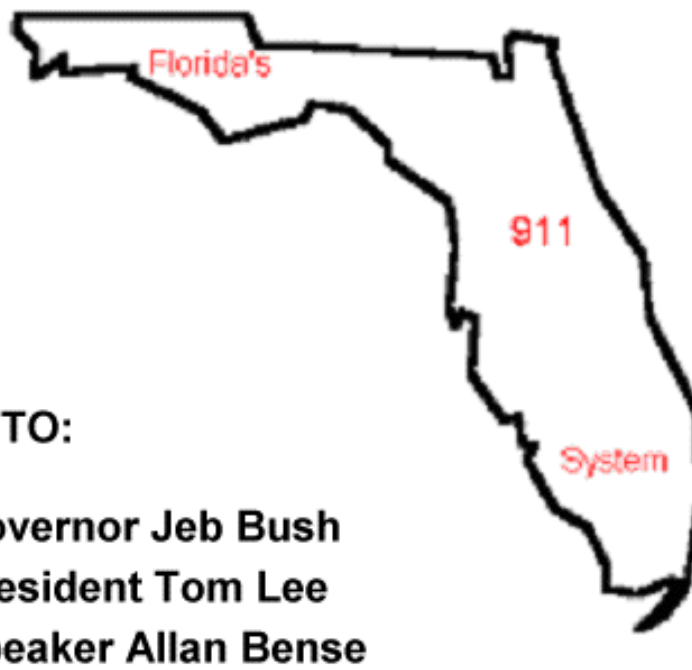


WIRELESS 911 BOARD

INITIAL REPORT



February 28, 2005



PRESENTED TO:

Honorable Governor Jeb Bush
Honorable President Tom Lee
Honorable Speaker Allan Bense



Mission Statement: To provide to the residents and visitors of the State of Florida the most technologically efficient and cost effective wireless E9-1-1 services available within the funding allowances.

Letters to Governor, Senate President, and House Speaker

- \$33 million was reimbursed to the providers for actual costs of implementing and maintaining wireless E911 in Florida (up from \$38 million last year)

This report is respectfully submitted to you with the unanimous support of all seven (7) members of the State of Florida Wireless 911 Board. Our goal of providing Florida with 100% E911 wireless services for the most advanced Public Safety response is progressing. The Board is dedicated in providing and improving Florida's emergency response.

Sincerely,

Mary B. Anderson

Deborah S. Caruthers

John C. Ford

H. Nelson Green, Jr.

James "Jim" Smith

February 28, 2005

The Honorable Jeb Bush, Governor
State of Florida
The Capitol Building
Tallahassee, Florida 32399-0001

Dear Governor Bush:

The State of Florida Wireless 911 Board respectfully presents the 2004 Annual Report. The 2004 year was a great year for the Florida 911 with record amounts of progress and financial disbursements for our counties and service providers.

The Wireless 911 Board's focus to provide the best possible 911 wireless services for the protection of all Florida's residents and visitors is always our primary goal. New technologies and business variations make this one of the most challenging endeavors.

The continuing support of the Governor and the Florida Legislature have greatly assisted this Board and enhanced the implementation of 911 within the State of Florida.

Please review the attached Annual Report for more detail; however, the Florida Wireless 911 Board would like to highlight a few of the 2004 accomplishments:

- 58 Counties have deployed Phase I Wireless E911 with one or more providers (up from 47 last year)
- 42 Counties have deployed Phase II Wireless E911 with one or more providers (up from 26 last year)
- \$61 million was collected from the Wireless 911 Fee to support E911 in Florida (up from \$49 million last year)
- \$24 million was distributed to the Counties to help support operational 911 systems (up from \$ 21 million last year)

Christine A. Tringali

Wireless 911 2004 Board Report.doc

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February 28, 2005

The Honorable Tom Lee, President
State of Florida
404 South Monroe Street, Suite 302
Tallahassee, Florida 32399-0001

Dear Senator Lee:

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February 28, 2005

The Honorable Allan Bense, Speaker
State of Florida
402 South Monroe Street, Suite 420
Tallahassee, Florida 32399-0001

Dear Speaker Bense:

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I. INTRODUCTION

The State of Florida Wireless 911 Board was established by the Legislature in 1999 (See Attachment 1 for Legislation) to help implement a statewide enhanced 911 (“E911”) system for wireless telephone users. The Board’s primary function is to administer the funds derived from a \$.50 monthly fee on each wireless phone number assigned to persons with a Florida billing address (place of primary use). The Board makes disbursements from the fund to county governments and wireless carriers in strict accordance with Section 365.173, Florida Statutes.

Section 365.173, Florida Statutes requires the Board to allocate the funds as follows: 44% shall be distributed each month to counties for purposes of providing 911 or E911 service (payments are based on the number of wireless subscribers in each county); 54% shall be distributed to wireless service providers in response to sworn invoices for the actual costs incurred in providing E911 service (up to 2% of the funds allocated to providers shall be retained by the Board for administrative and operational purposes); and 2% shall be used to provide extra assistance to rural counties for providing 911 or E911 service.

The Board is composed of seven members: one (1) member is designated by the State Chief Information Officer and he/she is Chair of the Board; three (3) members are County 911 Coordinators and are appointed by the Governor; and three (3) members are from the Wireless Telecommunications Industry and are appointed by the Governor.

The Board meets at least one day each month with the goal of making Florida a national leader in wireless E911 services. These services should equal or improve upon the services provided to wireline E911 users.

This Annual Report is submitted in accordance with Section 365.172(6) (c), Florida Statutes.

II. RECEIPTS FOR CALENDAR YEAR 2002-2004

A total of 24 wireless service providers remitted monies derived from the collection of the Wireless 911 Fee to the Board during this year. The total received and deposited into the Wireless Emergency Telephone System Fund by wireless service providers during the year was \$61,481,825. This indicates a growth rate of about 25 percent for calendar year 2004 which was attributable to the increase in subscribers and timing of receipts in the first quarter of 2004.

The following table presents the collections on a quarterly basis. See Section XI (b), Statement of Cash Receipts and Disbursements for additional detailed information relative to revenue collections by the Board.

<u>QUARTER</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
First	\$12,440,023	\$12,939,332	\$17,884,036
Second	\$11,829,674	\$12,836,301	\$14,529,300
Third	\$9,893,398	\$14,130,827	\$14,695,503
Fourth	\$10,026,953	\$9,100,699	\$14,372,986
TOTALS	\$44,190,048	\$49,007,159	\$61,481,825

The Board maintains a list showing the total amount of E911 fee revenues collected by each provider. This list contains confidential and proprietary information for each provider and is on file with the State Technology Office.

III. DISBURSEMENTS FOR CALENDAR YEAR 2004

A total of \$57,833,983 was disbursed from the Wireless Emergency Telephone System Trust Fund during the year. This is a 4% decrease over last year, attributable to the disbursement timing process. During this calendar year the Board actually authorized \$62,101,161 an actual increase of 1% over the previous year.

a. Disbursement to Counties

1) Monthly Payments to Counties for 911

A total of \$23,054,344 was disbursed from the Fund to Florida counties in calendar year 2004. These distributions represent a 9% increase from the amount distributed to the counties last year, attributable to the increase of fees received and timing of disbursements. The actual distribution tracks the total collections shown in Section II. See Section X, Exhibit 1 for monthly and quarterly disbursements.

These funds have allowed the counties to continue the process of upgrading the equipment and systems necessary for enhanced 911 service statewide and to begin implementing wireless enhanced (Phase I and Phase II) 911 service. Phase I provides the call back number and general area of the tower location. Phase II provides the call back number and more accurate location information. See Section VI for more information about Phase I and Phase II.

2) Rural County Grant Program for Enhanced 911

A total of \$625,230 was disbursed from the Fund to 5 rural counties in calendar year 2004 in response to grant applications submitted to the Board. See below for a listing of these disbursements.

<u>COUNTY</u>	<u>AMOUNT AWARDED</u>	<u>TYPE GRANT</u>
Calhoun	\$112,500.00	Non-Recurring
Glades	\$110,455.00	Non-Recurring
Gulf	\$121,900.00	Non-Recurring
Wakulla	\$127,840.00	Non-Recurring
Washington	\$152,535.00	Non-Recurring
GRAND TOTAL	\$625,230.00	

3) Payments to Rural Counties for Supplemental Grants

A total of \$410,436 was disbursed from the Fund to 23 rural counties in calendar year 2004. See below for a listing of these disbursements.

<u>COUNTY</u>	<u>AMOUNT AWARDED</u>
Baker	\$16,242.00
Bradford	\$11,256.00
Calhoun	\$26,483.00
Desoto	\$2,530.00
Dixie	\$22,810.00
Franklin	\$25,429.00
Gilchrist	\$22,426.00
Glades	\$25,454.00
Gulf	\$22,976.00
Hamilton	\$25,999.00
Hardee	\$6,717.00
Holmes	\$23,564.00
Jackson	\$2,205.00
Jefferson	\$20,626.00
Lafayette	\$29,864.00
Levy	\$1,841.00
Liberty	\$29,500.00
Madison	\$22,576.00
Suwannee	\$173.00
Taylor	\$20,495.00
Union	\$25,220.00
Wakulla	\$9,168.00
Washington	\$16,882.00
GRAND TOTAL	\$410,436.00

b. Payments to Wireless Carriers for Enhanced 911

A total of \$33,472,070 was disbursed from the Fund to wireless service providers in calendar year 2004. This factor of increase indicates a substantial deployment of Wireless Enhanced 911 Service in Florida during calendar year 2004. See Section X, Exhibit 3 for disbursements.

The Board anticipates a continued substantial requirement for Wireless Service Provider reimbursement in calendar year 2005. See Attachment 2 for requested and pending deployments of Wireless Enhanced 911 Service.

Over the past few years, the disbursements to the wireless service providers have not kept pace with collections. This is now changing and the payments to providers are outpacing the collections as Phase I and II are deployed throughout the State. The really expensive part of wireless enhanced 911 service is Phase II. Phase II invoices are just now starting to be paid for the systems deployed in Florida. These distributions are expected to accelerate during the coming year based on the continuing deployment of Phase I and Phase II service as the deadline (December 31, 2005) set by the FCC approaches.

c. Payments for Board Administration and Operations

A total of \$271,903 was disbursed from the Fund to pay for Board expenses in calendar year 2004. This represents an increase of \$44,406 from the previous year. The engagement of the accounting firm, Law, Redd, Crona and Munroe, P.A. accounted for \$52,365. Payments to the Attorney General's Office for Board Counsel during the year were \$12,009. The Board reimbursed the Department of Management Services and the State Technology Office \$124,867 for necessary staff support and Administrative Assessment Fees. Meeting, travel and managerial costs accounted for the \$82,662 balance of the Administrative Expenditures. See Section X, Exhibit 4 for a list of these disbursements.

IV. FUND BALANCE – CASH BASIS

Beginning Balance 1/1/04	--	\$55,106,232
Receipts in 2004	--	\$61,481,825
Interest Earned and Refunds	--	\$ 1,876,858
Disbursements in 2004	--	<u>\$(57,833,983)</u>
 FUND BALANCE 12/31/04	 --	 <u><u>\$60,630,932</u></u>

The Fund Balance is broken down as follows:

-- Reserved Funds for Wireless Carriers	\$52,391,803
-- Reserved Funds for Counties	\$ 7,183,300
-- Reserved Funds for Rural Counties	\$ 657,078
-- Designated for Providers/Board Administration and Operations	<u>\$ 398,751</u>
 -- TOTAL	 <u><u>\$60,630,932</u></u>

V. ACCOMPLISHMENTS

In 2004, the Wireless 911 Board continued promoting the deployment of enhanced systems by providing engineering assistance to counties, administering the Rural County Grant Program and providing funds to ensure \$3,000 per month for each of the rural counties.

The Rural County Grant Program provided the necessary funds to enable the three remaining counties that were not at an enhanced level to initiate acquisition of this vital public safety service. While 99.8% of Florida's population is served by enhanced 911, conversion of these three remaining counties in early 2005 will provide enhanced 911 on a statewide basis.

Educational assistance to Florida's 911 community has been, and continues to be, a priority of the Board. The Board reviews requests from counties for 911 related training classes and where appropriate and contingent upon available funding, reimburses counties for this important training. In the past, classes have included various 911 operational areas. This is being expanded to include classes on 911 mapping and addressing, both of which are critical to an efficient 911 system. All funds for educational programs are paid from the Board's administration and operational allowance.

The Board continues to actively promote the deployment of Phase I and Phase II location technology in our state by developing a close working relationship with individual counties to provide guidance and engineering support as needed. This working relationship is also carried over to the wireless service providers to ensure that the providers are kept informed of requirements and expectations.

The Board continues to take an active role in Phase I and Phase II deployment as illustrated in Section 6. Without the commitment, dedication and assistance of the wireless industry, Florida would not be where we are with this vital public safety service.

Florida continues to be a national leader in all aspects of 911 deployment! Our legislation establishes 911 on a countywide basis with wireline and wireless telephone services receiving comparable treatment. There is an excellent working relationship between the STO, county 911 coordinators

and the vendor community that has helped promote the migration to wireless location technology within our state.

VI. STATUS OF ENHANCED WIRELESS 911 SERVICES

The Wireless 911 Board conducted a survey for the Calendar Year 2004 Report with respect to the status of E911 Phase I and Phase II service in the State of Florida. Sixty-two (62) of the 67 counties in Florida have officially requested Phase I service from the Wireless Service Providers operating in their county. Additionally, fifty-one (51) counties have requested Phase II Wireless Enhanced 911 Service from the Wireless Service Providers. See Attachment 2 for the results of this survey.

a. Phase I Service

The Federal Communications Commission (FCC) defines Phase I as the carriers' ability to deliver to the emergency call taker the telephone number of the wireless handset originating a 911 call (known as Automatic Number Identification-ANI), as well as the location of the cell site or base station receiving the 911 call. This information provides the caller's general location.

The following 49 counties are fully Phase I compliant with all of the Wireless Service Providers operating in their area.

