

105TH CONGRESS
1ST SESSION

S. 255

To amend the Communications Act of 1934 to provide for the reallocation and auction of a portion of the electromagnetic spectrum to enhance law enforcement and public safety telecommunications, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 1997

Mr. McCAIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to provide for the reallocation and auction of a portion of the electromagnetic spectrum to enhance law enforcement and public safety telecommunications, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Law Enforcement and
5 Public Safety Telecommunications Empowerment Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) Improvements in technology have made it
2 possible for television broadcast stations to offer ad-
3 vanced television services.

4 (2) To facilitate the transition to advanced tele-
5 vision services, the Federal Communications Com-
6 mission is issuing additional licenses to existing
7 broadcast licensees and permittees under section 336
8 of the Communications Act of 1934 (47 U.S.C.
9 336).

10 (3) As part of the transition to advanced tele-
11 vision services, the Federal Communications Com-
12 mission will develop and implement an allotment
13 plan that will permit the repacking of television
14 broadcast station licenses into a smaller segment of
15 the Very High Frequency and Ultra High Frequency
16 bands than presently used for broadcast television.

17 (4) Implementation of the advanced television
18 service transition plan will enable the Federal Com-
19 munications Commission to allocate spectrum to
20 other purposes.

21 (5) Implementation of the advanced television
22 service transition plan will permit recovery for the
23 public of a portion of the value of the public spec-
24 trum resource made available for commercial use.

1 (6) Many of the State and local agencies re-
 2 sponsible for law enforcement and public safety have
 3 inadequate spectrum and inadequate funding to
 4 maintain the existing level of, or to effect improve-
 5 ments in, the radio communications on which they
 6 depend to perform their missions.

7 (7) Implementation of the advanced television
 8 service transition plan will permit State and local
 9 law enforcement and public safety agencies to secure
 10 additional spectrum and additional funding for mis-
 11 sion-related activities.

12 **SEC. 3. DEFINITIONS.**

13 As used in this Act, the term—

14 (1) “Board” means the Board of Directors of
 15 the Institute;

16 (2) “Director” means the Executive Director of
 17 the Institute;

18 (3) “Governor” means the Chief Executive Offi-
 19 cer of a State;

20 (4) “Institute” means the Public Safety Tele-
 21 communications Institute;

22 (5) “recipient” means any grantee, contractor,
 23 or recipient of financial assistance under this Act;
 24 and

1 (6) “State” means any State of the United
2 States and includes the District of Columbia.

3 **SEC. 4. RECLAMATION OF SPECTRUM.**

4 (a) COMMISSION ACTION.—Part I of title III of the
5 Communications Act of 1934 (47 U.S.C. 301 et seq.) is
6 amended by adding at the end thereof the following:

7 **“SEC. 337. RECLAMATION AND REALLOCATION OF SPEC-**
8 **TRUM FOR LAW ENFORCEMENT, PUBLIC**
9 **SAFETY, AND COMMERCIAL PURPOSES.**

10 “(a) IN GENERAL.—The Commission may not issue
11 new broadcast station licenses in the spectrum between
12 746 and 806 megahertz after the date of enactment of
13 the Law Enforcement and Public Safety Telecommuni-
14 cations Empowerment Act, except as provided by this sec-
15 tion and that Act.

16 “(b) INCUMBENT BROADCAST LICENSEES.—Any per-
17 son who, on the date of enactment of that Act, holds a
18 license to operate a television broadcasting station, or a
19 permit to construct such a station, between 746 and 806
20 megahertz—

21 “(1) may not operate at that frequency after
22 the date on which the advanced television services
23 transition period terminates, as determined by the
24 Commission; and

1 “(2) shall surrender any license to operate such
2 a television broadcast station, or permit to construct
3 such a television broadcasting station, to the Com-
4 mission for reallocation under this Act within 30
5 days after that date.

6 “(c) SPECTRUM BETWEEN 746 AND 806 MEGA-
7 HERTZ.—

8 “(1) PUBLIC SAFETY.—Within 30 days after
9 the date of enactment of that Act, the Commission
10 shall allocate and assign 24 megahertz of electro-
11 magnetic spectrum to law enforcement and public
12 safety use. The provisions of chapter 5 of title 5,
13 United States Code, do not apply to the allocation
14 and assignment of spectrum under this paragraph,
15 and such allocation and assignment shall be carried
16 out as expeditiously as possible without regard to
17 any other provision of law or regulation thereunder
18 relating to notice and opportunity for a hearing.

