

HOUSE BILL 267

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

Joe Stell

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE AND
THE
ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO COMMUNICATIONS REVENUES; ESTABLISHING A WIRELESS
ENHANCED 911 SURCHARGE; CREATING A FUND; AMENDING AND
ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 63-9D-3 NMSA 1978 (being Laws 1989,
Chapter 25, Section 3, as amended) is amended to read:

"63-9D-3. DEFINITIONS.--As used in the Enhanced 911
Act:

A. "911 emergency surcharge" means the monthly
uniform charge assessed on each ~~[local exchange service
customer in the state for each local exchange access line to
pay for the purchase, lease, installation and maintenance of
equipment necessary for the establishment of a 911 system,
including the repayment of bonds issued pursuant to the~~

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1 ~~Enhanced 911 Bond Act~~ access line in the state;

2 B. "911 service area" means the area within a
3 local governing body's jurisdiction that has been designated
4 by the local governing body or the division to receive
5 enhanced 911 service;

6 C. "911 system" means the basic 911 system or the
7 enhanced 911 system;

8 D. "access line" means a telecommunications
9 company's line that has the capability to reach local public
10 safety agencies, but does not include a line used for the
11 provision of interexchange services or commercial mobile
12 radio service;

13 ~~[D.]~~ E. "basic 911 system" means a telephone
14 service that automatically connects a person dialing the
15 single three-digit number 911 to ~~[an established]~~ a
16 designated public safety answering point ~~[through normal~~
17 ~~telephone service facilities];~~

18 F. "commercial mobile radio service" means service
19 provided by a wireless real-time two-way voice communication
20 device, including:

21 (1) radio-telephone communications used in
22 cellular telephone service;

23 (2) the functional or competitive equivalent
24 of radio-telephone communications used in cellular telephone
25 service;

(3) a personal communications service; or

(4) a network radio access line;

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1 G. "commercial mobile radio service provider"
2 means a person who provides commercial mobile radio service,
3 including a person who purchases commercial mobile radio
4 service from a provider and resells that service;

5 ~~[F.]~~ H. "commission" means the public regulation
6 commission;

7 ~~[F.]~~ I. "department" means the taxation and
8 revenue department;

9 ~~[G.]~~ J. "division" means the local government
10 division of the department of finance and administration;

11 ~~[H.]~~ K. "enhanced 911 system" means a ~~[telephone]~~
12 system consisting of network, database and on-premises
13 equipment that uses the single three-digit number 911 for
14 reporting police, fire, medical or other emergency
15 situations, thereby enabling ~~[the users of a public telephone~~
16 ~~system]~~ a caller to reach a public safety answering point to
17 report emergencies by dialing 911, and includes the
18 capability to:

19 (1) selectively route incoming 911 calls to
20 the appropriate public safety answering point operating in a
21 911 service area; and

22 (2) automatically display the name, address
23 and telephone number of an incoming 911 call on a video
24 monitor at the appropriate public safety answering point;

25 ~~[F.]~~ L. "enhanced 911 equipment" means the
~~[customer premises]~~ public safety answering point equipment
directly related to the operation of an enhanced 911 system,

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1 including automatic number identification or automatic
2 location identification controllers and display units,
3 printers, cathode ray tubes and software associated with call
4 detail recording;

5 M. "enhanced 911 wireless service" means the relay
6 to a designated public safety answering point of:

7 (1) a 911 caller's number and base station
8 or cell site location; and

9 (2) the latitude and longitude of the 911
10 caller's location in relation to a designated public safety
11 answering point;

12 ~~[F.] N. "equipment supplier" means a person who~~
13 ~~provides or offers to provide telecommunications equipment~~
14 ~~necessary for the establishment of enhanced 911 services;~~

15 ~~[K. "local 911 surcharge" means the additional~~
16 ~~charge imposed by a local governing body of a community~~
17 ~~served by a local exchange telephone company that has not~~
18 ~~otherwise provided for enhanced 911 capability in its network~~
19 ~~in order to provide funding for the local governing body to~~
20 ~~pay for development of the network and database;~~

21 ~~L. "local exchange access line" means a telephone~~
22 ~~line that connects a local exchange service customer to the~~
23 ~~local switching office and has the capability of reaching~~
24 ~~local public safety service agencies, but does not include~~
25 ~~any line used by a carrier for the provision of interexchange~~
~~services;~~

~~M. "local exchange area" means a geographic area~~

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1 ~~encompassing one or more local communities, as described in~~
2 ~~maps, tariffs or rate schedules filed with the commission,~~
3 ~~where local exchange rates apply;~~

