GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2655.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

COOPERATIVE RESEARCH AND TECHNOLOGY ENHANCEMENT (CREATE) ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2192) to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Cooperative Research and Technology Enhancement (CREATE) Act of 2004''.

SEC. 2. COLLABORATIVE EFFORTS ON CLAIMED INVENTIONS.

Section 103(c) of title 35, United States Code, is amended to read as follows:

''(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

''(2) For purposes of this subsection, subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if—

''(A) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;

''(B) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

''(C) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

''(3) For purposes of paragraph (2), the term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.''.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall apply to any patent granted on or after the date of the enactment of this Act.

(b) SPECIAL RULE.—The amendments made by this Act shall not affect any final decision of a court or the United States Patent and Trademark Office rendered before the date of the enactment of this Act, and shall not affect the right of any party in any action pending before the United States Patent and Trademark Office or a court on the date of the enactment of this Act to have that party's rights determined on the basis of the provisions of title 35, United States Code, in effect on the day before the date of the enactment of this Act.

Mr. SENSENBRENNER. Mr. Speaker, S. 2192 will help to spur the development of new technologies by making it easier for collaborative inventors who represent more than one organization to obtain the protection of the U.S. patent system for their inventions.

Members should note that the text of S. 2192 is identical to that of H.R. 2391, which received approximately 2 years of process. The House passed H.R. 2391 by voice vote on March 10 of this year.

The bill achieves this goal by limiting the circumstances in which confidential information, which is voluntarily exchanged by individual research team members, may be asserted to bar the patenting of the team's new inventions.

Today, industries that rely on intellectual property, like pharmaceuticals, biotechnology, and nano-technology serve as key catalysts to the U.S. economy, employing tens of thousands of Americans. More often than not, the innovations they develop are not done solely by researchers ''in-house'' but rather, in concert with other researchers who may be located at universities, non-profit institutions, or other private enterprises.

Carl E. Gulbrandsen, the managing director of the Wisconsin Alumni Research Foundation, provided an assessment of the value of university research contributions when he testified before the Intellectual Property Subcommittee last Congress that:

In 2000, non-profits and universities spent a record $28.1 billion on research and development much of which involved collaborations among private, public, and non-profit entities.

Sales of products developed from inventions transferred from these research centers resulted in revenues that approached $42 billion that year, a portion of which was then reinvested in additional research.

As significant as this research activity is, the tangible benefits of its application are also worth noting. Innovations like magnetic resonance imaging and the sequencing of the human genome through a process known as automated polymerase chain reaction technology were both made possible through collaborative research.

Mr. Speaker, in 1984, Congress acted to provide incentives for innovation by encouraging researchers within organizations to share information. That year, we amended the Patent Act to restrict the use of background scientific or technical information shared among researchers in an effort to deny a patent in instances where the subject matter and the claimed invention were under common ownership or control.

S. 2192 will provide a similar statutory ''safe harbor'' for inventions that result from the collaborative activities of private, public, and nonprofit entities. In so doing, the bill responds to the 1997 OddzON Products, Inc. V. Just Toys, Inc. decision of the Federal Circuit Court of Appeals by clarifying that prior inventions of team members will not serve as an absolute bar to the patenting of the team's new invention when the parties conduct themselves in accordance with the terms of the bill.

In the future, research collaborations between academia and industry will be even more critical to the efforts of U.S. industry to maintain our technological preeminence. By enacting S. 2192, Congress will help to foster improved communication among researchers, provide additional certainty and structure for those who engage in collaborative research, reduce patent litigation incentives, and facilitate innovation and investment.

S. 2192 is the product of the collaborative efforts of a number of individuals and leading professional patent and research organizations. Among those who contributed substantially to the development of the bill are the USPTO, the Wisconsin Alumni Research Foundation, the American Council on Education, the American University Technology Managers, the Biotechnology Industry Organization, and the American Intellectual Property Law Association.