19 “(2) COMMERCIAL USE.—Within 1 year after
20 the date of enactment of that Act, the Commission
21 shall allocate 36 megahertz of electromagnetic spec-
22 trum between 746 and 806 megahertz for commer-
23 cial uses.

1 “(d) TRANSFER OF ASSIGNMENT AUTHORITY.—The
2 Commission shall transfer to the Public Safety Tele-
3 communications Institute established under section 8 of
4 that Act the right to assign spectrum allocated under sub-
5 section (c)(2) in accordance with this section and the pro-
6 visions of that Act.

7 “(e) ASSIGNMENT BY PUBLIC SAFETY TELE-
8 COMMUNICATIONS INSTITUTE.—Within 5 years after the
9 date of enactment of that Act, the Institute shall assign
10 licenses for the commercial use of the spectrum for which
11 assignment authority was transferred to it under sub-
12 section (d) by competitive bidding carried out in a manner
13 consistent with section 309(j) of this Act. The Institute
14 shall work closely with the Commission in assigning li-
15 censes for the commercial use of that spectrum, and shall
16 make such assignments in accordance with rules estab-
17 lished by the Commission.

18 “(f) SEQUENTIAL ASSIGNMENT OF SURPLUS PUBLIC
19 SAFETY SPECTRUM.—If the Governor of any State to
20 which spectrum is assigned for law enforcement and public
21 safety purposes determines that a portion of that spec-
22 trum is excess to the needs of the State for such purposes,
23 then the Governor may lease, sell, or otherwise assign any
24 such excess portion to any person for any lawful purpose
25 under this Act under such terms and conditions as the

1 Governor may require. Any term used in this subsection
 2 that is defined in section 3 of the Law Enforcement and
 3 Public Safety Telecommunications Empowerment Act has
 4 the meaning given to it by that section.

5 “(g) EFFECTIVE DATE FOR AUCTIONED SPEC-
 6 TRUM.—Licenses assigned under subsection (e) shall be-
 7 come effective on the day after the date on which the ad-
 8 vanced television services transition period terminates, as
 9 determined by the Commission. A license assigned under
 10 subsection (f) shall become effective on the next business
 11 day following the date on which it is assigned.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
 13 for the Communications Act of 1934 is amended by insert-
 14 ing after the item relating to section 336 the following:

“337. Reclamation and reallocation of spectrum for law enforce-
 ment, public safety, and commercial purposes.....”

15 **SEC. 5. USE OF PROCEEDS FROM AUCTION.**

16 (a) ESTABLISHMENT OF ACCOUNT.—There is hereby
 17 established on the books of the Treasury an account for
 18 the proceeds of the auction conducted under section 8(b).
 19 Except as provided in subsections (b) and (c), all proceeds
 20 from that auction shall be deposited in the Treasury in
 21 accordance with chapter 33 of title 31, United States
 22 Code, and credited to the account established by this sub-
 23 section.

24 (b) LAW ENFORCEMENT AND PUBLIC SAFETY.—

1 (1) AMOUNT.—Out of the amounts received
2 from the auction of spectrum under section 8(b), the
3 Institute shall retain amounts equal to 10 percent of
4 the sum of the amounts credited to that account,
5 but not less than \$200,000,000 nor more than
6 \$750,000,000, for use in funding State and local law
7 enforcement and public safety agencies’ mission-re-
8 lated radio communications capabilities.

9 (2) ALLOCATION AMONG STATES.—Amounts re-
10 tained under paragraph (1) shall be distributed to
11 each State in proportion to its share of the popu-
12 lation of the United States according to the latest
13 decennial census, subject to such procedures and
14 conditions as the Commission may establish to en-
15 sure proper accounting for the use of distributed
16 amounts.

17 (3) USE OF AMOUNTS RECEIVED.—The chief
18 executive officer of each State shall use amounts re-
19 ceived under this section exclusively for the purpose
20 for which such amounts are authorized under this
21 Act. In administering any amounts received under
22 this section, that chief executive officer shall give
23 due regard to opportunities that—

24 (A) commercially-provided services; and

1 (B) the sharing of resources and facilities
 2 by law enforcement and public safety agencies,
 3 afford for improved and more efficient law enforce-
 4 ment and public safety radio communications.

