secretary and the Administrator shall provide a joint annual report to Congress by the first day of October of each year on the activities of the Office to improve coordination and communication with respect to the implementation of E-911 services.

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

(1) MATCHING GRANTS.—The Assistant Secretary and the 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.

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

(3) COORDINATION REQUIRED.—In providing grants under paragraph (1), the Assistant Secretary and the Administrator shall require an eligible entity to certify in its application that—

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

(i) has coordinated its application with the public safety answering points (as such term is defined in section 222(h)(4) of the Communications Act of 1934) located within the jurisdiction of such entity;

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

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

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

(B) in the case of an eligible entity that is not a State, the entity has complied with clauses (i), (iii), and (iv) of subparagraph (A), and the State in which it is located has complied with clause (ii) of such subparagraph.

(4) 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 Assistant Secretary and the Administrator shall jointly issue regulations updating the criteria to provide priority for public safety answering points not capable, as of the date of enactment of that Act, of receiving 911 calls.*

(c) DIVERSION OF E-911 CHARGES.—

(1) DESIGNATED E-911 CHARGES.—For the purposes of this subsection, the term “designated E-911 charges” means any taxes, fees, or other charges imposed by a State or other taxing jurisdiction that are designated or presented as dedicated to deliver or improve E-911 services.

(2) CERTIFICATION.—Each applicant for a matching grant under this section shall certify to the Assistant Secretary and the Administrator at the time of application, and each applicant that receives such a grant shall certify to the Assistant Secretary and the Administrator annually thereafter during any period of time during which the funds from the grant are available to the applicant, that no portion of any designated E-911 charges imposed by a State or other taxing jurisdiction within which the applicant is located are being obligated or expended for any purpose other than the purposes for which such charges are designated or presented during the period beginning 180 days immediately preceding the date of the application and continuing through the period of time during which the funds from the grant are available to the applicant.

(3) CONDITION OF GRANT.—Each applicant for a grant under this section shall agree, as a condition of receipt of the grant, that if the State or other taxing jurisdiction within which the applicant is located, during any period of time during which the funds from the grant are available to the applicant, obligates or expends designated E-911 charges for any purpose other than the purposes for which such charges are designated or presented, all of the funds from such grant shall be returned to the Office.

(4) PENALTY FOR PROVIDING FALSE INFORMATION.—Any applicant that provides a certification under paragraph (1) knowing that the information provided in the certification was false shall—

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

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

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

(d) AUTHORIZATION; TERMINATION.—

(1) AUTHORIZATION.—There are authorized to be appropriated to the Department of Transportation, for the purposes of grants under the joint program operated under this section with the Department of Commerce, not more than \$250,000,000 for each of the fiscal years 2005 through 2009, not more than 5 percent of which for any fiscal year may be obligated or expended for administrative costs.

(2) TERMINATION.—The provisions of this section shall cease to be effective on October 1, 2009.

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

(1) OFFICE.—The term “Office” means the E-911 Implementation Coordination Office.

(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Highway Traffic Safety Administration.

(3) ELIGIBLE ENTITY.—

(A) IN GENERAL.—The term “eligible entity” means a State or local government or a tribal organization (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1))).

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

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

(4) E-911 SERVICES.—The term “E-911 services” means both phase I and phase II enhanced 911 services, as described in section 20.18 of the Commission’s regulations (47 C.F.R. 20.18), as in effect on the date of enactment of the ENHANCE 911 Act of 2004, or as subsequently revised by the Federal Communications Commission.

(5) PHASE II E-911 SERVICES.—The term “phase II E-911 services” means only phase II enhanced 911 services, as described in such section 20.18 (47 C.F.R. 20.18), as in effect on such date, or as subsequently revised by the Federal Communications Commission.

(6) STATE.—The term “State” means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.