Alachua	Bay	Brevard
Broward	Charlotte	Citrus
Clay	Collier	Columbia
Desoto	Duval	Escambia
Glades	Hamilton	Hardee
Hendry	Hernando	Hillsborough
Indian River	Jackson	Lake
Lee	Leon	Levy
Madison	Manatee	Marion
Martin	Miami-Dade	Monroe
Nassau	Okaloosa	Okeechobee
Orange	Osceola	Palm Beach
Pasco	Pinellas	Polk
Putnam	Santa Rosa	Sarasota
Seminole	St. John	Sumter

Volusia
Washington

Wakulla

Walton

One or more Wireless Service Providers in the following 9 counties have implemented Phase I service:

Flagler
Gilchrist
Jefferson

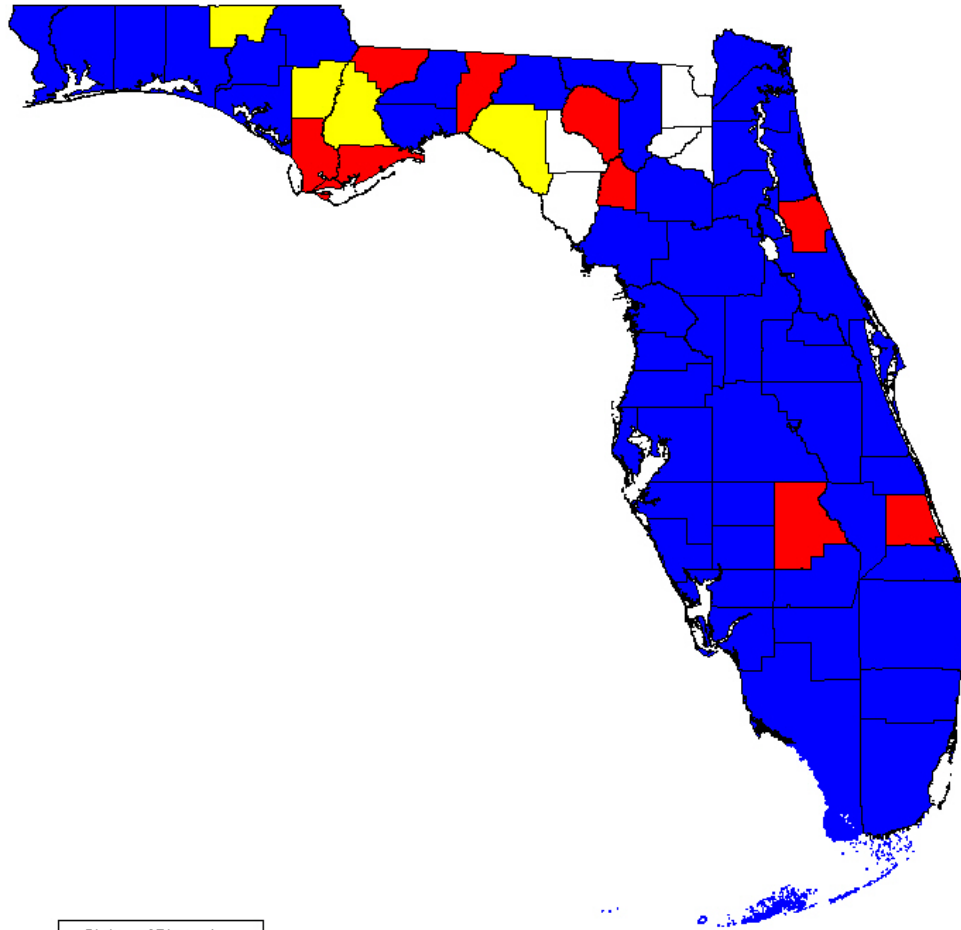
Franklin
Gulf
St. Lucie

Gadsden
Highlands
Suwannee

As of December 31, 2004, the Wireless Service Providers have completed the implementation of Phase I service within the timeframe required by the Federal Communications Commission. Implementation of Phase I service in Florida proceeded much faster during the past year. There are still 5 counties that have not requested Phase I service due to one or more of the following reasons:

- Uncertainty of available implementation (non-recurring) funding
- Uncertainty of available ongoing/maintenance funding
- Lack of personnel resources to coordinate implementation
- Lack of understanding of the Phase I process

Status of Wireless Enhanced 9-1-1 Phase I



Status of Phase I

- Complete
- No Request
- Partial
- Requested

Phase II Service

The FCC defines Phase II as the carriers' ability to deliver latitude and longitude location information also known as Automatic Location Identification (ALI), to the call taker in addition to the Automatic Number Identification (ANI).

Two fundamental technologies have been developed for locating the wireless telephone that dials 911 and both have some limitations that affect accuracy. One is a network-based system that involves the positioning of special sensors at the tower sites. Network-based systems require that the 911 call be certified by multiple cell sites in order to determine position. The other technology is a handset-based system similar to that used in the Global Positioning System (GPS) satellite receivers. Handset-based technology may provide limited reception inside vehicles and buildings without special antennas. A third alternative is Assisted-GPS, which combines the network-based and handset-based technologies.

The FCC is requiring all 5 major nationwide providers to adhere to their implementation plans for Phase II service. The FCC has established December 31, 2005 as the nationwide Phase II completion date. The FCC has instructed the Enforcement Bureau to obtain quarterly status reports from the wireless service providers and to ensure that the providers meet their scheduled rollout plans. The Enforcement Bureau has levied a number of stiff fines on companies that did not meet the requirements of their implementation plans as submitted to the FCC. These providers have also been given a schedule by the FCC Enforcement Bureau to become compliant. Please see the FCC web site at www.fcc.gov for the complete details of the provider's implementation plans and past FCC actions.

In Florida, the following 51 counties have requested Phase II service:

Alachua	Bay	Brevard	Broward
Calhoun	Charlotte	Citrus	Clay
Collier	Desoto	Duval	Escambia
Flagler	Franklin	Glades	Gulf
Hamilton	Hendry	Hernando	Highlands
Hillsborough	Indian River	Jackson	Lake
Lee	Leon	Levy	Liberty
Madison	Manatee	Marion	Martin
Miami-Dade	Monroe	Nassau	Okaloosa
Okeechobee	Orange	Osceola	Palm Beach
Pasco	Pinellas	Polk	Sarasota
Seminole	St. Johns	St. Lucie	Sumter
Volusia	Walton	Washington	

Phase II has been implemented by one or more wireless service providers in the following 42 counties:

Alachua	Bay	Brevard
Broward	Charlotte	Citrus
Clay	Collier	Desoto
Duval	Escambia	Glades
Hendry	Hernando	Hillsborough
Indian River	Jackson	Lake
Lee	Levy	Madison
Manatee	Marion	Martin
Miami-Dade	Monroe	Nassau
Okaloosa	Okeechobee	Orange
Osceola	Palm Beach	Pasco
Pinellas	Polk	Sarasota
Seminole	St. Johns	Sumter
Volusia	Walton	Washington

There are 16 counties that have not requested Phase II service for similar reasons as given above for not requesting Phase I service.

Status of Wireless Enhanced 9-1-1 Phase II

A map of Florida divided into counties, color-coded to show the status of Wireless Enhanced 9-1-1 Phase II. The legend indicates four categories: Complete (blue), No Request (white), Partial (red), and Requested (yellow). The map shows that many counties in the central and southern parts of the state are in the 'Partial' (red) category, while some counties in the north and west are 'Complete' (blue) or 'Requested' (yellow). A significant portion of the northern panhandle and central regions are marked as 'No Request' (white).

Status of Phase II	
Blue	Complete
White	No Request
Red	Partial
Yellow	Requested

c. Implementation Issues

Lack of available funding continues to be the primary hurdle delaying the implementation of Phase I and Phase II wireless enhanced services in Florida. While the Board's Rural County Grant Program has helped tremendously, additional requirements placed on counties such as wireless mapping systems, addressing, required equipment upgrades and staffing have led to budgetary shortfalls that continue to slow the progress to achieve Phase II compliance.

At this time, the 2% available by Statute for rural county grants is insufficient to fund the requests submitted to the Board for assistance. Federal legislation was passed by the 108th Congress in the last session and signed by the President that should make some additional E911 funding available to states utilizing a 50 % matching grant program. However, the requirements of the program or the time frames have not been identified.

Early last year, the Chairman of the Federal Communication Commission, requested that each state appoint a single point of contact for all wireless 911 issues that may come before the FCC. Governor Bush appointed Mr. Jim Martin, Statewide 911 Coordinator to this position and he has attended a number of meetings and discussions with FCC staff and Commissioners regarding E911 deployment as well as legislative issues affecting 911. Other meetings are planned by the FCC to discuss the unique challenges posed by wireless communications and the affect on a state's 911 program.

VII. RECOMMENDATIONS TO ADJUST AMOUNT OF FEE AND ALLOCATION OF PAYMENTS

Section 365.172(6)(a)(4)(d) F.S. requires the Board to address whether the amount of the E911 fee and the allocation percentages should be adjusted to comply with the requirements of the Federal Communications Commission (FCC).

The Board finds that at this time the amount of the fee does not need to be adjusted to meet any requirements of the FCC. However, in an effort to assist rural counties and medium counties in meeting the FCC mandate to have wireless enhanced statewide E911 services in place by December 31, 2005, the Board is currently reviewing the possibilities of changing the percentage allocations.

Due to a shortfall of funding within the rural counties, the decreased wireline revenues within all counties, and the anticipated provider reimbursement payments over the next year, an adjustment in the allocation percentages is a strong possibility at this time. It was previously projected that an adjustment in the percentage allocations would not be required until 2006 or 2007.

In 2004 the wireless growth was approximately 25 percent. Without the additional revenue from "Prepaid Customers", the growth rate is expected to be in the 10 percent range for the next two years. "Prepaid Customers" are expected to total an estimated growth of 10 percent in 2005. The Board's best estimate of the funds available and the funds necessary to implement Phase I and Phase II wireless enhanced service in Florida for the next two calendar years is presented below:

Anticipated Available Funds

	<u>2005</u>	<u>2006</u>
Beginning balance January 1	\$ 60,630,932	\$ 25,177,257
Receipts	\$ 67,630,008	\$ 74,393,008
Interest Earnings	<u>\$ 2,300,000</u>	<u>\$ 1,200,000</u>
Subtotal:	\$130,560,940	\$100,770,265

Anticipated Disbursements

	<u>2005</u>	<u>2006</u>
Allocation to Counties	\$ 32,055,359	\$ 32,732,924
Rural County Assistance	\$ 1,387,912	\$ 1,487,860
Phase I Provider Reimbursement	\$ 7,855,401	\$6,681,700
Phase II Provider Reimbursement	\$ 63,354,606	\$56,011,446
Board Operations/Administration	<u>\$ 650,000</u>	<u>\$ 670,000</u>
Subtotal:	\$ 105,303,278	\$97,583,930
TOTAL:	\$ 25,257,662	\$ 3,186,335

There is a coordinated effort of the Wireless 911 Board, Wireless Industry and the Counties of Florida for statewide implementation of Phase I and Phase II wireless enhanced service throughout the State of Florida. The timing of implementation of Phase I and Phase II systems in the rural counties are of great concern and are causing delays in the wireless service provider implementations. Changing the percentage distribution to increase the rural county disbursements will likely force pro-rated payments of invoices for wireless service provider non-recurring and recurring costs.

VIII. OTHER OUTSTANDING ISSUES

The Board is considering a number of issues that may require future legislation. These issues are presented below.

a. Non-Traditional Wireless Customers

The Board believes that all devices with access to 911 service should pay the fee to support 911 activities as defined by Florida Statutes.

A non-traditional service that still causes the Board concerns is what is commonly referred to as telematics. Monitored telematics solutions are mostly the domain of the auto companies, with fifteen auto makers offering monitored solutions that provide safety and security through an embedded phone coupled with a GPS location device. How the 911 system should treat these customers and/or the systems is difficult. This service allows the customer to access 911 from the auto makers' proprietary service. In some instances the vehicle has a single button for "direct" access to the appropriate 911 PSAP. In other instances, the owner of the vehicle is connected to an operator of the manufacturer (i.e., General Motors', OnStar and Ford Motors' Vehicle Communications System (VCS), etc.) who in turn transfers the call to the appropriate 911 center. In either situation, the Board believes the owner should be charged the wireless 911 fee and the money remitted to the Board for distribution to the counties and the wireless service providers. The button for proprietary service of the manufacturer connects the driver with a company-operated customer care center that provides numerous services. The Board met with one of the vendors who offer this service and the vendor feels that they are not covered under current legislation since the customer does not dial 911 directly but connects to an operator who then dials 911 utilizing landline services. The Board feels that customers with vehicles that provide this service should be charged the fee. These centers may relay an emergency call to a response agency in the appropriate county based on the nature of the call and the location of the vehicle. These services not only utilize the existing 911 services but make it necessary for the counties to incur additional costs for landline connections with the potential of no reimbursement from these types of services today.

Based on automotive industry projections, the number of vehicles that will have this capability will continue to grow. A number of upscale vehicles already include these capabilities as standard equipment and more mid range vehicles are offering the service every day. The Board believes Florida currently has a significant number of non-traditional wireless users; however, since there is no reporting on these types of phone, it is virtually impossible to know exactly how many of these phones exist. The Board believes that efforts should be made to identify methods to collect the wireless 911 fees from these users to support the 911 system they will be calling. The Board will continue to work on this issue and will propose legislation for action in the future. It is anticipated that legislation at the State level will be required to accomplish this objective.

In October 2003, the FCC issued an order, specific to OnStar, and issued a second notice of proposed rule making to address the entire telematics issue. The decision which is located at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-03-242A1.pdf. and also found in Attachment 3 found that the OnStar embedded telematics units installed in vehicles are handsets or mobile phones in accordance with Part 20 of the Commission's rules. The issue at hand is how to identify these handsets and collect the required wireless 911 fee.

One issue that continues to be problematic occurs when the 911 PSAP is alerted directly from the vehicle that a situation has occurred indicating the driver may be in trouble. PSAPs with Phase II capability will dispatch emergency equipment because they are unable to get a response from the customer. Numerous PSAPs have reported that these calls are typically nothing more than a vehicle being serviced at a local dealer location. These types of false alarms have the ability to tie up emergency units and prevent the availability of personnel and equipment from responding to true emergencies.

b. Uninitialized Wireless Telephones

Many 911 PSAPs have reported multiple incidents where callers have repeatedly dialed 911, simply for the purpose of making false police reports, insulting or swearing at the call-taker, often over loading 911 lines, critical emergency response personnel and resources (equipment). Concern over this growing problem has been expressed to this Board by numerous Public Safety Agencies.

In the past FCC rulings required that uninitialized phones be permitted to access 911 without limitation. Recently the FCC changed its ruling and stated the phones that continuously made nuisance calls to 911 could be blocked from making 911 calls by the carrier. This is very problematic because all wireless vendors have historically developed software and other systems that prevented the blocking of 911 on their network for all phones whether initialized or not. With this rule change, the selective blocking of one phone is very difficult if not impossible with the current technology (software, hardware, systems, etc.).

In April 2002, the FCC ordered that the number 123-456-7890 be used as a pseudo-callback number to identify uninitialized phones. Apparently they were not aware that the wireless industry, through joint ATIS/TIA standard J-STD-036, had previously recommended a more flexible alternative – to use the digits 911 followed by the last 7-digits of the ESN or IMEI. This does not provide a completely unique identifier, but makes it highly unlikely that two emergency callers using uninitialized phones would transmit the same identifier. This type of callback number has two related purposes. The first is to program phones that are explicitly designed for emergency-calling only, whether sold directly to consumers or donated by carriers to charities, such as women's shelters. The second use is to be transmitted to a PSAP by an MSC when a phone is recognized as uninitialized. PSAP personnel and equipment can recognize this type of number and will know that callback is not possible. However, the unique nature of the identifier makes it possible to distinguish callers, and may be useful in cases of abuse of the emergency calling system.

On October 21st 2003, the FCC repealed its decision and recommended the adoption of the industry's solution. This new order, released on November 3, 2003, can be found at:

hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-03-262A1.pdf

and is also included in Attachment 3.

There are a number of varieties of uninitialized phones and each carries its own unique set of issues. The first and typically the most problematic is the used phone that has been replaced with a more up to date model. These phones are often sold at garage sales, flea markets, traded in or in many cases simply thrown in the garbage. The phone number programmed in the old phone is still assigned to the original customer. The customer retains the same number and the carrier simply reprograms the system to recognize the new equipment. The used phone is no longer able to access the network because of the reprogramming in the carrier's system with the exception of 911. When a call is placed to the PSAP from the used phone, the PSAPs see the original customer's number and are often directed to the customer of record by the carrier. Carriers can only determine if a call was made by previous equipment by validating the Electronic Serial Number (ESN) or equivalent on a GSM system, of the current customer with the ESN of the phone which placed the call to 911. This often times results in incorrect information being provided to the PSAP because the carrier may not be able to immediately access the call record to determine the ESN that actually placed the call.