5 (c) ADMINISTRATIVE EXPENSES.—

6 (1) INSTITUTE.—Out of amounts received from
 7 the auction under section 8(b) of this Act remaining
 8 after provision is made for the distribution under
 9 subsection (b) of this section, the Institute shall—

10 (A) retain such amounts as may be nec-
 11 essary to fund its administrative expenses; and

12 (B) transfer to the Federal Communica-
 13 tions Commission such sums as may be nec-
 14 essary to compensate it for its costs incurred in
 15 support of the Institute's operations.

16 (2) FEDERAL COMMUNICATIONS COMMIS-
 17 SION.—The salaries and expenses account of the
 18 Commission shall retain as an offsetting collection
 19 such sums as may be transferred to the Commission
 20 under paragraph (1) to cover the costs of developing
 21 and implementing the program required by this Act.
 22 Such offsetting collections shall be available for obli-
 23 gation subject to the terms and conditions of the re-
 24 ceiving appropriations account, and shall be depos-
 25 ited in such accounts on a quarterly basis. Any

1 funds appropriated to the Commission for fiscal year
2 during which the auction generates proceeds shall be
3 used by the Commission to implement this Act. Such
4 offsetting collections are authorized to remain avail-
5 able until expended.

6 **SEC. 6. PERMANENT AUCTION AUTHORITY.**

7 Section 309(j) of the Communications Act of 1934
8 (47 U.S.C. 309(j)) is amended by striking paragraph (11)
9 and redesignating paragraphs (12) and (13) as para-
10 graphs (11) and (12).

11 **SEC. 7. RELATIONSHIP TO OTHER LAW.**

12 (a) IN GENERAL.—Nothing in this Act, or in section
13 309(j) or 337 of the Communications Act of 1934 (as
14 added by this Act), may be construed as a violation of
15 any provision of the Omnibus Budget Reconciliation Act
16 of 1990, or any other provision of law prohibiting or limit-
17 ing the earmarking of revenues.

18 (b) EFFECTIVE DATE.—The provisions of subsection
19 (a) apply to any auction of spectrum under this Act, or
20 under the Communications Act of 1934, that takes place
21 after January 31, 1997.

1 **SEC. 8. PUBLIC SAFETY TELECOMMUNICATIONS INSTI-**
2 **TUTE.**

3 (a) ESTABLISHMENT; PURPOSE; INCORPORATION;
4 POWERS.—There is established a private nonprofit cor-
5 poration which shall be known as the Public Safety Tele-
6 communications Institute. The purposes of the Institute
7 are—

8 (1) to auction and assign spectrum in accord-
9 ance with section 337 of the Communications Act of
10 1934 and this Act;

11 (2) to award grants and contracts under this
12 Act;

13 (3) to certify programs that are intended to use
14 funds made available under this Act to aid and im-
15 prove State law enforcement and public safety tele-
16 communications systems; and

17 (4) to carry out its other duties under this Act.
18 The Institute may be incorporated in any State
19 under section 9(a) of this Act. To the extent consist-
20 ent with the provisions of this Act, the Institute may
21 exercise the powers conferred upon a nonprofit cor-
22 poration by the laws of the State in which it is in-
23 corporated.

24 (b) DUTIES.—

25 (1) IN GENERAL.—The Institute shall—

1 (A) auction spectrum transferred to it
 2 under section 337 of the Communications Act
 3 of 1934 in accordance with section 309(j) of the
 4 Communications Act of 1934;

5 (B) assign licenses for the commercial use
 6 of such spectrum in accordance with section
 7 337; and

8 (C) administer the proceeds received from
 9 the auction in accordance with the provisions of
 10 this Act.

11 (2) APPLICATION OF SECTION 309(j).—For the
 12 purpose of applying section 309(j) of the Commu-
 13 nications Act of 1934 to the Institute—

14 (A) the term “Institute”, as defined in sec-
 15 tion 3 of this Act, shall be substituted for
 16 “Commission” each place it appears; and

17 (B) paragraph (8) of section 309(j) of such
 18 Act shall not apply.