Mr. Speaker, S. 2192 will ensure that tomorrow's collaborative researchers can enjoy the full measure of the benefits of the patent law. I urge the Members to support the bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2192.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ENSURING NEEDED HELP ARRIVES NEAR CALLERS EMPLOYING 911 ACT OF 2004

Mr. PICKERING. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 5419) to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users; to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E–911 calls, and to support in the construction and operation of a ubiquitous and reliable citizen activated system; and to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs

established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act, for a period of time, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I-E–911

SEC. 101. SHORT TITLE.

This title may be cited as the ''Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004'' or the ''ENHANCE 911 Act of 2004''.

SEC. 102. FINDINGS.

The Congress finds that—

(1) for the sake of our Nation's homeland security and public safety, a universal emergency telephone number (911) that is enhanced with the most modern and state-of-the-art telecommunications capabilities possible should be available to all citizens in all regions of the Nation;

(2) enhanced emergency communications require Federal, State, and local government resources and coordination;

(3) any funds that are collected from fees imposed on consumer bills for the purposes of funding 911 services or enhanced 911 should go only for the purposes for which the funds are collected; and

(4) enhanced 911 is a high national priority and it requires Federal leadership, working in cooperation with State and local governments and with the numerous organizations dedicated to delivering emergency communications services.

SEC. 103. PURPOSES.

The purposes of this title are—

(1) to coordinate 911 services and E–911 services, at the Federal, State, and local levels; and

(2) to ensure that funds collected on telecommunications bills for enhancing emergency 911 services are used only for the purposes for which the funds are being collected.

SEC. 104. COORDINATION OF E–911 IMPLEMENTATION.

Part C of title I of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended by adding at the end the following:

''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 enactment 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 E911 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 90 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.

''(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 1 SO 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 E911 Implementation Coordination Office.

''(2) ADMINISTRATION.—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(1) 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.''.

SEC. 105. GAO STUDY OF STATE AND LOCAL USE OF 911 SERVICE CHARGES.

(a) IN GENERAL.—Within 60 days after the date of enactment of this Act, the Comptroller General shall initiate a study of—

(1) the imposition of taxes, fees, or other charges imposed by States or political subdivisions of States that are designated or presented as dedicated to improve emergency communications services, including 911 services or enhanced 911 services, or related to emergency communications services operations or improvements; and

(2) the use of revenues derived from such taxes, fees, or charges.

(b) REPORT.—Within 18 months after initiating the study required by subsection (a), the Comptroller General shall transmit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce setting forth the findings, conclusions, and recommendations, if any, of the study, including—

(1) the identity of each State or political subdivision that imposes such taxes, fees, or other charges; and

(2) the amount of revenues obligated or expended by that State or political subdivision for any purpose other than the purposes for which such taxes, fees, or charges were designated or presented.

SEC. 106. REPORT ON THE DEPLOYMENT OF E–911 PHASE II SERVICES BY TIER III SERVICE PROVIDERS.

Within 90 days after the date of enactment of this Act, the Federal Communications Commission shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate detailing—

(1) the number of tier III commercial mobile service providers that are offering phase II E–911 services;

(2) the number of requests for waivers from compliance with the Commission's phase II E–911 service requirements received by the Commission from such tier III providers;

(3) the number of waivers granted or denied by the Commission to such tier III providers;

(4) how long each waiver request remained pending before it was granted or denied;

(5) how many waiver requests are pending at the time of the filing of the report;

(6) when the pending requests will be granted or denied;

(7) actions the Commission has taken to reduce the amount of time a waiver request remains pending; and

(8) the technologies that are the most effective in the deployment of phase II E–911 services by such tier III providers.

SEC. 107. FCC REQUIREMENTS FOR CERTAIN TIER III CARRIERS.

(a) IN GENERAL.—The Federal Communications Commission shall act on any petition filed by a qualified Tier III carrier requesting a waiver of compliance with the requirements of section 20.18(g)(1)(v) of the Commission's rules (47 C.F.R. 20.18(g)(1)(v)) Within 100 days after the Commission receives the petition. The Commission shall grant the waiver of compliance with the requirements of section 20.18(g)(1)(v) of the Commission's rules (47 C.F.R. 20.18(g)(1)(v)) requested by the petition if it determines that strict enforcement of the requirements of that section would result in consumers having decreased access to emergency services.