4 ~~N. "local exchange service" means the transmission~~
5 ~~of two-way interactive switched voice communications~~
6 ~~furnished by a local exchange telephone company within a~~
7 ~~local exchange area, including access to enhanced 911~~
8 ~~systems;~~

9 ~~O. "local exchange telephone company" means a~~
10 ~~telecommunications company as defined by Subsection M of~~
11 ~~Section 63-9A-3 NMSA 1978 certified to provide local exchange~~
12 ~~service;~~

13 ~~P.]~~ Q. "local governing body" means the board of
14 county commissioners of a county or the governing body of a
15 municipality as defined in the Municipal Code;

16 ~~[Q.]~~ P. "network" means a system designed to
17 provide one or more access paths for communications between
18 users at different geographic locations; provided that a
19 system may be designed for voice, data or both and may
20 feature limited or open access and may employ appropriate
21 analog, digital switching or transmission technologies;

22 ~~[R.]~~ Q. "network and database surcharge" means the
23 monthly uniform charge assessed on each [~~local exchange~~
24 ~~service customer in the state for each local exchange]~~ access
25 line to pay [~~for~~] the costs of developing and maintaining a
network and database for a 911 emergency system; [~~and~~

~~S.]~~ R. "public safety answering point" means a

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1 twenty-four-hour local jurisdiction communications facility
2 that receives 911 service calls and directly dispatches
3 emergency response services or that relays calls to the
4 appropriate public or private safety agency;

5 S. "subscriber" means a person who is a retail
6 purchaser of telecommunications services that are capable of
7 originating a 911 call;

8 T. "telecommunications company" means a person who
9 provides wire telecommunications services that are capable of
10 originating a 911 call; and

11 U. "wireless enhanced 911 surcharge" means the
12 monthly uniform charge assessed on each active number for a
13 commercial mobile radio service subscriber whose billing
14 address is in New Mexico."

15 Section 2. Section 63-9D-4 NMSA 1978 (being Laws 1989,
16 Chapter 25, Section 4, as amended) is amended to read:

17 "63-9D-4. PROVISION FOR 911 SERVICES BY LOCAL GOVERNING
18 BODIES--911 SYSTEM COSTS AND NETWORK AND DATABASE COSTS--
19 PAYMENT OF COSTS--JOINT POWERS AGREEMENTS--AID OUTSIDE
20 JURISDICTIONAL BOUNDARIES.--

21 A. A local governing body may incur costs for the
22 purchase or lease, installation and maintenance of equipment
23 necessary for the establishment of a 911 system at public
24 safety answering points and may pay such costs through
25 disbursements from the enhanced 911 fund. Necessary network
and database costs may:

(1) be recovered by a local governing body

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1 from the network and database surcharge fund in amounts
2 approved by the state board of finance; or
3 (2) be disbursed from the network and
4 database surcharge fund and paid directly to a vendor
5 pursuant to a state price agreement or to a
6 telecommunications company on behalf of a local governing
7 body. The amount of the payment shall be approved by the
8 state board of finance.

9 B. If the enhanced 911 system is to be provided
10 for territory that is included in whole or in part in the
11 jurisdiction of the local governing bodies of two or more
12 public agencies that are the primary providers of emergency
13 fire fighting, law enforcement, ambulance, emergency medical
14 or other emergency services, the agreement for the
15 procurement of the necessary equipment for ~~[a]~~ the enhanced
16 911 system shall be entered into by each local governing
17 body, unless a local governing body expressly excludes itself
18 from the agreement. Any agreement shall provide that each
19 local governing body not excluded from the agreement shall
20 make payment ~~[therefor]~~ for the enhanced 911 system from
21 general revenues. Nothing in this subsection shall be
22 construed to prevent two or more ~~[such]~~ local governing
23 bodies from entering into a ~~[contract]~~ joint powers agreement
24 pursuant to the Joint Powers Agreements Act to establish a
25 separate legal entity ~~[that is, separate governing body, and~~
~~thereunder to]~~ that can enter into an agreement as the
enhanced 911 customer.

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1 C. All public agencies in a 911 system shall
2 provide that, once an emergency unit is dispatched in
3 response to a request for aid through the 911 system, the
4 emergency unit shall render services to the requester without
5 regard to whether the unit is operating outside its normal
6 jurisdictional boundaries."