19 (c) MAINTENANCE OF OFFICES IN STATE OF INCOR-
 20 PORATION; AGENT FOR RECEIPT OF SERVICE OF PROC-
 21 ESS.—The Institute shall maintain its principal offices in
 22 the State in which it is incorporated and shall maintain
 23 therein a designated agent to accept service of process for
 24 the Institute. Notice to or service upon the agent shall
 25 be deemed notice to or service upon the Institute.

1 (d) TAX STATUS OF INSTITUTE AND PROGRAMS AS-
 2 SISTED THEREBY.—The Institute, and any program as-
 3 sisted by the Institute, shall be eligible to be treated as
 4 an organization described in section 170(c)(2)(B) of the
 5 Internal Revenue Code of 1986 (26 U.S.C. 170(c)(2)(B))
 6 and as an organization described in section 501(c)(3) of
 7 the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3))
 8 which is exempt from taxation under section 501(a) of
 9 such Code (26 U.S.C. 501(a)). If such treatments are con-
 10 ferred in accordance with the provisions of such Code, the
 11 Institute, and programs assisted by the Institute, shall be
 12 subject to all provisions of such Code relevant to the con-
 13 duct of organizations exempt from taxation.

14 (f) RULES, REGULATIONS, ETC.; NOTICE AND COM-
 15 MENT.—The Institute shall afford notice and reasonable
 16 opportunity for comment to interested parties prior to is-
 17 suing rules, regulations, guidelines, and instructions under
 18 this Act, and it shall publish in the Federal Register all
 19 rules, regulations, guidelines, and instructions. The publi-
 20 cation of a substantive rule shall not be made less than
 21 30 days before the effective date of such rule, except as
 22 otherwise provided by the Institute for good cause found
 23 and published with the rule.

24 **SEC. 9. BOARD OF DIRECTORS.**

25 (a) APPOINTMENT AND MEMBERSHIP.—

1 (1) The Institute shall be supervised by a
2 Board of Directors, consisting of—

3 (A) 6 members to be appointed by the
4 President, by and with the advice and consent
5 of the Senate; and

6 (B) the Chairman of the Federal Commu-
7 nications Commission, *ex officio*.

8 (2) The President shall make the initial ap-
9 pointments of members of the Board under this sub-
10 section 90 days after the effective date of this Act.
11 In the case of any other appointment of a member,
12 the President shall make the appointment not later
13 than 90 days after the previous term expires or the
14 vacancy occurs, as the case may be.

15 (3) The initial members of the Board of Direc-
16 tors shall be the incorporators of the Institute and
17 shall determine the State in which the Institute is to
18 be incorporated.

19 (b) TERM OF OFFICE.—

20 (1) Except as provided in paragraph (2), the
21 term of each appointed member of the Board shall
22 be 5 years. Each such member of the Board shall
23 continue to serve until the successor to such member
24 has been appointed and qualified.

1 (2) Three of the members first appointed by the
2 President shall serve for a term of 2 years. Any
3 member appointed to serve an unexpired term which
4 has arisen by virtue of the death, disability, retire-
5 ment, or resignation of a member shall be appointed
6 only for such unexpired term, but shall be eligible
7 for reappointment.

8 (3) The term of initial members shall commence
9 from the date of the first meeting of the Board, and
10 the term of each member other than an initial mem-
11 ber shall commence from the date of termination of
12 the preceding term.

13 (c) REAPPOINTMENT.—No member shall be re-
14 appointed to more than 2 consecutive terms immediately
15 following such member's initial term.

16 (d) COMPENSATION; REIMBURSEMENT FOR EX-
17 PENSES.—Members of the Board shall serve without com-
18 pensation, but shall be reimbursed for actual and nec-
19 essary expenses incurred in the performance of their offi-
20 cial duties.

21 (e) STATUS OF MEMBERS OF BOARD AS OFFICERS
22 AND EMPLOYEES OF UNITED STATES.—The members of
23 the Board shall not, by reason of such membership, be
24 considered officers or employees of the United States.

1 (f) VOTING RIGHTS OF BOARD MEMBERS; QUORUM;
2 ACTION OF BOARD ON CONCURRENCE OF MAJORITY.—

3 Each member of the Board shall be entitled to one vote.
4 A simple majority of the membership shall constitute a
5 quorum for the conduct of business. The Board shall act
6 upon the concurrence of a simple majority of the member-
7 ship present and voting.