(b) QUALIFIED TIER III CARRIER DEFINED.—In this section, the term ''qualified Tier III carrier'' means a provider of commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)) that had 500,000 or fewer subscribers as of December 31, 2001.

TITLE II—SPECTRUM RELOCATION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Commercial Spectrum Enhancement Act''.

SEC. 202. RELOCATION OF ELIGIBLE FEDERAL ENTITIES FOR THE REALLOCATION OF SPECTRUM FOR COMMERCIAL PURPOSES.

Section 113(g) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(8)) is amended by striking paragraphs (1) through (3) and inserting the following:

''(1) ELIGIBLE FEDERAL ENTITIES.—Any Federal entity that operates a Federal Government station assigned to a band of frequencies specified in paragraph (2) and that incurs relocation costs because of the reallocation of frequencies from Federal use to non-Federal use shall receive payment for such costs from the Spectrum Relocation Fund, in accordance with section 118 of this Act. For purposes of this paragraph, Federal power agencies exempted under subsection (c) (4) that choose to relocate from the frequencies identified for reallocation pursuant, to subsection (a), are eligible to receive payment under this paragraph.

''(2) ELIGIBLE FREQUENCIES.—The bands of eligible frequencies for purposes of this section are as follows:

''(A) the 216–220 megahertz band, the 1432–1435 megahertz band, the 1710–1755 megahertz band, and the 2385–2390 megahertz band of frequencies; and

''(B) any other band of frequencies reallocated from Federal use to non-Federal use after January 1, 2003, that is assigned by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), except for bands of frequencies previously identified by the National Telecommunications and Information Administration in the Spectrum Reallocation Final Report, NTIA Special Publication 95–32 (1995).

''(3) DEFINITION OF RELOCATION COSTS.—For purposes of this subsection, the term 'relocation costs' means the costs incurred by a Federal entity to achieve comparable capability of systems, regardless of whether that capability is achieved by relocating to a, new frequency assignment or by utilizing an alternative technology. Such costs include—

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

''(B) the costs of all engineering, equipment, software, site acquisition and construction costs, as well as any legitimate and prudent transaction expense, including outside consultants, and reasonable additional costs incurred by the Federal entity that are attributable to relocation, including increased recurring costs associated with the replacement facilities;

''(C) the costs of engineering studies, economic analyses, or other expenses reasonably incurred in calculating the estimated relocation costs that are provided to the Commission pursuant to paragraph (4) of this subsection;

''(D) the one-time costs of any modification of equipment reasonably necessary to accommodate commercial use of such frequencies prior to the termination of the Federal entity's primary, allocation or protected status, when the eligible frequencies as defined in paragraph (2) of this subsection are made available for private sector uses by competitive bidding and a Federal entity retains primary allocation or protected status in those frequencies for a period of time after the completion of the competitive bidding process; and

''(E) the costs associated With the accelerated replacement of systems and equipment if such acceleration is necessary to ensure the timely relocation of systems to a new frequency assignment.

''(4) NOTICE TO COMMISSION OF ESTIMATED RELOCATION COSTS.—

''(A) The Commission shall notify the NTIA at least IS months prior to the commencement of any auction of eligible frequencies defined in paragraph (2). At least 6 months prior to the commencement of any such auction, the NTIA, on behalf of the Federal entities and after review by the Office of Management and Budget, shall notify- the Commission of estimated relocation costs and timelines for such relocation.

''(B) Upon timely request of a Federal entity, the NTIA shall provide such entity With information regarding an alternative frequency assignment or assignments to which their radio communications operations could be relocated for purposes of calculating the estimated relocation costs and timelines to be submitted to the Commission pursuant to subparagraph (A).