The second type of uninitialized phone is the phone that is purchased simply for emergencies and never has a number installed. The carriers have no record of these phones in their database and are unable to provide PSAPs with any information on the caller because the equipment has never been registered with a carrier. Again, based on current technology, providers advise they are unable to deny service to these uninitialized phones, even though there may be a clear pattern of 911 abuse, and potential public endangerment.

A third type of uninitialized phone is the phone that has been disconnected, either temporarily or permanently, for non-payment. In these cases, the carrier is still able to provide customer information providing the customer has not simply thrown the phone away or given it to someone else to use.

Virtually all of the above types of uninitialized wireless phones have been donated to many humanitarian and human service agencies such as battered women's shelters, senior citizens and crime prevention associations. The objectives of these organizations are laudable; however, the capability of uninitialized phones to access 911 has also been mis-used and abused.

PSAPs have expressed an interest in establishing a "registry" of uninitialized phones provided for humanitarian purposes. These phones would be permitted to access 911 and would present to the call taker a provider determined service number. This would only be feasible if all phones were donated by carriers and they could track those phones by ESN. Unfortunately, these types of phones can be donated to organizations by any number of corporations or even individuals and since there is no need to contact the carrier to access 911, there is no way to insure a true and accurate accounting of those phones would exist. Additionally, this would impose more of a burden on carriers because current billing systems are designed to track telephone numbers and as discussed above, many of these phones may not have numbers at all and if they do have numbers, those same numbers have most likely been reassigned to other customers. Legislation at the federal level or actions by the FCC would be required to correct this issue.

A related issue is that of unintentional 911 calls, generated by one button dialers on some models of phones. These phones are able to call 911 with the touch of a button. These phones can dial 911 when the owner sits on them, bumps them or jostles them in pocket or purse. Again, the concern is that these unintentional 911 calls are tying up valuable emergency service resources and personnel. Insisting that phones not be preprogrammed at the manufacturer with this feature would eliminate some of these nuisance calls because there are many cases where the customer is not aware that this feature even exists on his/her phone.

c. Subscriber Based Provider Reimbursements

The Board reviews the Cost Recovery Plans submitted by the wireless service providers to determine if the practice by some of the providers of using a per subscriber cost is a fair and accurate method of cost recovery. The Board at this time feels that the cost of implementing wireless enhanced 911 service may be more related to tower sites, antenna faces, or other factors rather than subscriber count. Because some Carriers do use the subscriber based provider reimbursement, the Board seeks to determine if there is a clear relationship between subscriber count and cost.

If it is determined that a clear relationship between cost and subscribers can not be developed, the Board will notify the providers well in advance of their due date that this methodology will not be acceptable for submittal of the Cost Recovery Plans for the following year.

d. Local Number Portability and Number Pooling

The ever increasing demand for telephone numbers over the past few years has required a number of measures to be adopted to conserve available telephone numbers. One of the first dramatic steps was number pooling. For years, carriers (both wireline and wireless) purchased blocks of 10,000 numbers and utilized the numbers as they were needed. As the communications business grew and numbers became less plentiful, a plan known as number pooling was developed. Number pooling requires carriers to return all thousand blocks of numbers that were not being used so they can be reassigned to other carriers as needed. This process changed the way PSAPs and other emergency personnel looked at numbers dialing into their call centers. Previously, emergency personnel only had to look at the Area Code and the first three digits of the number (NPA/NXX) in order to identify the carrier. Experienced call takers could usually identify the carrier from memory without using any other resources. Number pooling now requires that emergency personnel consider the entire number in a Phase 0 or Phase I environment in order to determine which carrier can provide information on the calling number. Additionally, this list is no longer static as carriers are required to regularly return numbers they are no longer using so that they can and will be reassigned to other carriers as needed.

On the heels of number pooling came Local Number Portability (LNP). This concept allows a customer to change from one wireless carrier to another and keep the same telephone number.

The initial implementation of LNP allowed a customer to change their wireline telephone company and keep their number. On November 24, 2003, wireless LNP was implemented in the top 100 markets in the USA. This capability is now available nationwide.

LNP brings a host of E-911 issues to the table. When a customer decides to change carriers and keep the same number, both carriers must work together to make this change. Although the FCC has requested this gap not exceed more than 4 hours, there is typically a delay that can last from a few hours to more than a day while this change takes place. During this time, the customer should be able to make outgoing calls (typically from the previous carrier's system) but is not able to receive incoming calls. PSAPs may receive conflicting information depending on which carrier they contact for assistance. The initial carrier will show that the customer has disconnected and will have no way to reach the customer. The new carrier may not yet have all of the customer's information and will also be unable to reach the customer. There is definitely a gap that exists between the time a customer requests a carrier change and the change is complete. This could result in problems if a customer needs to contact emergency personnel during the time the number is being ported.

NeuStar, Inc. was chosen by the FCC to administer and operate both the North American Numbering Plan (NANP), oversee local number portability efforts via the Number Portability Administration Center (NPAC); and manage national number pooling. NeuStar can provide information to emergency personnel in certain circumstances, however, PSAPs do need to register in advance in order to obtain access to the NeuStar site. More information on NeuStar can be obtained at: www.neustar.biz/.

e. Statewide Addressing, Mapping and Call Routing

Based upon the inability to direct Radio Frequency transmissions used by wireless phones, the routing of 9-1-1 calls does not respect geopolitical boundaries and in turn many times are answered by a Public Safety Answering Point (PSAP) that does not service the area of the emergency. The problem is further exacerbated by a telephone trunking system that is unable to transfer the call to the proper agency in a timely and efficient manner. The Board believes a statewide map base, a consistent statewide addressing database and a statewide call routing system should be considered as solutions to incompatible systems with increasing cost. A regional or statewide routing system would allow the effective transfer of wireless 9-1-1 calls to the proper agency. Preliminary figures also indicate that by using some existing infrastructure, that the cost of providing wireless 9-1-1 would be reduced. The Board is committed to providing prompt access to accurate information for emergency services throughout the state and is reviewing each of these items.

Various state agencies, as well as county and local government have made progress in geographic information systems (GIS) and digital mapping with global positioning systems. Statewide mapping would entail conversion of the local and state information into a statewide format that would build on the accomplishments of the existing information base. Providing a consistent statewide map base will assist in the accurate location of wireless callers based on the wireless longitude and latitude signals and its corresponding map location.

The proposal of a statewide database for 9-1-1 information has generated renewed interest this year, based on the increasing database costs for the 9-1-1 system. This solution appears to be economically feasible and counties are researching regional as well as statewide databases as alternative methods for database management. Establishing a dependable statewide database will increase the database accuracy, produce efficiencies, and cost savings throughout the state.

- f. Wireline Decrease – County Loss of Revenue
Most counties continue to report a decrease in the number of wireline subscribers. This in turn decreases the revenues generated from local 9-1-1 surcharge on these lines. Based upon information provided to the Wireless 9-1-1 Board, the number of wireless subscribers will surpass the number of wireline subscribers in Florida this calendar year. Each time a subscriber opts to replace a wireline with a wireless phone, the revenue is decreased by over 50% from that subscriber. Further, Voice over Internet Protocol (VoIP) telephone services continue to gain market share and do not generate any fees for the provisioning of 9-1-1.
- g. Voice Over Internet Protocol (VoIP)
Emerging technologies continue to create challenges for the 9-1-1 community. Voice over Internet Protocol (VoIP) is one of those challenges. This technology allows the user to use his digital device, be it a laptop computer or PDA, to access through the Internet the traditional phone system including 9-1-1. Due to the high mobility of digital devices and no physical address being assigned to the user, incorrect or no location information may be received. Further, consider that the user may use this service anywhere in which the Internet may be accessed; the caller may access a Public Safety Answering Point literally on the wrong continent. Although this challenge does not fall directly under the Board's purview, we will continue to monitor VoIP and provide support to the counties in any way possible.
- h. HR5419
An Act 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 the 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 (Attachment 5).

i. Prepaid

365.172 (8) (a) F.S. states “each home service provider shall collect a monthly fee imposed on each customer whose place of primary use is within this state. The rate of the fee shall be 50 cents per month per each service number, beginning August 1, 1999. The fee shall apply uniformly and be imposed throughout the state.”

The Board believes that all devices with access to 911 services should pay the fee to support the service. There are a number of varieties of prepaid phones and each carries its own unique set of fee collection issues. The Board is developing a new Rule (60DD-1.003) entitled Monthly Wireless 911 Surcharge on Prepaid Wireless Telephone Service, setting forth guidelines regarding surcharges on prepaid wireless service. A rule development workshop is scheduled to review alternative methodologies for prepaid fee collections and to develop the proposed language for the multiple types of prepaid services.

IX. LEGISLATIVE RECOMMENDATIONS

The Wireless 911 Board has not taken a position on the Wireless Industry Legislative Bill, however the Board does support the language that allows the Board the ability to change the wireless revenue percentages on an annual basis versus the current every 2 year basis. The Board also supports the language which allows the Board the capability to transfer funds from the Providers category to the County category to be utilized by the Board as needed to provide grants to rural counties and loans to medium counties for the purposes of upgrading E911 systems.

There are a number of other complex issues that the Board has been addressing. The Board will work with the 911 stakeholders in Florida to reach consensus on the issues and provide legislative proposals, if necessary, in future years. Some of these issues are discussed in Section VIII of this Report.

X. FINANCIAL REPORT

The Auditor General is currently conducting the 2002/04 annual audit of the Wireless Emergency Telephone System.

**STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
WIRELESS EMERGENCY
TELEPHONE SYSTEM FUND**



**FINANCIAL REPORT
(REVIEWED)
FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2004**

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Certified Public Accountants

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ACCOUNTANT'S REVIEW REPORT

February 7, 2004

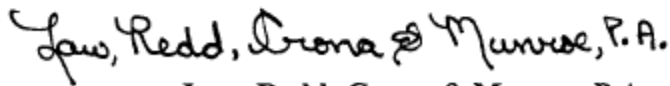
Members of the Board
State of Florida, Department of Management Services
Wireless Emergency Telephone System Fund
Tallahassee, Florida

We have reviewed the accompanying statement of cash receipts and disbursements and change in cash and investments of the State of Florida, Department of Management Services, Wireless Emergency Telephone System Fund (a Special Revenue Fund) for the four quarters and twelve months ended December 31, 2004 and the accompanying supplementary information contained in Exhibits 1 to 4, which are presented only for supplementary analysis purposes, in accordance with *Statements on Standards for Accounting and Review Services* issued by the American Institute of Certified Public Accountants. The financial statement has been prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles. All information included in the financial statement is the representation of management of the State of Florida, Department of Management Services, Wireless Emergency Telephone System Fund.

A review consists principally of inquiries of the State of Florida, Department of Management Services, Wireless Emergency Telephone System Fund personnel and analytical procedures applied to financial data. It is substantially less in scope than an audit in accordance with auditing standards generally accepted in the United States of America, the objective of which is the expression of an opinion regarding the financial statement taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statement in order for it to be in conformity with the cash basis of accounting.

Our review was made for the purpose of expressing limited assurance that there are no material modifications that should be made to the financial statement in order for it to be in conformity with the cash basis of accounting. The information in the accompanying Exhibits 1 to 4 is presented only for supplementary analysis purposes. Such information has been subjected to the inquiry and analytical procedures applied in the review of the basic financial statement. This information is presented on the cash basis of accounting, and we are not aware of any material modifications that should be made thereto.


Law, Redd, Crona & Munroe, P.A.

STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
AND CHANGE IN CASH AND INVESTMENTS
(REVIEWED)

For the Twelve Months Ended December 31, 2004

	Quarter Ended 3/31/2004	Quarter Ended 6/30/2004	Quarter Ended 9/30/2004	Quarter Ended 12/31/2004	Total
RECEIPTS:					
Wireless 911 fees	\$ 17,884,036	\$ 14,529,300	\$ 14,695,503	\$ 14,372,986	\$ 61,481,825
Interest income	525,773	388,282	453,975	484,534	1,852,564
Refunds of rural grant awards	-	2,514	14,753	7,027	24,294
Total	18,409,809	14,920,096	15,164,231	14,864,547	63,358,683
DISBURSEMENTS:					
Disbursements to counties - Exhibit 1	6,128,949	6,212,506	4,283,527	6,429,362	23,054,344
Grants to rural counties - Exhibit 2	127,840	-	497,390	-	625,230
Supplemental grants to rural counties - Exhibit 2	118,851	109,692	74,728	107,165	410,436
Provider reimbursements - Exhibit 3	5,287,622	11,864,818	5,582,689	10,736,941	33,472,070
General and administrative - Exhibit 4	46,670	42,990	143,179	39,064	271,903
Total	\$ 11,709,932	\$ 18,230,006	\$ 10,581,513	\$ 17,312,532	57,833,983

DECREASE IN CASH AND INVESTMENTS

Cash and investments at January 1, 2004

5,524,700

Cash and investments at December 31, 2004

55,106,232

\$ 60,630,932

See Accompanying Notes and
Accountant's Review Report.

**STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND
NOTES TO FINANCIAL STATEMENT – CASH BASIS
(REVIEWED)
DECEMBER 31, 2004**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Wireless Emergency Telephone System Fund (Wireless 911 Fund) was established during 1999 pursuant to the “Wireless Emergency Communications Act”, *Florida Statutes*, Chapters 365.172 and 173 for the purpose of implementing a cohesive statewide emergency telephone number “911” program. The program provides citizens with rapid direct access to public safety agencies by dialing “911” with the objective of reducing response time to situations requiring emergency services.

The following summary of the Wireless Emergency Telephone System Fund’s significant accounting policies is presented to assist the reader in interpreting the accompanying statement of cash receipts and disbursements and change in cash and investments. These policies should be viewed as an integral part of the accompanying financial statement.

Reporting Entity

Financial statements of the Wireless 911 Fund are an integral part of the financial statements of the State of Florida (the primary government). The Wireless 911 Fund financial statements are included as a Special Revenue Fund in the financial statements of the State of Florida, the reporting entity. There are no component units for the Wireless 911 Fund to consider for inclusion in its financial statements.

Basis of Presentation

Pursuant to Chapter 365.172(6)(c), *Florida Statutes*, the accompanying statement of cash receipts and disbursements and change in cash and investments of the Wireless 911 Fund for the twelve months ended December 31, 2004 has been prepared on the cash basis of accounting. Under that basis, the only assets recognized are cash and investments, and no liabilities are recognized. All transactions are recognized as either cash receipts or disbursements, and noncash transactions are not recorded. The cash basis differs from generally accepted accounting principles primarily because accounts receivable from service providers; and accounts payable to vendors, providers and counties are not included in the financial statement.

The Wireless 911 Fund is classified as a governmental activity through the use of a Special Revenue Fund. Special Revenue Funds are used to account for special assessments and specific governmental revenue sources (other than major capital projects) that are restricted by law or administrative action to expenditures for specific purposes.

STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND
NOTES TO FINANCIAL STATEMENT – CASH BASIS
(REVIEWED)
DECEMBER 31, 2004

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Wireless E911 Fees

The Wireless E911 fee was established to provide funds to local governments to pay for the cost of installing and operating wireless 911 systems and to reimburse wireless telephone service providers for costs incurred to provide 911 or enhanced 911 services. The 911 fees (50 cents per month per each service number) are collected from subscribers by providers and are remitted to the Wireless 911 Board for deposit into the Wireless Emergency Telephone System Fund. Providers may retain a one percent reimbursement amount for the administrative costs incurred by the provider to bill, collect and remit the fee. Providers must remit the fee within 60 days after the end of the month in which the fee was billed. The fees are reported as collected.

Investment Income – Investment income is comprised of interest received on pooled investments with the State Treasury.

Reservations of Fund Balance

Reserves are established to indicate that a portion of fund balance is legally segregated for specific future use. The types of reserves are described as follows:

Reserved for Encumbrances – represents outstanding purchase orders, contracts, and other commitments.

Reserved for Providers – represents fund assets restricted for reimbursements to wireless telephone providers for costs incurred to provide 911 or enhanced 911 services under the provisions of Chapter 365.173, *Florida Statutes*.

Reserved for Assistance to Rural Counties – represents fund assets restricted for reimbursements to rural counties for upgrading 911 systems and for the provision of reimbursable loans and grants by the Department of Management Services to rural counties under the provisions of Chapter 365.173, *Florida Statutes*.

**STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND
NOTES TO FINANCIAL STATEMENT – CASH BASIS
(REVIEWED)
DECEMBER 31, 2004**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Designation of Fund Balance

Designated for Providers and Administration – Chapter 365.173, *Florida Statutes* provides that up to two percent of funds allocated to telephone providers may be retained by the Board for administrative costs. The Board has designated that any excess over such administrative costs be allocated to telephone providers.

At December 31, 2004, net assets of the fund on a cash basis equal the cash and investments (\$60,630,932). Reservations and designations of the net assets – cash basis was as follows:

Reserved for Wireless Carriers	\$52,391,803
Reserved for Counties	7,183,300
Reserved for Rural Counties	<u>657,078</u>
	60,232,181
Designated for Providers and Administration	<u>398,751</u>
Total Net Assets – Cash Basis	<u>\$60,630,932</u>

2. DEPOSITS WITH STATE TREASURY

Deposits are made through the Office of the Treasurer, State of Florida and are included in the pooled investments with the State Treasury, an internal investment pool of the State of Florida. Pooled investments are reported at fair value. Pooled investments are not categorized by level of risk under GASB 3 guidelines because they are not evidenced by securities that exist in physical or book entry form. The Auditor General, State of Florida performs the operational audit of the activities and investments of the Office of the Treasurer.

STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND
NOTES TO FINANCIAL STATEMENT – CASH BASIS
(REVIEWED)
DECEMBER 31, 2004

3. DISTRIBUTION OF FEES

Chapter 365.173, *Florida Statutes* requires that 911 fees be distributed as follows:

Distributions to counties - Forty-four percent of the 911 fees collected shall be distributed monthly to counties, based on the total number of wireless subscriber billing addresses in each county.

Provider reimbursements – Fifty-four percent of the 911 fees collected shall be distributed to telephone providers for the actual costs incurred to provide 911 or enhanced 911 service. Up to two percent of the funds allocated to providers shall be retained by the Board to be applied to administrative costs and expenses.

Assistance to rural counties – Two percent of the 911 fees collected shall be used to assist rural counties in providing facilities, network and service enhancements for the 911 or E911 systems and the provision of reimbursable loans and grants to rural counties for upgrading 911 systems.

Exhibits

STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND

DISBURSEMENTS TO COUNTIES - CASH BASIS
(REVIEWED)

For the Twelve Months Ended December 31, 2004

Month	Amount	Quarter Ended
January	\$ 55,556	\$ -
February	2,142,588	-
March	3,930,805	6,128,949
April	2,096,406	-
May	2,026,588	-
June	2,089,512	6,212,506
July	2,113,633	-
August	2,169,894	-
September	-	4,283,527
October	2,159,460	-
November	2,093,416	-
December	2,176,486	6,429,362
Total	<u>\$ 23,054,344</u>	<u>\$ 23,054,344</u>

The above distributions are calculated at 44% of net wireless fees collected pursuant to *Florida Statute 365.173 (a)*.

See Accountant's Review Report.

STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND

GRANTS TO RURAL COUNTIES - CASH BASIS
(REVIEWED)

For the Twelve Months Ended December 31, 2004

	Grants	Supplemental Grants	Total
Baker	\$ -	\$ 16,242	\$ 16,242
Bradford	-	11,256	11,256
Calhoun	112,500	26,483	138,983
Columbia	-	-	-
Desoto	-	2,530	2,530
Dixie	-	22,810	22,810
Flagler	-	-	-
Franklin	-	25,429	25,429
Gadsden	-	-	-
Gilchrist	-	22,426	22,426
Glades	110,455	25,454	135,909
Gulf	121,900	22,976	144,876
Hamilton	-	25,999	25,999
Hardee	-	6,717	6,717
Hendry	-	-	-
Holmes	-	23,564	23,564
Jackson	-	2,205	2,205
Jefferson	-	20,626	20,626
Lafayette	-	29,864	29,864
Levy	-	1,841	1,841
Liberty	-	29,500	29,500
Madison	-	22,576	22,576
Monroe	-	-	-
Okeechobee	-	-	-
Putnam	-	-	-
Sumter	-	-	-
Suwannee	-	173	173
Taylor	-	20,495	20,495
Union	-	25,220	25,220
Wakulla	127,840	9,168	137,008
Walton	-	-	-
Washington	152,535	16,882	169,417
	<u>\$ 625,230</u>	<u>\$ 410,436</u>	<u>\$ 1,035,666</u>

"Rural County" is defined under *Florida Statutes*, Chapter 365.172 (3) as any county that has a population of fewer than 75,000.

See Accountant's Review Report.

STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND

REIMBURSEMENT DISBURSEMENTS TO
WIRELESS TELEPHONE SERVICE PROVIDERS - CASH BASIS
(REVIEWED)
For the Twelve Months Ended December 31, 2004

Month	Alltel	AT&T	Cellular South	Cingular	Comnet	Metro	Nextel	Southern	Sprint	T-Mobile	U. S. Cellular	Verizon	Total	Disbursed by Quarter
January	\$ 673,360	\$ 188,852	-	\$ 677,955	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,100	\$ -	\$ 3,100	\$ -
February	257,679	2,569,218	6,098	104,038	-	-	131,963	-	-	-	1,550	177,930	1,851,610	-
March	1,169,922	3,558,536	6,291	-	-	-	-	-	199,474	-	13,950	282,455	3,432,912	5,287,622
April	227,231	105,351	-	541,703	-	2,295,077	499,120	-	-	-	4,650	-	7,533,596	-
May	19,370	2,669,642	41,032	339,704	-	51,900	-	-	-	-	4,650	-	930,835	-
June	128,308	-	33,219	4,323,267	-	41,500	-	20,394	264,095	-	4,650	-	3,400,387	11,864,818
July	-	-	-	-	-	-	-	-	-	-	-	220,878	4,705,672	-
August	-	-	-	-	-	-	-	-	-	877,017	-	-	877,017	-
September	-	-	-	-	-	-	-	-	-	-	-	-	-	5,582,689
October	781,394	3,944,557	52,833	-	36,867	159,700	424,563	704,063	309,393	-	13,950	109,781	6,537,101	-
November	20,538	1,664,148	45,778	714,850	4,204	52,900	-	-	-	-	4,650	-	2,507,068	-
December	97,353	91,715	20,923	1,067,042	4,030	52,900	-	21,682	-	-	4,650	332,477	1,692,772	10,736,941
	\$ 3,375,155	\$ 14,792,019	\$ 206,174	\$ 7,768,559	\$ 45,101	\$ 2,653,977	\$ 1,055,646	\$ 746,139	\$ 772,962	\$ 877,017	\$ 55,800	\$ 1,123,521	\$ 33,472,070	\$ 33,472,070

See Accountant's Review Report.

STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
WIRELESS EMERGENCY TELEPHONE SYSTEM FUND

GENERAL AND ADMINISTRATIVE EXPENDITURES - CASH BASIS
(REVIEWED)

For the Twelve Months Ended December 31, 2004

Accounting	\$ 52,365
Advertising	264
Dues and Subscriptions	413
FDMS Administrative Charges	124,867
Insurance	355
Legal	12,009
Office Supplies	2,023
Postage and Communications	549
Printing	54
Other	8,703
Rent	7,018
Training	7,253
Travel	50,770
Capital Outlay-Data Processing Equipment	<u>5,260</u>
Total	<u><u>\$ 271,903</u></u>

See Accountant's Review Report.

ATTACHMENT 1

911 LEGISLATION SECTION 365.171-175, FLORIDA STATUTES

The 2004 Florida Statutes

365.171 Emergency telephone number "911."--

- (1) **SHORT TITLE.**--This section shall be known and cited as the "Florida Emergency Telephone Act."
- (2) **LEGISLATIVE INTENT.**--It is the intent of the Legislature to establish and implement a cohesive statewide emergency telephone number "911" plan which will provide citizens with rapid direct access to public safety agencies by dialing the telephone number "911" with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.
- (3) **DEFINITIONS.**--As used in this section:
- (a) "Office" means the State Technology Office.
- (b) "Local government" means any city, county, or political subdivision of the state and its agencies.
- (c) "Public agency" means the state and any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services.
- (d) "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.
- (4) **STATE PLAN.**--The office shall develop a statewide emergency telephone number "911" system plan. The plan shall provide for:
- (a) The establishment of the public agency emergency telephone communications requirements for each entity of local government in the state.
- (b) A system to meet specific local government requirements. Such system shall include law enforcement, firefighting, and emergency medical services and may include other emergency services such as poison control, suicide prevention, and emergency management services.
- (c) Identification of the mutual aid agreements necessary to obtain an effective "911" system.
- (d) A funding provision which shall identify the cost necessary to implement the "911" system.
- (e) A firm implementation schedule which shall include the installation of the "911" system in a local community within 24 months after the designated agency of the local government gives a firm order to the telephone utility for a "911" system.
- The office shall be responsible for the implementation and coordination of such plan. The office shall adopt any necessary rules and schedules related to public agencies for implementing and coordinating such plan, pursuant to chapter 120. The public agency designated in the plan shall order such system within 6 months after publication date of the plan if the public agency is in receipt of funds appropriated by the Legislature for the implementation and maintenance of the "911" system. Any jurisdiction which has utilized local funding as of July 1, 1976, to begin the implementation of the state plan as set forth in this section shall be eligible for at least a partial reimbursement of its direct cost when, and if, state funds are available for such reimbursement.
- (5) **SYSTEM DIRECTOR.**--The director of the office or his or her designee is designated as the director of the statewide emergency telephone number "911" system and, for the purpose of carrying out the provisions of this section, is authorized to coordinate the activities of the system with state, county, local, and private agencies. The director is authorized to employ not less than five persons, three of whom will be at the professional level, one at the secretarial level, and one to fill a fiscal position, for the purpose of carrying out the provisions of this section. The director in implementing the system shall consult, cooperate, and coordinate with local law enforcement agencies.

(6) REGIONAL SYSTEMS.--Nothing in this section shall be construed to prohibit or discourage the formation of multijurisdictional or regional systems; and any system established pursuant to this section may include the jurisdiction, or any portion thereof, of more than one public agency.

(7) TELEPHONE INDUSTRY COORDINATION.--The office shall coordinate with the Florida Public Service Commission which shall encourage the Florida telephone industry to activate facility modification plans for a timely "911" implementation.

(8) COIN TELEPHONES.--The Florida Public Service Commission shall establish rules to be followed by the telephone utilities in this state designed toward encouraging the provision of coin-free dialing of "911" calls wherever economically practicable and in the public interest.

(9) SYSTEM APPROVAL.--No emergency telephone number "911" system shall be established and no present system shall be expanded without prior approval of the office.

(10) COMPLIANCE.--All public agencies shall assist the office in their efforts to carry out the intent of this section, and such agencies shall comply with the developed plan.

(11) EXISTING EMERGENCY TELEPHONE SERVICE.--Any emergency telephone number established by any local government or state agency prior to July 1, 1974, using a number other than "911" shall be changed to "911" on the same implementation schedule provided in paragraph (4)(e).

(12) FEDERAL ASSISTANCE.--The secretary of the office or his or her designee may apply for and accept federal funding assistance in the development and implementation of a statewide emergency telephone number "911" system.

(13) "911" FEE.--

(a) Following approval by referendum as set forth in paragraph (b), or following approval by a majority vote of its board of county commissioners, a county may impose a "911" fee to be paid by the local exchange subscribers within its boundaries served by the "911" service. Proceeds from the "911" fee shall be used only for "911" expenditures as set forth in subparagraph 6. The manner of imposing and collecting said payment shall be as follows:

1. At the request of the county subscribing to "911" service, the telephone company shall, insofar as is practicable, bill the "911" fee to the local exchange subscribers served by the "911" service, on an individual access line basis, at a rate not to exceed 50 cents per month per line (up to a maximum of 25 access lines per account bill rendered). However, the fee may not be assessed on any pay telephone in this state. A county collecting the fee for the first time may collect the fee for no longer than 36 months without initiating the acquisition of its "911" equipment.

2. Fees collected by the telephone company pursuant to subparagraph 1. shall be returned to the county, less the costs of administration retained pursuant to paragraph (c). The county shall provide a minimum of 90 days' written notice to the telephone company prior to the collection of any "911" fees.

3. Any county that currently has an operational "911" system or that is actively pursuing the implementation of a "911" system shall establish a fund to be used exclusively for receipt and expenditure of "911" fee revenues collected pursuant to this section. All fees placed in said fund, and any interest accrued thereupon, shall be used solely for "911" costs described in subparagraph 6. The money collected and interest earned in this fund shall be appropriated for "911" purposes by the county commissioners and incorporated into the annual county budget. Such fund shall be included within the financial audit performed in accordance with s. [218.39](#). A report of the audit shall be forwarded to the office within 60 days of its completion. A county may carry forward on an annual basis unspent moneys in the fund for expenditures allowed by this section, or it may reduce its fee. However, in no event shall a county carry forward more than 10 percent of the "911" fee billed for the prior year. The amount of moneys carried forward each year may be accumulated in order to allow for capital improvements described in this subsection. The carryover shall be documented by resolution of the board of county commissioners expressing the purpose of the carryover or by an adopted capital improvement program identifying projected expansion or replacement expenditures for "911" equipment and service features, or both. In no event shall the "911" fee carryover surplus moneys be used for any purpose other than for the "911"

equipment, service features, and installation charges authorized in subparagraph 6. Nothing in this section shall prohibit a county from using other sources of revenue for improvements, replacements, or expansions of its "911" system. A county may increase its fee for purposes authorized in this section. However, in no case shall the fee exceed 50 cents per month per line. All current "911" fees shall be reported to the office within 30 days of the start of each county's fiscal period. Any fee adjustment made by a county shall be reported to the office. A county shall give the telephone company a 90-day written notice of such fee adjustment.

4. The telephone company shall have no obligation to take any legal action to enforce collection of the "911" fee. The telephone company shall provide quarterly to the county a list of the names, addresses, and telephone numbers of any and all subscribers who have identified to the telephone company their refusal to pay the "911" fee.