7 Section 3. Section 63-9D-5 NMSA 1978 (being Laws 1989,
8 Chapter 25, Section 5, as amended) is amended to read:

9 "63-9D-5. IMPOSITION OF SURCHARGE--NOTIFICATION.--
10 There is imposed a 911 emergency surcharge in the amount of
11 twenty-five cents (\$.25) and a network and database surcharge
12 in the amount of twenty-six cents (\$.26) to be billed [by
13 ~~local exchange telephone companies on all local exchange~~
14 ~~access lines in the state]~~ to each subscriber by a
15 telecommunications company; provided, however, that [a] the
16 911 emergency surcharge and the network and database
17 surcharge shall not be imposed upon [~~local exchange service~~
18 ~~customers]~~ subscribers receiving reduced rates pursuant to
19 the Low Income Telephone Service Assistance Act. The 911
20 emergency surcharge shall commence with the first billing
21 period of each [~~customer]~~ subscriber on or following ninety
22 days after the effective date of the Enhanced 911 Act. The
23 network and database surcharge shall commence with the first
24 billing period of each [~~customer]~~ subscriber on or following
25 ninety days after July 1, 1993. Each local governing body
shall notify the division and the [~~local exchange telephone]~~
telecommunications company providing local exchange service

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1 to the 911 service area of the boundaries of the 911 service
2 area and the costs to the local governing body of purchasing
3 or leasing, installing and maintaining the equipment
4 necessary to provide 911 emergency services in the 911
5 service area. Each local governing body that seeks funding
6 for its 911 system shall file an application with the
7 division requesting approval of the state board of finance
8 for disbursement from the enhanced 911 fund and the network
9 and database surcharge fund."

10 Section 4. Section 63-9D-6 NMSA 1978 (being Laws 1989,
11 Chapter 25, Section 6, as amended) is amended to read:

12 "63-9D-6. PARTICIPATION IN FUNDS--LIABILITY OF [USER]
13 SUBSCRIBER FOR SURCHARGE--COLLECTION--UNCOLLECTED AMOUNTS.--

14 A. The local governing body may, by ordinance or
15 resolution, recover from the enhanced 911 fund and the
16 network and database surcharge fund an amount necessary to
17 recover the costs of purchasing, leasing, installing and
18 maintaining equipment and the costs of developing and
19 maintaining a network and database necessary to provide a 911
20 [~~emergency~~] system in its designated 911 service area.

21 B. [~~Local exchange telephone~~] Telecommunications
22 companies shall be required to bill and collect the 911
23 emergency surcharge and the network and database surcharge
24 from their [~~local exchange service customers~~] subscribers.
25 The 911 emergency surcharge and the network and database
surcharge required to be collected by the [~~local exchange~~
~~telephone company~~] telecommunications company shall be added

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1 to and [~~shall be~~] stated in the billings to the [~~local~~
2 ~~exchange service customer~~] subscriber. The money collected
3 by the [~~local exchange telephone company~~] telecommunications
4 company as the 911 emergency surcharge and the network and
5 database surcharge shall not be considered as revenues of the
6 [~~local exchange telephone company~~] telecommunications
7 company.

8 C. Every billed [~~local exchange service customer~~]
9 subscriber is liable for payment of the 911 emergency
10 surcharge and the network and database surcharge until they
11 have been paid to [~~the local exchange telephone~~] a
12 telecommunications company.

13 D. The [~~local exchange telephone~~]
14 telecommunications company has no obligation to take any
15 legal action to enforce the collection of the 911 emergency
16 surcharge or the network and database surcharge. An action
17 may be brought by or on behalf of the department. [~~The local~~
18 ~~exchange telephone~~] A telecommunications company shall
19 annually provide the department a list of the amounts
20 uncollected along with the names and addresses of [~~those~~
21 ~~local exchange service customers~~] subscribers who carry a
22 balance that can be determined by the [~~local exchange~~
23 ~~telephone~~] telecommunications company to be the nonpayment of
24 the 911 emergency surcharge and the network and database
25 surcharge. The [~~local exchange telephone~~] telecommunications
company shall not be held liable for uncollected amounts."

Section 5. Section 63-9D-7 NMSA 1978 (being Laws 1989,

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1 Chapter 25, Section 7, as amended) is amended to read:

2 "63-9D-7. REMITTANCE OF CHARGES--ADMINISTRATIVE FEE
3 [AUDITS].--

4 A. Amounts collected by reason of the 911
5 emergency surcharge and the network and database surcharge
6 shall be remitted monthly to the department, which shall
7 administer and enforce collection of each surcharge in
8 accordance with the Tax Administration Act. The amount of
9 the 911 emergency surcharge and the network and database
10 surcharge shall be remitted to the department no later than
11 the twenty-fifth day of the month following the month in
12 which the surcharge was imposed. At that time, a return for
13 the preceding month shall be filed with the department in
14 such form as the department and [~~local exchange telephone~~]
15 telecommunications company shall agree upon. The [~~local~~
16 ~~exchange telephone~~] telecommunications company required to
17 file the return shall deliver the return together with a
18 remittance of the amount of the 911 emergency surcharge and
19 the network and database surcharge payable to the department.
20 The [~~local exchange telephone~~] telecommunications company
21 shall maintain a record of the amount of each charge
22 collected pursuant to the Enhanced 911 Act. The record shall
23 be maintained for a period of three years after the time the
24 charges were collected.