''(C) To the extent practicable and consistent with national security considerations, the NTIA shall provide the information required by subparagraphs (A) and (B) by the geographic location of the Federal entities' facilities or systems and the frequency bands used by such facilities or systems.

''(5) NOTICE TO CONGRESSIONAL COMMITTEES AND GAO.—The NTIA shall, at the time of providing an initial estimate of relocation costs to the Commission under paragraph (4)(A), submit to Committees on Appropriations and Energy and Commerce of the House of Representatives for approval, to the Committees on Appropriations and Commerce, Science, and Transportation of the Senate for approval, and to the Comptroller General a copy of such estimate and the timelines for relocation. Unless disapproved within 30 days, the estimate shall be approved. If disapproved, the NTIA may resubmit a revised initial estimate.

''(6) IMPLEMENTATION OF PROCEDURES.—The NTIA shall take such actions as necessary to ensure the timely, relocation of Federal entities' spectrum related operations from frequencies defined in paragraph (2) to frequencies or facilities of comparable capability. Upon a finding by the NTIA that a Federal entity, has achieved comparable capability of systems by relocating to a new frequency assignment or by utilizing an alternative technology, the NTIA shall terminate the entity's authorization and notify the Commission that the entity's relocation has been completed. The NTIA shall also terminate such entity's authorization if the NTIA determines that the entity, has unreasonably failed to comply with the timeline

for relocation submitted by the Director of the Office of Management and Budget under section 118(d)(2)(B).''.

SEC. 203. MINIMUM AUCTION RECEIPTS AND DISPOSITION OF PROCEEDS.

(a) AUCTION DESIGN.—Section 309(j)(3) of the Communications Act of 1934 (47 U.S.C. 309(j)(3)) is amended—

(1) by striking ''and'' at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(F) for any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)), the recovery of 110 percent of estimated relocation costs as provided to the Commission pursuant to section 113(g)(4) of such Act.''.

(b) SPECIAL AUCTION PROVISIONS FOR ELIGIBLE FREQUENCIES.—Section 309(j) of such Act is further amended by adding at the end the following new paragraph:

''(15) SPECIAL AUCTION PROVISIONS FOR ELIGIBLE FREQUENCIES.—

''(A) SPECIAL REGULATIONS.—The Commission shall revise the regulations prescribed under paragraph (4)(F) of this subsection to prescribe methods by which the total cash proceeds from any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall at least equal 110 percent of the total estimated relocation costs provided to the Commission pursuant to section 113(g)(4) of such Act.

''(B) CONCLUSION OF AUCTIONS CONTINGENT ON MINIMUM PROCEEDS.—The Commission shall not conclude any auction of eligible frequencies described in section 113(g)(2) of such Act if the total cash proceeds attributable to such spectrum are less than 110 percent of the total estimated relocation costs provided to the Commission pursuant to section 113(g)(4) of such Act. If the Commission is unable to conclude an auction for the foregoing reason, the Commission shall cancel the auction, return within 45 days after the auction cancellation date any deposits from participating bidders held in escrow, and absolve such bidders from any obligation to the United States to bid in any subsequent reauction of such spectrum.

''(C) AUTHORITY TO ISSUE PRIOR TO DEAUTHORIZATION.—In any auction conducted under the regulations required by subparagraph (A), the Commission may grant a license assigned for the use of eligible frequencies prior to the termination of an eligible Federal entity's authorization. However, the Commission shall condition such license by requiring that the licensee cannot cause harmful interference to such Federal entity until such entity's authorization has been terminated by the National Telecommunications and Information Administration.''.

(c) DEPOSIT OF PROCEEDS.—Paragraph (8) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) in subparagraph (A), by inserting ''or subparagraph (D)'' after ''subparagraph (B)''; and

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

''(D) DISPOSITION OF CASH PROCEEDS.—Cash proceeds attributable to the auction of any eligible frequencies described in section 113(8)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall be deposited in the Spectrum Relocation Fund established under section 118 of such Act, and shall be available in accordance with that section.''.