8 (g) CHAIRMAN; INITIAL SELECTION AND TERM OF
9 OFFICE; SUBSEQUENT ANNUAL ELECTION.—The Board
10 shall select from among the appointed members of the
11 Board a chairman, the first of whom shall serve for a term
12 of 3 years. Thereafter, the Board shall annually elect a
13 chairman from among its appointed members.

14 (h) GROUNDS FOR REMOVAL OF MEMBERS.—An ap-
15 pointed member of the Board may be removed by a vote
16 of 4 members for malfeasance in office, persistent neglect
17 of, or inability to discharge duties, or for any offense in-
18 volving moral turpitude, but for no other cause.

19 (i) QUARTERLY MEETINGS OF BOARD; SPECIAL
20 MEETINGS.—Regular meetings of the Board shall be held
21 quarterly. Special meetings shall be held from time to time
22 upon the call of the chairman, acting at his own discretion
23 or pursuant to the petition of any 3 members.

1 (j) OPEN MEETINGS.—All meetings of the Board,
2 any executive committee of the Board, and any council es-
3 tablished in connection with this Act, shall be open and
4 subject to the requirements and provisions of section 552b
5 of title 5, United States Code, relating to open meetings.

6 (k) DUTIES AND FUNCTIONS OF BOARD.—In its di-
7 rection and supervision of the activities of the Institute,
8 the Board shall—

9 (1) establish policies and develop such programs
10 for the Institute that will further the achievement of
11 its purpose and performance of its functions;

12 (2) establish policy and funding priorities and
13 issue rules, regulations, guidelines, and instructions
14 pursuant to such priorities;

15 (3) appoint and fix the duties of the Executive
16 Director of the Institute, who shall serve at the
17 pleasure of the Board and shall be a nonvoting ex
18 officio member of the Board;

19 (4) present to other Government departments,
20 agencies, and instrumentalities whose programs or
21 activities relate to the employment of telecommuni-
22 cations in connection with law enforcement and pub-
23 lic safety, the recommendations of the Institute for
24 the improvement of such programs or activities; and

1 (6) award grants and enter into cooperative
2 agreements or contracts pursuant to section 11.

3 **SEC. 10. OFFICERS AND EMPLOYEES.**

4 (a) DUTIES OF DIRECTOR; APPOINTMENT AND RE-
5 MOVAL OF EMPLOYEES; POLITICAL TESTS OR QUALIFICA-
6 TIONS PROHIBITED.—

7 (1) The Director, subject to general policies es-
8 tablished by the Board, shall supervise the activities
9 of persons employed by the Institute and may ap-
10 point and remove such employees as he determines
11 necessary to carry out the purposes of the Institute.
12 The Director shall be responsible for the executive
13 and administrative operations of the Institute, and
14 shall perform such duties as are delegated to such
15 Director by the Board and the Institute.

16 (2) No political test or political qualification
17 shall be used in selecting, appointing, promoting, or
18 taking any other personnel action with respect to
19 any officer, agent, or employee of the Institute, or
20 in selecting or monitoring any grantee, contractor,
21 person, or entity receiving financial assistance under
22 this Act.

23 (b) COMPENSATION.—Officers and employees of the
24 Institute shall be compensated at rates determined by the

1 Board, but not in excess of the rate of level V of the Exec-
 2 utive Schedule specified in section 5316 of title 5, United
 3 States Code.

4 (c) STATUS OF INSTITUTE AS DEPARTMENT, AGEN-
 5 CY, OR INSTRUMENTALITY OF FEDERAL GOVERNMENT;
 6 AUTHORITY OF OFFICE OF MANAGEMENT AND BUDG-
 7 ET.—

8 (1) Except as otherwise specifically provided in
 9 this Act, the Institute shall not be considered a de-
 10 partment, agency, or instrumentality of the Federal
 11 Government.

12 (2) This Act does not limit the authority of the
 13 Office of Management and Budget to review and
 14 submit comments upon the Institute's annual budget
 15 request at the time it is transmitted to the Congress.