5. The county subscribing to "911" service shall remain liable to the telephone company for any "911" service, equipment, operation, or maintenance charge owed by the county to the telephone company.

As used in this paragraph, "telephone company" means an exchange telephone service provider of "911" service or equipment to any county within its certificated area.

6. It is the intent of the Legislature that the "911" fee authorized by this section to be imposed by counties will not necessarily provide the total funding required for establishing or providing the "911" service. For purposes of this section, "911" service includes the functions of database management, call taking, location verification, and call transfer. The following costs directly attributable to the establishment and/or provision of "911" service are eligible for expenditure of moneys derived from imposition of the "911" fee authorized by this section: the acquisition, implementation, and maintenance of Public Safety Answering Point (PSAP) equipment and "911" service features, as defined in the Florida Public Service Commission's lawfully approved "911" and related tariffs and/or the acquisition, installation, and maintenance of other "911" equipment, including call answering equipment, call transfer equipment, ANI controllers, ALI controllers, ANI displays, ALI displays, station instruments, "911" telecommunications systems, teleprinters, logging recorders, instant playback recorders, telephone devices for the deaf (TDD) used in the "911" system, PSAP backup power systems, consoles, automatic call distributors, and interfaces (hardware and software) for computer-aided dispatch (CAD) systems; salary and associated expenses for "911" call takers for that portion of their time spent taking and transferring "911" calls; salary and associated expenses for a county to employ a full-time equivalent "911" coordinator position and a full-time equivalent staff assistant position per county for the portion of their time spent administrating the "911" system; training costs for PSAP call takers in the proper methods and techniques used in taking and transferring "911" calls; expenses required to develop and maintain all information (ALI and ANI databases and other information source repositories) necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the "911" call-taking and transferring function; and, in a county defined in s. [125.011](#)(1), such expenses related to a nonemergency "311" system, or similar nonemergency system, which improves the overall efficiency of an existing "911" system or reduces "911" emergency response time for a 2-year pilot project that ends June 30, 2003. However, no wireless telephone service provider shall be required to participate in this pilot project or to otherwise implement a nonemergency "311" system or similar nonemergency system. The "911" fee revenues shall not be used to pay for any item not listed, including, but not limited to, any capital or operational costs for emergency responses which occur after the call transfer to the responding public safety entity and the costs for constructing buildings, leasing buildings, maintaining buildings, or renovating buildings, except for those building modifications necessary to maintain the security and environmental integrity of the PSAP and "911" equipment rooms.

7. It is the goal of the Legislature that enhanced "911" service be available throughout the state. Expenditure by counties of the "911" fees authorized by this section should support this goal to the greatest extent feasible within the context of local service needs and fiscal capability. Nothing in this section shall be construed to prohibit two or more counties from establishing a combined emergency "911" telephone service by interlocal agreement and utilizing the "911" fees authorized by this section for such combined "911" service.

(b) If a county elects to obtain approval of a "911" fee by referendum, it shall arrange to place a question on the ballot at the next regular or special election to be held within the county, substantially as follows:

_____ I am in favor of the "911" emergency telephone system fee.

_____ I am against the "911" emergency telephone system fee.

If a majority of the electors voting on the question approve the fee, it may be imposed by the county.

(c) Any county imposing a "911" fee in accordance with the provisions of this subsection shall allow the telephone company to retain as an administrative fee an amount equal to 1 percent of the total "911" fee collected by the telephone company.

(14) INDEMNIFICATION AND LIMITATION OF LIABILITY.--All local governments are authorized to undertake to indemnify the telephone company against liability in accordance with the telephone company's lawfully filed tariffs. Regardless of any indemnification agreement, a telephone company or commercial mobile radio service provider as defined in s. [364.02](#) shall not be liable for damages resulting from or in connection with "911" service or identification of the telephone number, address, or name associated with any person accessing "911" service, unless the telephone company or commercial radio service provider acted with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property in providing such services.

(15) CONFIDENTIALITY OF RECORDS.--Any record, recording, or information, or portions thereof, obtained by a public agency or a public safety agency for the purpose of providing services in an emergency and which reveals the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency service or reporting an emergency by accessing an emergency telephone number "911" system is confidential and exempt from the provisions of s. [119.07](#)(1) and s. 24(a), Art. I of the State Constitution, except that such record or information may be disclosed to a public safety agency. The exemption applies only to the name, address, telephone number or personal information about, or information which may identify any person requesting emergency services or reporting an emergency while such information is in the custody of the public agency or public safety agency providing emergency services. A telephone company or commercial mobile radio service provider shall not be liable for damages to any person resulting from or in connection with such telephone company's or commercial mobile radio service provider's provision of any lawful assistance to any investigative or law enforcement officer of the State of Florida or political subdivisions thereof, of the United States, or of any other state or political subdivision thereof, in connection with any lawful investigation or other law enforcement activity by such law enforcement officer unless the telephone company or commercial mobile radio service provider acted in a wanton and willful manner.

(16) FALSE "911" CALLS.--Whoever accesses the number "911" for the purpose of making a false alarm or complaint or reporting false information which could result in the emergency response of any public safety agency is guilty of a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

History.--ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, ch. 74-357; s. 3, ch. 76-168; ss. 1, 2, ch. 76-272; s. 1, ch. 77-457; ss. 3, 4, ch. 80-275; s. 38, ch. 83-334; ss. 1, 2, ch. 85-317; s. 24, ch. 87-225; s. 1, ch. 87-259; s. 1, ch. 88-231; s. 1, ch. 89-264; s. 3, ch. 90-305; s. 110, ch. 90-360; s. 1, ch. 91-100; s. 297, ch. 92-279; s. 55, ch. 92-326; s. 1, ch. 93-171; s. 1, ch. 96-229; s. 168, ch. 96-406; s. 1, ch. 98-276; s. 97, ch. 98-279; s. 50, ch. 99-399; s. 10, ch. 2000-334; s. 1, ch. 2001-71; s. 1, ch. 2001-133; s. 106, ch. 2001-266.

The 2004 Florida Statutes

365.172 Wireless emergency telephone number "E911."--

(1) SHORT TITLE.--This section may be cited as the "Wireless Emergency Communications Act."

(2) FINDINGS, PURPOSE, AND LEGISLATIVE INTENT.--The Legislature finds and declares that:

(a) The mobile nature of wireless communications service creates complexities for providing 911 emergency services.

(b) Wireless telephone service providers are required by the Federal Communications Commission to provide wireless enhanced 911 (E911) service in the form of automatic location identification and automatic number identification pursuant to the terms and conditions set forth in an order issued by the Federal Communications Commission.

(c) Wireless telephone service providers and counties that operate 911 and E911 systems require adequate funding to recover the costs of designing, purchasing, installing, testing, and operating enhanced facilities, systems, and services necessary to comply with the requirements for E911 services mandated by the Federal Communications Commission and to maximize the availability of E911 services throughout this state.

(d) The revenues generated by the E911 fee imposed under this section are required to fund the efforts of the counties, the Wireless 911 Board under the State Technology Office, and commercial mobile radio service providers to improve the public health, safety, and welfare and serve a public purpose by providing emergency telephone assistance through wireless communications.

(e) It is necessary and beneficial to levy a fee on wireless services and to create the Wireless 911 Board to administer fee proceeds as provided in this section.

(f) It is the intent of the Legislature to:

1. Establish and implement a comprehensive statewide emergency telephone number system that will provide wireless telephone users with rapid direct access to public safety agencies by dialing the telephone number "911."

2. Provide funds to local governments to pay the cost of installing and operating wireless 911 systems and to reimburse wireless telephone service providers for costs incurred to provide 911 or enhanced 911 services.

3. Levy a reasonable fee on subscribers of wireless telephone service to accomplish these purposes.

(3) DEFINITIONS.--As used in this section and ss. [365.173](#) and [365.174](#), the term:

(a) "Active prepaid wireless telephone" means a prepaid wireless telephone that has been used by the customer during the month to complete a telephone call for which the customer's card or balance was decremented.

(b) "Answering point" means the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to such calls.

(c) "Automatic location identification" means the capability of the E911 service which enables the automatic display of information that defines the approximate geographic location of the wireless telephone used to place a 911 call.

(d) "Automatic number identification" means the capability of the E911 service which enables the automatic display of the 10-digit service number used to place a 911 call.

(e) "Board" means the board of directors of the Wireless 911 Board.

(f) "Office" means the State Technology Office.

(g) "E911" is the designation for a wireless enhanced 911 system or wireless enhanced 911 service that is an emergency telephone system or service that provides a subscriber with wireless 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated, or as otherwise provided in the state plan under s. [365.171](#), and that provides for automatic number identification and automatic location-identification features in accordance with the requirements of the order.

(h) "Fee" means the E911 fee imposed under subsection (8).

(i) "Fund" means the Wireless Emergency Telephone System Fund established in s. [365.173](#) and maintained under this section for the purpose of recovering the costs associated with providing 911 service or E911 service, including the costs of implementing the order.

(j) "Local exchange carrier" means a "competitive local exchange telecommunications company" or a "local exchange telecommunications company" as defined in s. [364.02](#).

(k) "Local government" means any municipality, county, or political subdivision or agency of a municipality, county, or political subdivision.

(l) "Mobile telephone number" or "MTN" means the telephone number assigned to a wireless telephone at the time of initial activation.

(m) "Order" means:

1. The following orders and rules of the Federal Communications Commission issued in FCC Docket No. 94-102:

a. Order adopted on June 12, 1996, with an effective date of October 1, 1996, the amendments to s. [20.03](#) and the creation of s. [20.18](#) of Title 47 of the Code of Federal Regulations adopted by the Federal Communications Commission pursuant to such order.

b. Memorandum and Order No. FCC 97-402 adopted on December 23, 1997.

c. Order No. FCC DA 98-2323 adopted on November 13, 1998.

d. Order No. FCC 98-345 adopted December 31, 1998.

2. Orders and rules subsequently adopted by the Federal Communications Commission relating to the provision of wireless 911 services.

(n) "Provider" means a person or entity who provides service and either:

1. Is subject to the requirements of the order; or

2. Elects to provide wireless 911 service or E911 service in this state.

(o) "Prepaid wireless telephone service" means wireless telephone service that is activated in advance by payment for a finite dollar amount of service or for a finite set of minutes that terminate either upon use by a customer and delivery by the wireless provider of an agreed-upon amount of service corresponding to the total dollar amount paid in advance or within a certain period of time following the initial purchase or activation, unless additional payments are made.

(p) "Public agency" means the state and any municipality, county, municipal corporation, or other governmental entity, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services.

(q) "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

(r) "Rural county" means any county that has a population of fewer than 75,000.

(s) "Service" means "commercial mobile radio service" as provided under ss. 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, August 10, 1993, 107 Stat. 312. The term "service" includes the term "wireless" and service provided by any wireless real-time two-way wire communication device, including radio-telephone communications used in cellular telephone service; personal communications service; or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network radio access line. The term does not include wireless providers that offer mainly dispatch service in a more localized, noncellular configuration; providers offering only data, one-way, or stored-voice services on an interconnected basis; providers of air-to-ground services; or public coast stations.

(t) "Service number" means the unique 10-digit wireless telephone number assigned to a service subscriber.

(u) "Sufficient positive balance" means a dollar amount greater than or equal to the monthly wireless surcharge amount.

(v) "Wireless 911 system" or "wireless 911 service" means an emergency telephone system or service that provides a subscriber with the ability to reach an answering point by dialing the digits "911." A wireless 911 system is complementary to a wired 911 system as provided for in s. [365.171](#).

(4) POWERS AND DUTIES OF THE OFFICE.--The office shall oversee the administration of the fee imposed on subscribers of statewide E911 service under subsection (8).

(5) THE WIRELESS 911 BOARD.--

(a) The Wireless 911 Board is established to administer, with oversight by the office, the fee imposed under subsection (8), including receiving revenues derived from the fee; distributing portions of such revenues to providers, counties, and the office; accounting for receipts, distributions, and income derived by the funds maintained in the fund; and providing annual reports to the Governor and the Legislature for submission by the office on amounts collected and expended, the purposes for which expenditures have been made, and the status of wireless E911 service in this state. In order to advise and assist the office in carrying out the purposes of this section, the board, which shall have the power of a body corporate, shall have the powers enumerated in subsection (6).

(b) The board shall consist of seven members, one of whom must be the system director designated under s. [365.171](#)(5), or his or her designee, who shall serve as the chair of the board. The remaining six members of the board shall be appointed by the Governor and must be composed of three county 911 coordinators recommended by the Florida Association of Counties and three members from the wireless telecommunications industry. Not more than one member may be appointed to represent any single provider on the board.

(c) The system director, or his or her designee, must be a permanent member of the board. Each of the remaining six members of the board shall be appointed to a 4-year term and may not be appointed to more than two successive terms. However, for the purpose of staggering terms, two of the original board members shall be appointed to terms of 4 years, two shall be appointed to terms of 3 years, and two shall be appointed to terms of 2 years, as designated by the Governor. A vacancy on the board shall be filled in the same manner as the original appointment.

(6) AUTHORITY OF THE BOARD; ANNUAL REPORT.--

(a) The board shall:

1. Administer the E911 fee.

2. Implement, maintain, and oversee the fund.

3. Review and oversee the disbursement of the revenues deposited into the fund as provided in s. [365.173](#). The board may establish a schedule for implementing wireless E911 service by service area, and prioritize disbursements of revenues from the fund to providers and rural counties as provided in s.

[365.173](#)(2)(b) and (c) pursuant to the schedule, in order to implement E911 services in the most efficient and cost-effective manner.

4. Review documentation submitted by providers which reflects current and projected funds derived from the E911 fee, and the expenses incurred and expected to be incurred, in order to comply with the E911 service requirements contained in the order for the purposes of:

- a. Ensuring that providers receive fair and equitable distributions of funds from the fund.
 - b. Ensuring that providers are not provided disbursements from the fund which exceed the costs of providing E911 service, including the costs of complying with the order.
 - c. Ascertaining the projected costs of compliance with the requirements of the order and projected collections of the E911 fee.
 - d. Implementing changes to the allocation percentages or reducing the E911 fee under paragraph (8)(c).
5. Review and approve or reject, in whole or in part, applications submitted by providers for recovery of moneys deposited into the fund.
6. Hire and retain employees for the purposes of performing the technical and administrative functions for the board.
7. Make and enter into contracts, pursuant to chapter 287, and execute other instruments necessary or convenient for the exercise of the powers and functions of the board.
8. Take all necessary and reasonable steps by July 1, 2000, to secure appropriate information and reports from providers and otherwise perform all of the functions that would be performed by an independent accounting firm prior to completing the request-for-proposals process under subsection (7).
9. Sue and be sued, and appear and defend in all actions and proceedings, in its corporate name to the same extent as a natural person.
10. Adopt, use, and alter a common corporate seal.
11. Elect or appoint the officers and agents that are required by the affairs of the board.
12. The board may adopt rules under ss. [120.536](#)(1) and [120.54](#) to implement this section and ss. [365.173](#) and [365.174](#).
13. Provide coordination, support, and technical assistance to counties to promote the deployment of advanced 911 and E911 systems in the state.
14. Provide coordination and support for educational opportunities related to 911 issues for the 911 community in this state.
15. Act as an advocate for issues related to 911 system functions, features, and operations to improve the delivery of 911 services to the residents of and visitors to this state.
16. Coordinate input from this state at national forums and associations, to ensure that policies related to 911 systems and services are consistent with the policies of the 911 community in this state.
17. Work cooperatively with the system director established in s. [365.171](#)(5) to enhance the state of 911 services in this state and to provide unified leadership for all 911 issues through planning and coordination.
18. Do all acts and things necessary or convenient to carry out the powers granted in this section, including but not limited to, consideration of emerging technology and related cost savings.