SEC. 204. ESTABLISHMENT OF FUND AND PROCEDURES.

Part B of the National Telecommunications and Information Administration Organization Act is amended by adding after section 117 (47 U.S.C. 927) the following new section:

''SEC. 118. SPECTRUM RELOCATION FUND.

''(a) ESTABLISHMENT OF SPECTRUM RELOCATION FUND.—There is established on the books of the Treasury a separate fund to be known as the 'Spectrum Relocation Fund' (in this section referred to as the 'Fund'), which shall be administered by the Office of Management and Budget (in this section referred to as 'OMB'), in consultation with the NTIA.

''(b) CREDITING OF RECEIPTS.—The Fund shall be credited with the amounts specified in section 309(j)(8)(D) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)).

''(c) USED TO PAY RELOCATION COSTS.—The amounts in the Fund from auctions of eligible frequencies are authorized to be used to pay relocation costs, as de fined in section 113(g)(3) of this Act, of an eligible Federal entity incurring such costs with respect to relocation from those frequencies.

''(d) FUND AVAILABILITY.—

''(1) APPROPRIATION.—There are hereby appropriated from the Fund such sums as are required to pay the relocation costs specified in subsection (c).

''(2) TRANSFER CONDITIONS.—None of the funds provided under this subsection may be transferred to any eligible Federal entity—

''(A) unless the Director of OMB has determined, in consultation with the NTIA, the appropriateness of such costs and the timeline for relocation; and

''(B) until 30 days after the Director of OMB has submitted to the Committees on Appropriations and Energy and Commerce of the House of Representatives for approval, to the Committees on Appropriations and Commerce, Science, and Transportation of the Senate for approval, and to the Comptroller General a detailed plan describing specifically how the sums transferred from the Fund xvill be used to pay, relocation costs in accordance with such subsection and the timeline for such relocation.

Unless disapproved within 30 days, the amounts in the Fund shall be available immediately. If the plan is disapproved, the Director may, resubmit a revised plan.

''(3) REVERSION OF UNUSED FUNDS.—Any auction proceeds in the Fund that are remaining after the payment of the relocation costs that are payable from the Fund shall revert to and be deposited in the general fund of the Treasury not later than 8 years after the date of the deposit of such proceeds to the Fund.

''(e) TRANSFER TO ELIGIBLE FEDERAL ENTITIES.—

(1) TRANSFER.—

''(A) Amounts made available pursuant to subsection (d) shall be transferred to eligible Federal entities, as defined in section 113(g)(1) of this Act.

''(B) An eligible Federal entity may receive more than one such transfer, but if the sum of the subsequent transfer or transfers exceeds 10 percent of the original transfer—

''(i) such subsequent transfers are subject to prior approval by the Director of OMB as required by subsection (d)(2)(A);

''(ii) the notice to the committees containing the plan required by subsection (d)(2)(B) shall be not less than 45 days prior to the date of the transfer that causes such excess above 10 percent;

''(iii) such notice shall include, in addition to such plan, an explanation of need for such subsequent transfer or transfers; and

''(iv) the Comptroller General shall, within 30 days after receiving such plan, review, such plan and submit to such committees an assessment of the explanation for the subsequent transfer or transfers.

''(C) Such transferred amounts shall be credited to the appropriations account, of the eligible Federal entity which has incurred, or °-ill incur, such costs, and shall, subject to paragraph (2), remain available until expended.

''(2) RETRANSFER TO FUND.—An eligible Federal entity that has received such amounts shall report its expenditures to OMB and shall transfer any amounts in excess of actual relocation costs back to the Fund immediately after the NTIA has notified the Commission that the entity's relocation is complete, or has determined that such entity has unreasonably failed to complete such relocation in accordance with the timeline required by subsection (d)(2)(A).''.

SEC. 205. TELECOMMUNICATIONS DEVELOPMENT FUND.