16 (d) STATUS OF OFFICERS AND EMPLOYEES OF IN-
 17 STITUTE AS OFFICERS AND EMPLOYEES OF UNITED
 18 STATES.—

19 (1) Except as provided in paragraph (2), offi-
 20 cers and employees of the Institute shall not be con-
 21 sidered officers or employees of the United States.

22 (2) Officers and employees of the Institute shall
 23 be considered officers and employees of the United
 24 States solely for the purposes of the following provi-
 25 sions of title 5, United States Code; Subchapter I of

1 chapter 81 (5 U.S.C. 8101 et seq.) (relating to com-
 2 pensation for work injuries); chapters 83 and 84 (5
 3 U.S.C. 8301 et seq. and 8401 et seq.) (relating to
 4 civil service retirement); chapter 87 (5 U.S.C. 8701
 5 et seq.) (relating to life insurance); and chapter 89
 6 (5 U.S.C. 8901 et seq.) (relating to health insur-
 7 ance). The Institute shall make contributions under
 8 the provisions referred to in this subsection at the
 9 same rates applicable to agencies of the Federal
 10 Government.

11 (e) FREEDOM OF INFORMATION REQUIREMENTS.—
 12 The Institute and its officers and employees shall be sub-
 13 ject to the provisions of section 552 of title 5, United
 14 States Code, relating to freedom of information.

15 **SEC. 11. GRANTS AND CONTRACTS.**

16 (a) AUTHORITY OF INSTITUTE; PURPOSE OF
 17 GRANTS.—The Institute is authorized—

18 (1) to award grants and enter into cooperative
 19 agreements or contracts, in a manner consistent
 20 with subsection (b);

21 (2) to evaluate, when appropriate, the programs
 22 and projects carried out under this Act to determine
 23 the extent to which they have met or failed to meet
 24 the purposes of this Act; and

1 (3) to encourage, assist, and serve in a consult-
 2 ing capacity to State and local law enforcement and
 3 public safety system agencies in the development,
 4 maintenance, and coordination of telecommuni-
 5 cations programs and services.

6 (b) PRIORITY IN MAKING AWARDS; ALTERNATIVE
 7 RECIPIENTS; APPROVAL OF APPLICATIONS; RECEIPT AND
 8 ADMINISTRATION OF FUNDS; ACCOUNTABILITY.—The In-
 9 stitute may award grants and enter into cooperative agree-
 10 ments or contracts as follows:

11 (1) The Institute may award grants to or enter
 12 into cooperative agreements or contracts with the
 13 chief executive officer of each State to carry out the
 14 purposes of this Act.

15 (2) The Institute may, if the objective can bet-
 16 ter be served thereby, award grants to or enter into
 17 cooperative agreements or contracts with—

18 (A) other nonprofit organizations with ex-
 19 pertise in law enforcement and public safety
 20 telecommunication;

21 (B) institutions of higher education;

22 (C) individuals, partnerships, firms, or cor-
 23 porations; and

1 (D) private agencies with expertise in law
2 enforcement and public safety telecommuni-
3 cation administration.

4 (3) The Institute may enter into contracts with
5 Federal agencies to carry out the purposes of this
6 Act.

7 (c) PERMISSIBLE USES OF FUNDS.—Funds available
8 pursuant to grants, cooperative agreements, or contracts
9 awarded under this section may be used—

10 (1) to assist State and local law enforcement
11 and public safety administrations in establishing, im-
12 proving, and integrating telecommunications;

13 (2) to support education and training programs
14 for law enforcement and public safety officials and
15 other state and local personnel in the effective use
16 of telecommunications in carrying out their law en-
17 forcement and public safety functions;

18 (3) to support studies of the adequacy of law
19 enforcement and public safety telecommunications
20 systems for State and local governments and to im-
21 plement and evaluate innovative responses to law en-
22 forcement and public safety telecommunications
23 problems; and

1 (4) to carry out such other programs, consistent
2 with the purposes of this Act, as may be deemed ap-
3 propriate by the Institute.