(b) Board members shall serve without compensation; however, members are entitled to per diem and travel expenses as provided in s. [112.061](#).

(c) By February 28 of each year, the board shall prepare a report for submission by the office to the Governor, the President of the Senate, and the Speaker of the House of Representatives which reflects, for the immediately preceding calendar year, the quarterly and annual receipts and disbursements of moneys in the fund, the purposes for which disbursements of moneys from the fund have been made, and the availability and status of implementation of E911 service in this state.

(d) By February 28, 2001, the board shall undertake and complete a study for submission by the office to the Governor, the President of the Senate, and the Speaker of the House of Representatives which addresses:

1. The total amount of E911 fee revenues collected by each provider, the total amount of expenses incurred by each provider to comply with the order, and the amount of moneys on deposit in the fund, all as of December 1, 2000.
2. Whether the amount of the E911 fee and the allocation percentages set forth in s. [365.173](#) should be adjusted to comply with the requirements of the order, and, if so, a recommended adjustment to the E911 fee.
3. Any other issues related to providing wireless E911 services.

(7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING FIRM.--

(a) The board shall issue a request for proposals as provided in chapter 287 for the purpose of retaining an independent accounting firm. The independent accounting firm shall perform all material administrative and accounting tasks and functions required for administering the E911 fee. The request for proposals must include, but need not be limited to:

1. A description of the scope and general requirements of the services requested.
2. A description of the specific accounting and reporting services required for administering the fund, including processing checks and distributing funds as directed by the board under s. [365.173](#).
3. A description of information to be provided by the proposer, including the proposer's background and qualifications and the proposed cost of the services to be provided.

(b) The board shall establish a committee to review requests for proposals which must include the statewide 911 system director, or his or her designee, and two members of the board, one of whom is a county 911 coordinator and one of whom represents the wireless telecommunications industry. The review committee shall review the proposals received by the board and recommend an independent accounting firm to the board for final selection. By agreeing to serve on the review committee, each member of the review committee shall verify that he or she does not have any interest or employment, directly or indirectly, with potential proposers which conflicts in any manner or degree with his or her performance on the committee.

(c) After July 1, 2004, the board may secure the services of an independent accounting firm via invitation to bid, request for proposals, invitation to negotiate, or professional contracts already established at the Division of Purchasing, Department of Management Services, for certified public accounting firms, or the board may hire and retain professional accounting staff to accomplish these functions.

(8) WIRELESS E911 FEE.--

(a) Each home service provider shall collect a monthly fee imposed on each customer whose place of primary use is within this state. The rate of the fee shall be 50 cents per month per each service number, beginning August 1, 1999. The fee shall apply uniformly and be imposed throughout the state.

(b) The fee is established to ensure full recovery for providers and for counties, over a reasonable period, of the costs associated with developing and maintaining an E911 system on a technologically and competitively neutral basis.

(c) After July 1, 2001, the board may adjust the allocation percentages provided in s. [365.173](#) or reduce the amount of the fee, or both, if necessary to ensure full cost recovery or prevent overrecovery of costs incurred in the provision of E911 service, including costs incurred or projected to be incurred to comply with the order. Any new allocation percentages or reduced fee may not be adjusted for 2 years. The fee may not exceed 50 cents per month per each service number.

(d) State and local taxes do not apply to the fee.

(e) A local government may not levy any additional fee on wireless providers or subscribers for the provision of E911 service.

(9) MANAGEMENT OF FUNDS.--

(a) Each provider, as a part of its monthly billing process, shall collect the fee imposed under subsection (8). The provider may list the fee as a separate entry on each bill, in which case the fee must be identified as a fee for E911 services. A provider shall remit the fee only if the fee is paid by the subscriber. If a provider receives a partial payment for a monthly bill from a subscriber, the amount received shall first be applied to the payment due the provider for the provision of telecommunications service.

(b) In the case of prepaid wireless telephone service, the monthly wireless 911 surcharge imposed by subsection (8) shall be remitted based upon each prepaid wireless telephone associated with this state, for each wireless service customer that has a sufficient positive balance as of the last day of each month. The surcharge shall be remitted in any manner consistent with the wireless provider's existing operating or technological abilities, such as customer address, location associated with the MTN, or reasonable allocation method based upon other comparable relevant data. The surcharge amount or an equivalent number of minutes may be reduced from the prepaid subscriber's account since a direct billing may not be possible. However, collection of the wireless 911 surcharge in the manner of a reduction of value or minutes from the prepaid subscriber's account does not constitute a reduction in the sales price for purposes of taxes that are collected at the point of sale.

(c) A provider is not obligated to take any legal action to enforce collection of the fees for which any subscriber is billed. The provider shall provide to the board each quarter a list of the names, addresses, and service numbers of all subscribers who have indicated to the provider their refusal to pay the fee.

(d) Each provider may retain 1 percent of the amount of the fees collected as reimbursement for the administrative costs incurred by the provider to bill, collect, and remit the fee. The remainder shall be delivered to the board and deposited in the fund. The board shall distribute the remainder pursuant to s. [365.173](#).

(e) Each provider shall deliver revenues from the fee to the board within 60 days after the end of the month in which the fee was billed, together with a monthly report of the number of wireless customers whose place of primary use is in each county. A provider may apply to the board for a refund of, or may take a credit for, any fees remitted to the board which are not collected by the provider within 6 months following the month in which the fees are charged off for federal income tax purposes as bad debt. The board may waive the requirement that the fees and number of customers whose place of primary use is in each county be submitted to the board each month and authorize a provider to submit the fees and number of customers quarterly if the provider demonstrates that such waiver is necessary and justified.

(f) For purposes of this section, the definitions contained in s. [202.11](#) and the provisions of s. [202.155](#) apply in the same manner and to the same extent as such definitions and provisions apply to the taxes levied pursuant to chapter 202 on mobile communications services.

(g) As used in this subsection, the term "provider" includes any person or entity that resells wireless service and was not assessed the fee by its resale supplier.

(10) PROVISION OF SERVICES.--In accordance with the order, a provider is not required to provide E911 service until:

(a) The provider receives a request in writing for such service from the county 911 coordinator and the affected answering point is capable of receiving and using the data elements associated with the service.

(b) Funds are available under s. [365.173](#)(2)(b).

(c) The local exchange carrier is able to support the E911 system.

(d) The service area has been scheduled for implementation of E911 service by the board pursuant to subparagraph (6)(a)3. If a county's 911 coordinator requests E911 service from a provider, the coordinator shall also request E911 service from all other providers in the area in a nondiscriminatory and fair manner.

(11) FACILITATING E911 SERVICE IMPLEMENTATION.--Notwithstanding any other law or local ordinance to the contrary:

(a) Colocation among wireless telephone service providers is encouraged by the state. To further facilitate agreements among providers for colocation of their facilities, any antennae and related equipment to service the antennae that is being colocated on an existing above-ground structure is not subject to land development regulation pursuant to s. [163.3202](#), provided the height of the existing structure is not increased. However, construction of the antennae and related equipment is subject to local building regulations and any existing permits or agreements for such property, buildings, or structures. Nothing herein shall relieve the permit holder for or owner of the existing structure of compliance with any applicable condition or requirement of a permit, agreement, or land development regulation, including any aesthetic requirements, or law.

(b) Local governments shall not require providers to provide evidence of a wireless communications facility's compliance with federal regulations. However, local governments shall receive evidence of proper Federal Communications Commission licensure from a provider and may request the Federal Communications Commission to provide information as to a provider's compliance with federal regulations, as authorized by federal law.

(c)1. A local government shall grant or deny a properly completed application for a permit, including permits under paragraph (a), for the colocation of a wireless communications facility on property, buildings, or structures within the local government's jurisdiction within 45 business days after the date the properly completed application is initially submitted in accordance with the applicable local government application procedures, provided that such permit complies with applicable federal regulations and applicable local zoning or land development regulations, including any aesthetic requirements. Local building regulations shall apply.

2. A local government shall grant or deny a properly completed application for a permit for the siting of a new wireless tower or antenna on property, buildings, or structures within the local government's jurisdiction within 90 business days after the date the properly completed application is initially submitted in accordance with the applicable local government application procedures, provided that such permit complies with applicable federal regulations and applicable local zoning or land development regulations, including any aesthetic requirements. Local building regulations shall apply.

3.a. The local government shall notify the permit applicant within 20 business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted. However, such determination shall not be deemed as an approval of the application. Such notification shall indicate with specificity any deficiencies which, if cured, shall make the application properly completed.

b. If the local government fails to grant or deny a properly completed application for a permit which has been properly submitted within the timeframes set forth in this paragraph, the permit shall be deemed automatically approved and the provider may proceed with placement of such facilities without interference or penalty. The timeframes specified in subparagraphs 1. and 2. shall be extended only to the extent that the permit has not been granted or denied because the local government's procedures generally applicable to all permits, require action by the governing body and such action has not taken place within the timeframes specified in subparagraphs 1. and 2. Under such circumstances, the local government must act to either grant or deny the permit at its next regularly scheduled meeting or, otherwise, the permit shall be deemed to be automatically approved.

c. To be effective, a waiver of the timeframes set forth herein must be voluntarily agreed to by the applicant and the local government. A local government may request, but not require, a waiver of the timeframes by an entity seeking a permit, except that, with respect to a specific permit, a one-time waiver may be required in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the local government.

(d) Any additional wireless communications facilities, such as communication cables, adjacent accessory structures, or adjacent accessory equipment used in the provision of cellular, enhanced specialized mobile radio, or personal communications services, required within the existing secured equipment compound within the existing site shall be deemed a permitted use or activity. Local building and land development regulations, including any aesthetic requirements, shall apply.

(e) Any other provision of law to the contrary notwithstanding, the Department of Management Services shall negotiate, in the name of the state, leases for wireless communications facilities that provide access to state government-owned property not acquired for transportation purposes, and the Department of Transportation shall negotiate, in the name of the state, leases for wireless communications facilities that provide access to property acquired for state rights-of-way. On property acquired for transportation purposes, leases shall be granted in accordance with s. [337.251](#). On other state government-owned property, leases shall be granted on a space available, first-come, first-served basis. Payments required by state government under a lease must be reasonable and must reflect the market rate for the use of the state government-owned property. The Department of Management Services and the Department of Transportation are authorized to adopt rules for the terms and conditions and granting of any such leases.

(f) Any wireless telephone service provider may report to the board no later than September 1, 2003, the specific locations or general areas within a county or municipality where the provider has experienced unreasonable delay to locate wireless telecommunications facilities necessary to provide the needed coverage for compliance with federal Phase II E911 requirements using its own network. The provider shall also provide this information to the specifically identified county or municipality no later than September 1, 2003. Unless the board receives no report that unreasonable delays have occurred, the board shall, no later than September 30, 2003, establish a subcommittee responsible for developing a balanced approach between the ability of providers to locate wireless facilities necessary to comply with federal Phase II E911 requirements using the carrier's own network and the desire of counties and municipalities to zone and regulate land uses to achieve public welfare goals. If a subcommittee is established, it shall include representatives from the Florida Telecommunications Industry Association, the Florida Association of Counties, and the Florida League of Cities. The subcommittee shall be charged with developing recommendations for the board and any specifically identified municipality or county to consider regarding actions to be taken for compliance for federal Phase II E911 requirements. In the annual report due to the Governor and the Legislature by February 28, 2004, the board shall include any recommendations developed by the subcommittee to address compliance with federal Phase II E911 requirements.

(12) MISUSE OF WIRELESS 911 SYSTEM; PENALTY.--E911 service must be used solely for emergency communications by the public. Any person who knowingly uses or attempts to use such service for a purpose other than obtaining public safety assistance, or who knowingly uses or attempts to use such service in an effort to avoid any charge for service, commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#). After being convicted of unauthorized use of such service four times, a person who continues to engage in such unauthorized use commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). In addition, if the value of the service or the service charge obtained in a manner prohibited by this subsection exceeds \$100, the person committing the offense commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(13) STATE LAW NOT PREEMPTED.--This section and ss. [365.173](#) and [365.174](#) do not alter any state law that otherwise regulates providers of telecommunications service.

History.--s. 1, ch. 99-367; s. 2, ch. 2001-133; s. 7, ch. 2002-48; s. 19, ch. 2003-32; s. 1, ch. 2003-182.

The 2004 Florida Statutes

365.173 Wireless Emergency Telephone System Fund.--

(1) All revenues derived from the E911 fee levied on subscribers under s. [365.172](#) must be paid into the State Treasury on or before the 15th day of each month. Such moneys must be accounted for in a special fund to be designated as the Wireless Emergency Telephone System Fund, a fund created in the State Technology Office and must be invested by the Chief Financial Officer pursuant to s. [17.61](#). All moneys in such fund are to be expended by the State Technology Office for the purposes provided in this section and s. [365.172](#). These funds are not subject to s. [215.20](#).

(2) Subject to any modifications approved by the board pursuant to s. [365.172](#)(8)(c), the moneys in the fund shall be distributed and used only as follows:

(a) Forty-four percent of the moneys shall be distributed each month to counties, based on the total number of wireless subscriber billing addresses in each county, for payment of:

1. Recurring costs of providing 911 or E911 service, as provided by s. [365.171](#)(13)(a)6.
2. Costs to comply with the requirements for E911 service contained in the order and any future rules related to the order.

A county may carry forward, for up to 3 successive calendar years, up to 30 percent of the total funds disbursed to the county by the board during a calendar year for expenditures for capital outlay, capital improvements, or equipment replacement, if such expenditures are made for the purposes specified in this paragraph.

(b) Fifty-four percent of the moneys shall be distributed in response to sworn invoices submitted to the board by providers to reimburse such providers for the actual costs incurred to provide 911 or E911 service, including the costs of complying with the order. Such costs include costs and expenses incurred by providers to design, purchase, lease, program, install, test, upgrade, operate, and maintain all necessary data, hardware, and software required to provide E911 service. Up to 2 percent of the funds allocated to providers shall be retained by the board to be applied to costs and expenses incurred for the purposes of managing, administering, and overseeing the receipts and disbursements from the fund and other activities as defined in s. [365.172](#)(6). Any funds retained for such purposes in a calendar year which are not applied to such costs and expenses by March 31 of the following year shall be distributed to providers pursuant to this paragraph. Beginning in state fiscal year 2000-2001, each provider shall submit to the board, by August 1 of each year, a detailed estimate of the capital and operating expenses for which it anticipates that it will seek reimbursement under this paragraph during the ensuing state fiscal year. By September 15 of each year, the board shall submit to the Legislature its legislative budget request for funds to be allocated to providers under this paragraph during the ensuing state fiscal year. The budget request shall be based on the information submitted by the providers and estimated surcharge revenues. Distributions of moneys in the fund by the board to providers must be fair and nondiscriminatory. If the total amount of moneys requested by providers pursuant to invoices submitted to the board and approved for payment exceeds the amount in the fund in any month, providers that have invoices approved for payment shall receive a pro rata share of moneys in the fund and the balance of the payments shall be carried over to the following month or months until all of the approved payments are made. The board may adopt rules necessary to address the manner in which pro rata distributions are made when the total amount of funds requested by providers pursuant to invoices submitted to the board exceeds the total amount of moneys on deposit in the fund.