Section 714(f) of the Communications Act of 1934 (47 U.S.C. 614(f)) is amended to read as follows:

''(f) LENDING AND CREDIT OPERATIONS.—Loans or other extensions of credit from the Fund shall be made available to an eligible small business on the basis of—

''(1) the analysis of the business plan of the eligible small business;

''(2) the reasonable availability of collateral to secure the loan or credit extension;

''(3) the extent to which the loan or credit extension promotes the purposes of this section; and

''(4) other lending policies as defined by the Board.''.

SEC. 206. CONSTRUCTION.

Nothing in this title is intended to modify section 1062(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65).

SEC. 207. ANNUAL REPORT.

The National Telecommunications and Information Administration shall submit an annual report to the Committees on Appropriations and Energy and Commerce of the House of Representatives, the Committees on Appropriations and Commerce, Science, and Transportation of the Senate, and the Comptroller General on—

(1) the progress made in adhering to the timelines applicable to relocation from eligible frequencies required under section 118(d)(2)(A) of the National Telecommunications and Information Administration Organization Act, separately stated on a communication system-by-system basis and on an auction-by-auction basis; and

(2) with respect to each relocated communication system and auction, a statement of the estimate of relocation costs required under section 113(8)(4) of such Act, the actual relocations costs incurred, and the amount of such costs paid from the Spectrum Relocation Fund.

SEC. 208. PRESERVATION OF AUTHORITY, NTIA REPORT REQUIRED.

(a) SPECTRUM MANAGEMENT AUTHORITY RETAINED.—Except as provided with respect to the bands of frequencies identified in section 113(g)(2)(A) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)(A)) as amended by this title, nothing in this title or the amendments made by this title shall be construed as limiting the Federal Communications Commission's authority to allocate bands of frequencies that are reallocated from Federal use to non-Federal use for unlicensed, public safety, shared, or noncommercial use.

(b) NTIA REPORT REQUIRED.—Within 1 year after the date of enactment of this Act, the Administrator of the National Telecommunications and Information Administration

shall submit to the Energy and Commerce Committee of the House of Representatives and the Commerce, Science, and Transportation Committee of the Senate a report on various policy options to compensate Federal entities for relocation costs when such entities' frequencies are allocated by the Commission for unlicensed, public safety, shared, or non-commercial use.

SEC. 209. COMMERCIAL SPECTRUM LICENSE POLICY REVIEW.

(a) EXAMINATION.—The Comptroller General shall examine national commercial spectrum license policy as implemented by the Federal Communications Commission, and shall report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce Within 270 days.

(b) CONTENT.—The report shall address each of the following:

(1) An estimate of the respective proportions of electromagnetic spectrum capacity that have been assigned by the Federal Communications Commission—

(A) prior to enactment of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) providing to the Commission's competitive bidding authority,

(B) after enactment of that section using the Commission's competitive bidding authority, and

(C) by means other than competitive bid ding,

and a description of the classes of licensees assigned under each method.

(2) The extent to which requiring entities to obtain licenses through competitive bidding places those entities at a competitive or financial disadvantage to offer services similar to entities that did not acquire licenses through competitive bidding.

(3) The effect, if any, of the use of competitive bidding and the resulting diversion of licensees' financial resources on the introduction of new services including the quality, pace, and scope of the offering of such services to the public.

(4) The effect, if any, of participation in competitive bidding by incumbent spectrum license holders as applicants or investors in an applicant, including a discussion of any additional effect if such applicant qualified for bidding credits as a designated entity.

(5) The effect on existing license holders and consumers of services offered by these providers of the Administration's Spectrum License User Fee proposal contained in the President's Budget of the United States Government for Fiscal Year 2004 (Budget, page 299; Appendix, page 1046), and an evaluation of whether the enactment of this proposal could address, either in part or in whole, any possible competitive disadvantages described in paragraph (2).

(c) FCC ASSISTANCE.—The Federal Communications Commission shall provide information and assistance, as necessary, to facilitate the completion of the examination required by subsection (a).

TITLE III—UNIVERSAL SERVICE

SEC. 301. SHORT TITLE.

This title may be cited as the ''Universal Service Antideficiency Temporary Suspension Act''.