4 **SEC. 12. LIMITATIONS ON GRANTS AND CONTRACTS.**

5 (a) DUTIES OF INSTITUTE.—With respect to grants
6 made and contracts or cooperative agreements entered
7 into under this Act, the Institute shall—

8 (1) ensure that no funds made available to re-
9 cipients by the Institute shall be used at any time,
10 directly or indirectly, to influence the issuance,
11 amendment, or revocation of any Executive order or
12 similar promulgation by any State or local agency,
13 or to undertake to influence the passage or defeat
14 of any legislation or constitutional amendment by
15 the Congress of the United States, or by any State
16 or local legislative body, or any State proposal by
17 initiative petition, or of any referendum, unless a
18 governmental agency, legislative body, a committee,
19 or a member thereof—

20 (A) requests personnel of the recipients to
21 testify, draft, or review measures or to make
22 representations to such agency, body, commit-
23 tee, or member; or

1 (B) is considering a measure directly af-
2 fecting the activities under this Act of the recip-
3 ient or the Institute; and

4 (2) ensure all personnel engaged in grant, coop-
5 erative agreement, or contract assistance activities
6 supported in whole or part by the Institute refrain,
7 while so engaged, from any partisan political activ-
8 ity.

9 (b) PROHIBITED USES OF FUNDS.—To ensure that
10 funds made available under this Act are used to supple-
11 ment and improve the operation of State and local govern-
12 ment law enforcement and public safety telecommuni-
13 cations systems, rather than to support basic existing sys-
14 tems, funds shall not be used—

15 (1) to supplant State or local funds currently
16 supporting a program or activity; or

17 (2) to construct telecommunications facilities or
18 structures, except to remodel existing facilities to
19 demonstrate new architectural or technological tech-
20 niques, or to provide temporary facilities for new
21 personnel or for personnel involved in a demonstra-
22 tion or experimental program.

1 **SEC. 13. RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE.**

2 (a) ISSUANCE OF SHARES OF STOCK; DECLARATION
3 OF DIVIDENDS; COMPENSATION FOR SERVICES; REIM-
4 BURSEMENT FOR EXPENSES; POLITICAL ACTIVITIES.—

5 (1) The Institute shall have no power to issue
6 any shares of stock, or to declare or pay any divi-
7 dends.

8 (2) No part of the income or assets of the Insti-
9 tute shall enure to the benefit of any director, offi-
10 cer, or employee, except as reasonable compensation
11 for services or reimbursement for expenses.

12 (3) Neither the Institute nor any recipient shall
13 contribute or make available Institute funds or pro-
14 gram personnel or equipment to any political party
15 or association, or the campaign of any candidate for
16 public or party office.

17 (4) The Institute shall not contribute or make
18 available Institute funds or program personnel or
19 equipment for use in advocating or opposing any
20 ballot measure, initiative, or referendum.

21 (c) IDENTIFICATION OF INSTITUTE WITH POLITICAL
22 ACTIVITIES.—Officers and employees of the Institute or
23 of recipients shall not at any time intentionally identify
24 the Institute or the recipient with any partisan or non-
25 partisan political activity associated with a political party

1 or association, or the campaign of any candidate for public
 2 or party office.

3 **SEC. 14. PRESIDENTIAL COORDINATION.**

4 The President may, to the extent not inconsistent
 5 with any other applicable law, direct that appropriate sup-
 6 port functions of the Federal Government may be made
 7 available to the Institute in carrying out its functions
 8 under this Act.

9 **SEC. 15. RECORDS AND REPORTS.**

10 (a) REPORTS.—The Institute is authorized to require
 11 such reports as it deems necessary from any recipient with
 12 respect to activities carried out pursuant to this Act.

13 (b) RECORDS.—The Institute is authorized to pre-
 14 scribe the keeping of records with respect to funds pro-
 15 vided by any grant, cooperative agreement, or contract
 16 under this Act and shall have access to such records at
 17 all reasonable times for the purpose of ensuring compli-
 18 ance with such grant, cooperative agreement, or contract
 19 or the terms and conditions upon which financial assist-
 20 ance was provided.

21 (c) SUBMISSION OF COPIES OF REPORTS TO RECIPI-
 22 ENTS; MAINTENANCE IN PRINCIPAL OFFICE OF INSTI-
 23 TUTE; AVAILABILITY FOR PUBLIC INSPECTION; FURNISH-
 24 ING OF COPIES TO INTERESTED PARTIES.—Copies of all

1 reports pertinent to the evaluation, inspection, or monitor-
 2 ing of any recipient shall be submitted on a timely basis
 3 to such recipient, and shall be maintained in the principal
 4 office of the Institute for a period of at least 5 years after
 5 such evaluation, inspection, or monitoring. Such reports
 6 shall be available for public inspection during regular busi-
 7 ness hours, and copies shall be furnished, upon request,
 8 to interested parties upon payment of such reasonable fees
 9 as the Institute may establish.