(c) Two percent of the moneys shall be used to make monthly distributions to rural counties for the purpose of providing facilities and network and service enhancements and assistance for the 911 or E911 systems operated by rural counties and for the provision of reimbursable loans and grants by the office to rural counties for upgrading 911 systems.

The Legislature recognizes that the wireless E911 fee authorized under s. [365.172](#) will not necessarily

provide the total funding required for establishing or providing the 911 service. It is the intent of the Legislature that all revenue from the fee be used as specified in s. [365.171](#)(13)(a)6.

(3) The Auditor General shall annually audit the fund to ensure that moneys in the fund are being managed in accordance with this section and s. [365.172](#). The Auditor General shall provide a report of the annual audit to the board.

History.--s. 1, ch. 99-203; s. 50, ch. 2000-158; s. 3, ch. 2001-133; s. 2, ch. 2003-182; s. 379, ch. 2003-261.

The 2004 Florida Statutes

365.174 Proprietary confidential business information.--

(1) All proprietary confidential business information submitted by a provider to the board or the office, including the name and billing or service addresses of service subscribers, and trade secrets as defined by s. [812.081](#), is confidential and exempt from s. [119.07](#)(1) and s. 24(a), Art. I of the State Constitution.

Statistical abstracts of information collected by the board or the office may be released or published, but only in a manner that does not identify or allow identification of subscribers or their service numbers or of revenues attributable to any provider.

(2) As used in this section, the term "proprietary confidential business information" means customer lists, customer numbers, individual or aggregate customer data by location, usage and capacity data, network facilities used to serve subscribers, technology descriptions, technical information, or trade secrets, including trade secrets as defined in s. [812.081](#), and the actual or developmental costs of E911 systems that are developed, produced, or received internally by a provider or by a provider's employees, directors, officers, or agents.

History.--s. 1, ch. 99-202; s. 4, ch. 2001-133; s. 1, ch. 2004-48.

The 2004 Florida Statutes

365.175 Emergency telephone number 911 private branch exchange-private switch automatic location identification.--

(1) DEFINITIONS.--As used in this section, the term:

(a) "Automatic location identification" or "ALI" means the automatic display at the Public Safety Answering Point (PSAP) of the caller's telephone number, the address or location of the telephone, and supplementary emergency services information.

(b) "Automatic location identification retrieval" or "ALI retrieval" means the process of querying the 911 database for ALI records.

(c) "Automatic number identification" or "ANI" means the telephone number associated with the access line from which a call originates.

(d) "Private branch exchange" or "PBX" means a private telephone system that is connected to the Public Switched Telephone Network (PSTN).

(e) "Private switch ALI" or "PSA" means a service option which provides enhanced 911 features for telephone stations behind private switches, e.g., PBX's.

(2) REQUIRED ALI CAPABILITY.--Each PBX system installed after January 1, 2004, must be capable of providing automatic location identification to the station level.

History.--s. 3, ch. 2003-182.

ATTACHMENT 2

PHASE I AND PHASE II IMPLEMENTATION STATUS

**FLORIDA WIRELESS 911 BOARD
PHASE I AND PHASE II IMPLEMENTATION STATUS**

COUNTY	Fee (Cents)	9-1-1 System Type			Wireless 9-1-1 Phase I				Wireless 9-1-1 Phase II				Remarks
		Basic	Enhanced County	Enhanced Telco	No Request	Requested	Partial	Complete	No Request	Requested	Partial	Complete	
ALACHUA	60			4				X			X		
BAKER	60		5		X				X				
BAY	60			4				X			X		
BRADFORD	60		5		X				X				
BREVARD	60			4				X			X		
BROWARD	60			4				X			X		
CALHOUN	60		5			X				X			
CHARLOTTE	60			4				X			X		
CITRUS	60			4				X			X		
CLAY	60			4				X				X	
COLLIER	60			4				X			X		
COLUMBIA	60			4				X					
DE SOTO	60			4				X				X	
DIKE	60	1			X				X				
DUVAL	44			4				X			X		
ESCAMBIA	60			4				X			X		
FLAGLER	60			4			X			X			
FRANKLIN	60		5				X			X			
GADSDEN	60			4			X		X				
GILCHRIST	60			4			X		X				
GLADES	60			4				X			X		
GULF	60		5				X			X			
HAMILTON	60		5					X		X			
HARDEE	60			4				X		X			
HENDRY	60			4				X				X	
HERNANDO	60			4				X			X		
HIGHLANDS	60			4			X			X			
HILLSBOROUGH	60			4				X		X			
HOLMES	60			4		X							
INDIAN RIVER	60			4				X					
JACKSON	60			4				X			X		
JEFFERSON	60			4				X			X		
LAFAYETTE	60	1			X				X				
LAKE	60			4				X			X		
LEE	44			4				X			X		
LEON	60			4				X		X			
LEVY	60			4				X			X		
LIBERTY	60		5			X				X			
MADISON	60			4				X			X		
MANATEE	60			4				X			X		
MARION	60			4				X				X	

FLORIDA WIRELESS 911 BOARD PHASE I AND PHASE II IMPLEMENTATION STATUS

COUNTY	Fee (Cents)	9-1-1 System Type				Wireless 9-1-1 Phase I				Wireless 9-1-1 Phase II				Remarks
		Basic	Enhanced County	Enhanced Telco		No Request	Requested	Partial	Complete	No Request	Requested	Partial	Complete	
MARTIN	50			4					X			X		
MIAMI-DADE	50			4					X				X	
MONROE	38			4					X			X		
NASSAU	50			4					X			X		
OKALOOSA	50		5						X			X		
OKEECHOBEE	50			4					X			X		
ORANGE	50			4					X			X		
OSCEOLA	50			4					X			X		
PALM BEACH	50			4					X			X		
PASCO	30			4					X			X		
PINELLAS	50			4					X			X		
POLK	50			4					X			X		
PUTNAM	50			4					X					
ST. JOHNS	50			4					X			X		
ST. LUCIE	50			4				X						
SANTA ROSA	50			4					X					
SARASOTA	50			4					X			X		
SEMINOLE	50			4					X				X	
SUMTER	50			4					X			X		
SUN/ANNEE	50		5					X				X		
TAYLOR	50		5					X				X		
UNION	50	1						X				X		
VOLUSIA	41			4					X					
WAKULLA	50			4					X					
WALTON	50			4					X				X	
WASHINGTON	50			4					X				X	

Notes:

- Counties who meet the rural county criteria (population under 75,000), as defined by F.S. 165.172 (3) i.
- Counties who meet the medium county criteria (population over 75,000 and under 750,000), as defined by the Florida Association of Counties
- Counties with population over 750,000

Fee = Wireline Fee charged by County per Access Line.

Statewide Wireless Fee = 50 cents per subscriber cellular phone

TYPE SYSTEM

- Basic 9-1-1
- Basic 9-1-1 With ANI
- Basic 9-1-1 With ANI and ALI (Also known as a Stand Alone Location Identification System (SALI))
- Fully Enhanced 9-1-1 provided by the regulated telephone company
- Fully Enhanced 9-1-1 contains all features required in a Type 4 System with control and management resting with the County

ATTACHMENT 3

H.R. 5419

AN ACT

To amend the National Telecommunications and Information Administration Organization Act to facilitate the re-allocation 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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives 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.

1 **SEC. 103. PURPOSES.**

2 The purposes of this title are—

3 (1) to coordinate 911 services and E-911 serv-
4 ices, at the Federal, State, and local levels; and

5 (2) to ensure that funds collected on tele-
6 communications bills for enhancing emergency 911
7 services are used only for the purposes for which the
8 funds are being collected.

9 **SEC. 104. COORDINATION OF E-911 IMPLEMENTATION.**

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

14 **“SEC. 158. COORDINATION OF E-911 IMPLEMENTATION.**

15 **“(a) E-911 IMPLEMENTATION COORDINATION OF-**
16 **FICE.—**

17 **“(1) ESTABLISHMENT.—**The Assistant Sec-
18 retary and the Administrator of the National High-
19 way Traffic Safety Administration shall—

20 **“(A)** establish a joint program to facilitate
21 coordination and communication between Fed-
22 eral, State, and local emergency communica-
23 tions systems, emergency personnel, public safe-
24 ty organizations, telecommunications carriers,
25 and telecommunications equipment manufactur-

ers 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

1 technology used in the implementation of E-
2 911 services;

3 “(C) advise and assist eligible entities in
4 the preparation of implementation plans re-
5 quired under subsection (b)(3)(A)(iii);

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

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

12 “(4) REPORTS.—The Assistant Secretary and
13 the Administrator shall provide a joint annual report
14 to Congress by the first day of October of each year
15 on the activities of the Office to improve coordina-
16 tion and communication with respect to the imple-
17 mentation of E-911 services.

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

19 “(1) MATCHING GRANTS.—The Assistant Sec-
20 retary and the Administrator, after consultation with
21 the Secretary of Homeland Security and the Chair-
22 man of the Federal Communications Commission,
23 and acting through the Office, shall provide grants
24 to eligible entities for the implementation and oper-
25 ation of Phase II E-911 services.

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

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

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

12 “(i) has coordinated its application
13 with the public safety answering points (as
14 such term is defined in section 222(h)(4)
15 of the Communications Act of 1934) lo-
16 cated within the jurisdiction of such entity;

17 “(ii) has designated a single officer or
18 governmental body of the entity to serve as
19 the coordinator of implementation of E-
20 911 services, except that such designation
21 need not vest such coordinator with direct
22 legal authority to implement E-911 serv-
23 ices or manage emergency communications
24 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.

“(c) DIVERSION OF E-911 CHARGES.—

“(1) DESIGNATED E-911 CHARGES.—For the purposes of this subsection, the term ‘designated E-

1 911 charges’ means any taxes, fees, or other charges
2 imposed by a State or other taxing jurisdiction that
3 are designated or presented as dedicated to deliver
4 or improve E–911 services.

5 “(2) CERTIFICATION.—Each applicant for a
6 matching grant under this section shall certify to the
7 Assistant Secretary and the Administrator at the
8 time of application, and each applicant that receives
9 such a grant shall certify to the Assistant Secretary
10 and the Administrator annually thereafter during
11 any period of time during which the funds from the
12 grant are available to the applicant, that no portion
13 of any designated E–911 charges imposed by a
14 State or other taxing jurisdiction within which the
15 applicant is located are being obligated or expended
16 for any purpose other than the purposes for which
17 such charges are designated or presented during the
18 period beginning 180 days immediately preceding
19 the date of the application and continuing through
20 the period of time during which the funds from the
21 grant are available to the applicant.

22 “(3) CONDITION OF GRANT.—Each applicant
23 for a grant under this section shall agree, as a con-
24 dition of receipt of the grant, that if the State or
25 other taxing jurisdiction within which the applicant

1 is located, during any period of time during which
2 the funds from the grant are available to the appli-
3 cant, obligates or expends designated E-911 charges
4 for any purpose other than the purposes for which
5 such charges are designated or presented, all of the
6 funds from such grant shall be returned to the Of-
7 fice.

8 “(4) PENALTY FOR PROVIDING FALSE INFOR-
9 MATION.—Any applicant that provides a certification
10 under paragraph (1) knowing that the information
11 provided in the certification was false shall—

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

14 “(B) return any grant awarded under sub-
15 section (b) during the time that the certification
16 was not valid; and

17 “(C) not be eligible to receive any subse-
18 quent grants under subsection (b).

19 “(d) AUTHORIZATION; TERMINATION.—

20 “(1) AUTHORIZATION.—There are authorized to
21 be appropriated to the Department of Transpor-
22 tation, for the purposes of grants under the joint
23 program operated under this section with the De-
24 partment of Commerce, not more than
25 \$250,000,000 for each of the fiscal years 2005

1 through 2009, not more than 5 percent of which for
2 any fiscal year may be obligated or expended for ad-
3 ministrative costs.

4 “(2) TERMINATION.—The provisions of this
5 section shall cease to be effective on October 1,
6 2009.

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

8 “(1) OFFICE.—The term ‘Office’ means the E-
9 911 Implementation Coordination Office.

10 “(2) ADMINISTRATOR.—The term ‘Adminis-
11 trator’ means the Administrator of the National
12 Highway Traffic Safety Administration.

13 “(3) ELIGIBLE ENTITY.—

14 “(A) IN GENERAL.—The term ‘eligible en-
15 tity’ means a State or local government or a
16 tribal organization (as defined in section 4(l) of
17 the Indian Self-Determination and Education
18 Assistance Act (25 U.S.C. 450b(l))).

19 “(B) INSTRUMENTALITIES.—Such term in-
20 cludes public authorities, boards, commissions,
21 and similar bodies created by one or more eligi-
22 ble entities described in subparagraph (A) to
23 provide E-911 services.

24 “(C) EXCEPTION.—Such term does not in-
25 clude any entity that has failed to submit the

1 most recently required certification under sub-
2 section (c) within 30 days after the date on
3 which such certification is due.

4 “(4) E-911 SERVICES.—The term ‘E-911 serv-
5 ices’ means both phase I and phase II enhanced 911
6 services, as described in section 20.18 of the Com-
7 mission’s regulations (47 C.F.R. 20.18), as in effect
8 on the date of enactment of the ENHANCE 911
9 Act of 2004, or as subsequently revised by the Fed-
10 eral Communications Commission.

11 “(5) PHASE II E-911 SERVICES.—The term
12 ‘phase II E-911 services’ means only phase II en-
13 hanced 911 services, as described in such section
14 20.18 (47 C.F.R. 20.18), as in effect on such date,
15 or as subsequently revised by the Federal Commu-
16 nications Commission.

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

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

23 (a) IN GENERAL.—Within 60 days after the date of
24 enactment of this Act, the Comptroller General shall ini-
25 tiate 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.

1 **SEC. 106. REPORT ON THE DEPLOYMENT OF E-911 PHASE II**
2 **SERVICES BY TIER III SERVICE PROVIDERS.**

3 Within 90 days after the date of enactment of this
4 Act, the Federal Communications Commission shall sub-
5 mit a report to the Committee on Energy and Commerce
6 of the House of Representatives and the Committee on
7 Commerce, Science, and Transportation of the Senate
8 detailing—

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

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

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

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

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

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

24 (7) actions the Commission has taken to reduce
25 the amount of time a waiver request remains pend-
26 ing; and

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

4 **SEC. 107. FCC REQUIREMENTS FOR CERTAIN TIER III CAR-**
5 **RIERS.**

6 (a) **IN GENERAL.**—The Federal Communications
7 Commission shall act on any petition filed by a qualified
8 Tier III carrier requesting a waiver of compliance with the
9 requirements of section 20.18(g)(1)(v) of the Commis-
10 sion’s rules (47 C.F.R. 20.18(g)(1)(v)) within 100 days
11 after the Commission receives the petition. The Commis-
12 sion shall grant the waiver of compliance with the require-
13 ments of section 20.18(g)(1)(v) of the Commission’s rules
14 (47 C.F.R. 20.18(g)(1)(v)) requested by the petition if it
15 determines that strict enforcement of the requirements of
16 that section would result in consumers having decreased
17 access to emergency services.