SEC. 302. APPLICATION OF CERTAIN TITLE 31 PROVISIONS TO UNIVERSAL SERVICE FUND.

(a) IN GENERAL.—During the period beginning on the date of enactment of this Act and ending on December 31, 2005, section 1341 and subchapter II of chapter 15 of title 31, United States Code, do not apply—

(1) to any amount collected or received as Federal universal service contributions required by section 254 of the Communications Act of 1934 (47 U.S.C. 254), including any interest earned on such contributions; nor

(2) to the expenditure or obligation of amounts attributable to such contributions for universal service support programs established pursuant to that section.

(b) POST-2005 FULFILLMENT OF PROTECTED OBLIGATIONS.—Section 1341 and subchapter II of chapter 15 of title 31, United States Code, do not apply after December 31, 2005, to an expenditure or obligation described in subsection (a) (2) made or authorized during the period described in subsection (a).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PICKERING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5419.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FAREWELL TO THE HOUSE

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, today I cast my last vote in this august Chamber, and today I spend my last day with my colleagues here with nearly 25 years of service on behalf of the third congressional district and the great people who live there in Louisiana, and I wanted to take a minute to say goodbye and to say a few words of thanks.

First, I want to thank the good Lord for giving me this week. Were it not for this lame duck session following a year of illness with cancer, I might not have had the chance to come back and spend this week with you where I could renew friendships and thank all of you on a personal level for the many acts of kindness and the extraordinary times we have had together over the last 25 years.

Secondly, I want to thank all of you on both sides of the aisle for the amazing amounts of friendship.

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One of our esteemed colleagues who we lost to a brain tumor, Mr. Mike Sarne of Oklahoma, one of my dearest friends, once said the only reason he kept running for reelection was the immense honor and privilege of serving with such an amazing group of men and women who come to this great capital and serve their country and their individual districts and the honor and privilege of getting to know them and to work side by side with them, and I feel that today after this nearly 25-year term of service.

I have served the people of the 3rd district of Louisiana longer than any other Congressman has served, and I have that enormous privilege, and I want to thank them in Louisiana who have shown such patience and such amazing amount of tolerance to put up with the likes of me for the last 25 years.

I have served them 15 years as a Democrat and almost 10 years now as a Republican. I do not know if any other district in America would tolerate a Congressman making those sorts of shifts and turns in a political career as well as the folks in Louisiana have tolerated me, but it has given me some insight, and I want to quickly share them with my colleagues.

Like few people in this Chamber, I have come to know the Members of this side of the aisle for over 15 years, not as partisan enemies, but as friends; and I have come to know now the people on this side of the aisle for the last 10 years, not as partisan enemies but as friends. I wish that all of my colleagues had that opportunity in this House. I wish they could somehow cross this aisle and get to know one another the way we used to know one another in this Chamber.

The politics and personal attacks and personal destruction have almost taken hold in this place in a way that we cannot reverse it, and we need to reverse it soon if this Nation and this institution are to survive.

This institution is a place for diversity, for great clashes of ideas, for great principles to come together and in a great crush of public debate so that it might redefine itself on a regular basis. It is not a place we ought to be constantly attacking each other and questioning one another's motives, but we have somehow gotten there.

I plead with my colleagues as I leave this place, this place that has been so important to me and the folks of Louisiana who have put their faith and trust in me in the last 25 years, please end this system and go back to a time and place where we can begin debating one another and recognizing we all come over here as patriots, as Americans first and as party members second.

I leave with a great fondness for my colleagues, a great amount of appreciation for all the days I have spent with you, and I want to say a fond farewell on behalf of the 650,000 people of Louisiana who have allowed me the chance to work with you. I want to wish you well in the upcoming sessions. I will try to be in touch and to stay close to you as we go forward. You have made for me a home in this Chamber that I shall not forget, and you have given me a most extraordinary honor and privilege of being a part of the greatest democratic institution on the face of the Earth, and I thank you for that and bid you farewell.