10 **SEC. 16. AUDITS.**

11 (a) TIME AND PLACE OF AUDITS; STANDARDS;
 12 AVAILABILITY OF BOOKS, ACCOUNTS, FACILITIES, ETC.,
 13 TO AUDITORS; FILING OF REPORT AND AVAILABILITY
 14 FOR PUBLIC INSPECTION.—

15 (1) The accounts of the Institute shall be au-
 16 dited annually. Such audits shall be conducted in ac-
 17 cordance with generally accepted auditing standards
 18 by independent certified public accountants who are
 19 certified by a regulatory authority of the jurisdiction
 20 in which the audit is undertaken.

21 (2) The audits shall be conducted at the place
 22 or places where the accounts of the Institute are
 23 normally kept. All books, accounts, financial records,
 24 reports, files, and other papers or property belonging

1 to or in use by the Institute and necessary to facili-
 2 tate the audits shall be made available to the person
 3 or persons conducting the audits. The full facilities
 4 for verifying transactions with the balances and se-
 5 curities held by depositories, fiscal agents, and
 6 custodians shall be afforded to any such person.

7 (3) The report of the annual audit shall be filed
 8 with the General Accounting Office and shall be
 9 available for public inspection during business hours
 10 at the principal office of the Institute.

11 (b) ADDITIONAL AUDITS; REQUIREMENTS; REPORTS
 12 AND RECOMMENDATIONS TO CONGRESS AND ATTORNEY
 13 GENERAL.—

14 (1) In addition to the annual audit, the finan-
 15 cial transactions of the Institute for any fiscal year
 16 during which Federal funds are available to finance
 17 any portion of its operations may be audited by the
 18 General Accounting Office in accordance with such
 19 rules and regulations as may be prescribed by the
 20 Comptroller General of the United States.

21 (2) Any such audit shall be conducted at the
 22 place or places where accounts of the Institute are
 23 normally kept. The representatives of the General

1 Accounting Office shall have access to all books, ac-
 2 counts, financial records, reports, files, and other pa-
 3 pers or property belonging to or in use by the Insti-
 4 tute and necessary to facilitate the audit. The full
 5 facilities for verifying transactions with the balances
 6 and securities held by depositories, fiscal agents, and
 7 custodians shall be afforded to such representatives.
 8 All such books, accounts, financial records, reports,
 9 files, and other papers or property of the Institute
 10 shall remain in the possession and custody of the In-
 11 stitute throughout the period beginning on the date
 12 such possession or custody commences and ending
 13 three years after such date, but the General Ac-
 14 counting Office may require the retention of such
 15 books, accounts, financial records, reports, files, and
 16 other papers or property for a longer period under
 17 section 3523(c) of title 31, United States Code.

18 (3) A report of such audit shall be made by the
 19 Comptroller General to the Congress and to the At-
 20 torney General, together with such recommendations
 21 with respect thereto as the Comptroller General
 22 deems advisable.

23 (c) ANNUAL AUDITS BY INSTITUTE OR RECIPIENTS;
 24 REPORTS; SUBMISSION OF COPIES TO COMPTROLLER
 25 GENERAL; INSPECTION OF BOOKS, ACCOUNTS, ETC.;

1 AVAILABILITY OF AUDIT REPORTS FOR PUBLIC INSPEC-
2 TION.—

3 (1) The Institute shall conduct, or require each
4 recipient to provide for, an annual fiscal audit of the
5 use of funds received under this Act. The report of
6 each such audit shall be maintained for a period of
7 at least 5 years at the principal office of the Insti-
8 tute.

9 (2) The Institute shall submit to the Comptrol-
10 ler General of the United States copies of such re-
11 ports, and the Comptroller General may, in addition,
12 inspect the books, accounts, financial records, files,
13 and other papers or property belonging to or in use
14 by such grantee, contractor, person, or entity, which
15 relate to the disposition or use of funds received
16 from the Institute. Such audit reports shall be avail-
17 able for public inspection during regular business
18 hours, at the principal office of the Institute.

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