18 (b) **QUALIFIED TIER III CARRIER DEFINED.**—In
19 this section, the term “qualified Tier III carrier” means
20 a provider of commercial mobile service (as defined in sec-
21 tion 332(d) of the Communications Act of 1934 (47
22 U.S.C. 332(d)) that had 500,000 or fewer subscribers as
23 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(g)) 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.

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

4 “(A) the 216–220 megahertz band, the
5 1432–1435 megahertz band, the 1710–1755
6 megahertz band, and the 2385–2390 megahertz
7 band of frequencies; and

8 “(B) any other band of frequencies reallo-
9 cated from Federal use to non-Federal use after
10 January 1, 2003, that is assigned by competi-
11 tive bidding pursuant to section 309(j) of the
12 Communications Act of 1934 (47 U.S.C.
13 309(j)), except for bands of frequencies pre-
14 viously identified by the National Telecommuni-
15 cations and Information Administration in the
16 Spectrum Reallocation Final Report, NTIA
17 Special Publication 95–32 (1995).

18 “(3) DEFINITION OF RELOCATION COSTS.—For
19 purposes of this subsection, the term ‘relocation
20 costs’ means the costs incurred by a Federal entity
21 to achieve comparable capability of systems, regard-
22 less of whether that capability is achieved by relo-
23 cating to a new frequency assignment or by utilizing
24 an alternative technology. Such costs include—

1 “(A) the costs of any modification or re-
2 placement of equipment, software, facilities, op-
3 erating manuals, training costs, or regulations
4 that are attributable to relocation;

5 “(B) the costs of all engineering, equip-
6 ment, software, site acquisition and construc-
7 tion costs, as well as any legitimate and pru-
8 dent transaction expense, including outside con-
9 sultants, and reasonable additional costs in-
10 curred by the Federal entity that are attrib-
11 utable to relocation, including increased recur-
12 ring costs associated with the replacement fa-
13 cilities;

14 “(C) the costs of engineering studies, eco-
15 nomic analyses, or other expenses reasonably
16 incurred in calculating the estimated relocation
17 costs that are provided to the Commission pur-
18 suant to paragraph (4) of this subsection;

19 “(D) the one-time costs of any modifica-
20 tion of equipment reasonably necessary to ac-
21 commodate commercial use of such frequencies
22 prior to the termination of the Federal entity’s
23 primary allocation or protected status, when the
24 eligible frequencies as defined in paragraph (2)
25 of this subsection are made available for private

1 sector uses by competitive bidding and a Fed-
2 eral entity retains primary allocation or pro-
3 tected status in those frequencies for a period
4 of time after the completion of the competitive
5 bidding process; and

6 “(E) the costs associated with the acceler-
7 ated replacement of systems and equipment if
8 such acceleration is necessary to ensure the
9 timely relocation of systems to a new frequency
10 assignment.

11 “(4) NOTICE TO COMMISSION OF ESTIMATED
12 RELOCATION COSTS.—

13 “(A) The Commission shall notify the
14 NTIA at least 18 months prior to the com-
15 mencement of any auction of eligible fre-
16 quencies defined in paragraph (2). At least 6
17 months prior to the commencement of any such
18 auction, the NTIA, on behalf of the Federal en-
19 tities and after review by the Office of Manage-
20 ment and Budget, shall notify the Commission
21 of estimated relocation costs and timelines for
22 such relocation.

23 “(B) Upon timely request of a Federal en-
24 tity, the NTIA shall provide such entity with in-
25 formation regarding an alternative frequency

1 assignment or assignments to which their
2 radiocommunications operations could be relo-
3 cated for purposes of calculating the estimated
4 relocation costs and timelines to be submitted
5 to the Commission pursuant to subparagraph
6 (A).

7 “(C) To the extent practicable and con-
8 sistent with national security considerations,
9 the NTIA shall provide the information re-
10 quired by subparagraphs (A) and (B) by the ge-
11 ographic location of the Federal entities’ facili-
12 ties or systems and the frequency bands used
13 by such facilities or systems.

14 “(5) NOTICE TO CONGRESSIONAL COMMITTEES
15 AND GAO.—The NTIA shall, at the time of providing
16 an initial estimate of relocation costs to the Commis-
17 sion under paragraph (4)(A), submit to Committees
18 on Appropriations and Energy and Commerce of the
19 House of Representatives for approval, to the Com-
20 mittees on Appropriations and Commerce, Science,
21 and Transportation of the Senate for approval, and
22 to the Comptroller General a copy of such estimate
23 and the timelines for relocation. Unless disapproved
24 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 (1) by striking “and” at the end of subpara-
2 graph (D);

3 (2) by striking the period at the end of sub-
4 paragraph (E) and inserting “; and”; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(F) for any auction of eligible frequencies
8 described in section 113(g)(2) of the National
9 Telecommunications and Information Adminis-
10 tration Organization Act (47 U.S.C. 923(g)(2)),
11 the recovery of 110 percent of estimated reloca-
12 tion costs as provided to the Commission pursu-
13 ant to section 113(g)(4) of such Act.”.

14 (b) SPECIAL AUCTION PROVISIONS FOR ELIGIBLE
15 FREQUENCIES.—Section 309(j) of such Act is further
16 amended by adding at the end the following new para-
17 graph:

18 “(15) SPECIAL AUCTION PROVISIONS FOR ELI-
19 GIBLE FREQUENCIES.—

20 “(A) SPECIAL REGULATIONS.—The Com-
21 mission shall revise the regulations prescribed
22 under paragraph (4)(F) of this subsection to
23 prescribe methods by which the total cash pro-
24 ceeds from any auction of eligible frequencies
25 described in section 113(g)(2) of the National

1 Telecommunications and Information Adminis-
2 tration Organization Act (47 U.S.C. 923(g)(2))
3 shall at least equal 110 percent of the total esti-
4 mated relocation costs provided to the Commis-
5 sion pursuant to section 113(g)(4) of such Act.

6 “(B) CONCLUSION OF AUCTIONS CONTIN-
7 GENT ON MINIMUM PROCEEDS.—The Commis-
8 sion shall not conclude any auction of eligible
9 frequencies described in section 113(g)(2) of
10 such Act if the total cash proceeds attributable
11 to such spectrum are less than 110 percent of
12 the total estimated relocation costs provided to
13 the Commission pursuant to section 113(g)(4)
14 of such Act. If the Commission is unable to
15 conclude an auction for the foregoing reason,
16 the Commission shall cancel the auction, return
17 within 45 days after the auction cancellation
18 date any deposits from participating bidders
19 held in escrow, and absolve such bidders from
20 any obligation to the United States to bid in
21 any subsequent reauction of such spectrum.

22 “(C) AUTHORITY TO ISSUE PRIOR TO DE-
23 AUTHORIZATION.—In any auction conducted
24 under the regulations required by subparagraph
25 (A), the Commission may grant a license as-

1 signed for the use of eligible frequencies prior
2 to the termination of an eligible Federal entity's
3 authorization. However, the Commission shall
4 condition such license by requiring that the li-
5 censee cannot cause harmful interference to
6 such Federal entity until such entity's author-
7 ization has been terminated by the National
8 Telecommunications and Information Adminis-
9 tration.”.

10 (c) DEPOSIT OF PROCEEDS.—Paragraph (8) of sec-
11 tion 309(j) of the Communications Act of 1934 (47 U.S.C.
12 309(j)) is amended—

13 (1) in subparagraph (A), by inserting “or sub-
14 paragraph (D)” after “subparagraph (B)”; and

15 (2) by adding at the end the following new sub-
16 paragraph:

17 “(D) DISPOSITION OF CASH PROCEEDS.—

18 Cash proceeds attributable to the auction of any
19 eligible frequencies described in section
20 113(g)(2) of the National Telecommunications
21 and Information Administration Organization
22 Act (47 U.S.C. 923(g)(2)) shall be deposited in
23 the Spectrum Relocation Fund established
24 under section 118 of such Act, and shall be
25 available in accordance with that section.”.

1 **SEC. 204. ESTABLISHMENT OF FUND AND PROCEDURES.**

2 Part B of the National Telecommunications and In-
3 formation Administration Organization Act is amended by
4 adding after section 117 (47 U.S.C. 927) the following
5 new section:

6 **“SEC. 118. SPECTRUM RELOCATION FUND.**

7 “(a) **ESTABLISHMENT OF SPECTRUM RELOCATION**
8 **FUND.**—There is established on the books of the Treasury
9 a separate fund to be known as the ‘Spectrum Relocation
10 Fund’ (in this section referred to as the ‘Fund’), which
11 shall be administered by the Office of Management and
12 Budget (in this section referred to as ‘OMB’), in consulta-
13 tion with the NTLA.

14 “(b) **CREDITING OF RECEIPTS.**—The Fund shall be
15 credited with the amounts specified in section
16 309(j)(8)(D) of the Communications Act of 1934 (47
17 U.S.C. 309(j)(8)(D)).

18 “(c) **USED TO PAY RELOCATION COSTS.**—The
19 amounts in the Fund from auctions of eligible frequencies
20 are authorized to be used to pay relocation costs, as de-
21 fined in section 113(g)(3) of this Act, of an eligible Fed-
22 eral entity incurring such costs with respect to relocation
23 from those frequencies.

24 “(d) **FUND AVAILABILITY.**—

25 “(1) **APPROPRIATION.**—There are hereby ap-
26 propriated from the Fund such sums as are required

1 to pay the relocation costs specified in subsection
2 (c).

3 “(2) TRANSFER CONDITIONS.—None of the
4 funds provided under this subsection may be trans-
5 ferred to any eligible Federal entity—

6 “(A) unless the Director of OMB has de-
7 termined, in consultation with the NTIA, the
8 appropriateness of such costs and the timeline
9 for relocation; and

10 “(B) until 30 days after the Director of
11 OMB has submitted to the Committees on Ap-
12 propriations and Energy and Commerce of the
13 House of Representatives for approval, to the
14 Committees on Appropriations and Commerce,
15 Science, and Transportation of the Senate for
16 approval, and to the Comptroller General a de-
17 tailed plan describing specifically how the sums
18 transferred from the Fund will be used to pay
19 relocation costs in accordance with such sub-
20 section and the timeline for such relocation.

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

1 “(3) REVERSION OF UNUSED FUNDS.—Any
2 auction proceeds in the Fund that are remaining
3 after the payment of the relocation costs that are
4 payable from the Fund shall revert to and be depos-
5 ited in the general fund of the Treasury not later
6 than 8 years after the date of the deposit of such
7 proceeds to the Fund.

8 “(e) TRANSFER TO ELIGIBLE FEDERAL ENTITIES.—

9 “(1) TRANSFER.—

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

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

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

21 “(ii) the notice to the committees con-
22 taining the plan required by subsection
23 (d)(2)(B) shall be not less than 45 days
24 prior to the date of the transfer that
25 causes such excess above 10 percent;

1 “(iii) such notice shall include, in ad-
2 dition to such plan, an explanation of need
3 for such subsequent transfer or transfers;
4 and

5 “(iv) the Comptroller General shall,
6 within 30 days after receiving such plan,
7 review such plan and submit to such com-
8 mittees an assessment of the explanation
9 for the subsequent transfer or transfers.

10 “(C) Such transferred amounts shall be
11 credited to the appropriations account of the el-
12 igible Federal entity which has incurred, or will
13 incur, such costs, and shall, subject to para-
14 graph (2), remain available until expended.

15 “(2) RETRANSFER TO FUND.—An eligible Fed-
16 eral entity that has received such amounts shall re-
17 port its expenditures to OMB and shall transfer any
18 amounts in excess of actual relocation costs back to
19 the Fund immediately after the NTIA has notified
20 the Commission that the entity’s relocation is com-
21 plete, or has determined that such entity has unrea-
22 sonably failed to complete such relocation in accord-
23 ance with the timeline required by subsection
24 (d)(2)(A).”.

1 **SEC. 205. TELECOMMUNICATIONS DEVELOPMENT FUND.**

2 Section 714(f) of the Communications Act of 1934
3 (47 U.S.C. 614(f)) is amended to read as follows:

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

7 “(1) the analysis of the business plan of the eli-
8 gible small business;

9 “(2) the reasonable availability of collateral to
10 secure the loan or credit extension;

11 “(3) the extent to which the loan or credit ex-
12 tension promotes the purposes of this section; and

13 “(4) other lending policies as defined by the
14 Board.”.

15 **SEC. 206. CONSTRUCTION.**

16 Nothing in this title is intended to modify section
17 1062(b) of the National Defense Authorization Act for
18 Fiscal Year 2000 (Public Law 106–65).

19 **SEC. 207. ANNUAL REPORT.**

20 The National Telecommunications and Information
21 Administration shall submit an annual report to the Com-
22 mittees on Appropriations and Energy and Commerce of
23 the House of Representatives, the Committees on Appro-
24 priations and Commerce, Science, and Transportation of
25 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(g)(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

1 to non-Federal use for unlicensed, public safety, shared,
2 or non-commercial use.

3 (b) NTIA REPORT REQUIRED.—Within 1 year after
4 the date of enactment of this Act, the Administrator of
5 the National Telecommunications and Information Ad-
6 ministration shall submit to the Energy and Commerce
7 Committee of the House of Representatives and the Com-
8 merce, Science, and Transportation Committee of the Sen-
9 ate a report on various policy options to compensate Fed-
10 eral entities for relocation costs when such entities' fre-
11 quencies are allocated by the Commission for unlicensed,
12 public safety, shared, or non-commercial use.

13 **SEC. 209. COMMERCIAL SPECTRUM LICENSE POLICY RE-**
14 **VIEW.**

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

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

24 (1) An estimate of the respective proportions of
25 electromagnetic spectrum capacity that have been

1 assigned by the Federal Communications
2 Commission—

3 (A) prior to enactment of section 309(j) of
4 the Communications Act of 1934 (47 U.S.C.
5 309(j)) providing to the Commission's competi-
6 tive bidding authority,

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

10 (C) by means other than competitive bid-
11 ding,

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

14 (2) The extent to which requiring entities to ob-
15 tain licenses through competitive bidding places
16 those entities at a competitive or financial disadvan-
17 tage to offer services similar to entities that did not
18 acquire licenses through competitive bidding.

19 (3) The effect, if any, of the use of competitive
20 bidding and the resulting diversion of licensees' fi-
21 nancial resources on the introduction of new services
22 including the quality, pace, and scope of the offering
23 of such services to the public.

24 (4) The effect, if any, of participation in com-
25 petitive bidding by incumbent spectrum license hold-

ers 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”.

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

3 (a) IN GENERAL.—During the period beginning on
4 the date of enactment of this Act and ending on December
5 31, 2005, section 1341 and subchapter II of chapter 15
6 of title 31, United States Code, do not apply—

7 (1) to any amount collected or received as Fed-
8 eral universal service contributions required by sec-
9 tion 254 of the Communications Act of 1934 (47
10 U.S.C. 254), including any interest earned on such
11 contributions; nor

12 (2) to the expenditure or obligation of amounts
13 attributable to such contributions for universal serv-
14 ice support programs established pursuant to that
15 section.

16 (b) POST-2005 FULFILLMENT OF PROTECTED OBLI-
17 GATIONS.—Section 1341 and subchapter II of chapter 15
18 of title 31, United States Code, do not apply after Decem-
19 ber 31, 2005, to an expenditure or obligation described

- 1 in subsection (a)(2) made or authorized during the period
- 2 described in subsection (a).

Passed the House of Representatives November 20,
2004.

Attest:

Clerk.