25 B. From every remittance to the department made on
or before the date when it becomes due, the [~~local exchange~~
~~telephone~~] telecommunications company required to make a

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1 remittance shall be entitled to deduct and retain one percent
2 of the collected amount or fifty dollars (\$50.00), whichever
3 is greater, as the cost of administration for collecting the
4 911 emergency surcharge and the network and database
5 surcharge."

6 Section 6. Section 63-9D-8 NMSA 1978 (being Laws 1989,
7 Chapter 25, Section 8, as amended) is amended to read:

8 "63-9D-8. ENHANCED 911 FUND--CREATION--ADMINISTRATION--
9 DISBURSEMENT--REPORTS TO LEGISLATURE.--

10 A. There is created in the state treasury a fund
11 [~~which~~] that shall be known as the "enhanced 911 fund". The
12 enhanced 911 fund shall be administered by the division.

13 B. All money remitted to the department as a
14 result of collection of the 911 emergency surcharge shall be
15 deposited in the enhanced 911 fund.

16 C. All money deposited in the enhanced 911 fund
17 and all income earned by investment of the fund are [~~hereby~~]
18 appropriated for expenditure in accordance with the Enhanced
19 911 Act and shall not revert to the general fund.

20 D. Payments shall be made from the enhanced 911
21 fund to, or on behalf of, participating local governing
22 bodies upon vouchers signed by the director of the division.

23 E. Money in the enhanced 911 fund may be used for
24 the purchase, lease, installation or maintenance of equipment
25 necessary for a 911 system, including the repayment of bonds
issued pursuant to the Enhanced 911 Bond Act. [~~Annually~~] The
division may expend no more than five percent of all money

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1 deposited annually in the enhanced 911 fund for the purpose
2 of ~~[administrating]~~ administering and coordinating activities
3 associated with implementation of the Enhanced 911 Act.

4 F. The division shall report to the legislature
5 each session as to the status of the enhanced 911 fund and
6 whether the current level of the 911 emergency surcharge is
7 adequate, excessive or insufficient to fund the anticipated
8 needs for the next year."

9 Section 7. Section 63-9D-8.1 NMSA 1978 (being Laws
10 1990, Chapter 87, Section 3, as amended) is amended to read:

11 "63-9D-8.1. DIVISION POWERS.--

12 A. The division may adopt such reasonable rules
13 ~~[as are deemed]~~ necessary to carry out the provisions of the
14 Enhanced 911 Act.

15 B. The division ~~[shall have the authority to]~~ may
16 fund basic 911 systems pursuant to the provisions of the
17 Enhanced 911 Act.

18 C. The division and the local governing body
19 ~~[shall have the authority to]~~ may establish 911 service
20 areas.

21 D. Unless otherwise provided by law, no rule
22 affecting any person, agency, local governing body,
23 commercial mobile radio service provider or ~~[local exchange~~
24 ~~telephone]~~ telecommunications company shall be adopted,
25 amended or repealed without a public hearing on the proposed
action before the director of the division or a hearing
officer designated by him. The public hearing shall be held

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1 in Santa Fe unless otherwise permitted by statute. Notice of
2 the subject matter of the rule, the action proposed to be
3 taken, the time and place of the hearing, the manner in which
4 interested persons may present their views and the method by
5 which copies of the proposed rule or proposed amendment or
6 repeal of an existing rule may be obtained shall be published
7 once at least thirty days prior to the hearing in a newspaper
8 of general circulation and mailed at least thirty days prior
9 to the hearing date to all persons or agencies who have made
10 a written request for advance notice of the hearing and to
11 all local governing bodies, ~~[and local exchange telephone]~~
12 telecommunications companies and commercial mobile radio
13 service providers.

14 E. All rules shall be filed in accordance with the
15 State Rules Act."

16 Section 8. Section 63-9D-8.2 NMSA 1978 (being Laws
17 1993, Chapter 48, Section 11) is amended to read:

18 "63-9D-8.2. NETWORK AND DATABASE SURCHARGE FUND--
19 CREATION--ADMINISTRATION--DISBURSEMENT--REPORT.--

20 A. There is created in the state treasury the
21 "network and database surcharge fund". The network and
22 database surcharge fund shall be administered by the
23 division.

24 B. All money remitted to the department as a
25 result of the network and database surcharge shall be
deposited in the network and database surcharge fund.

C. All money deposited in the network and database

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1 surcharge fund and all income earned by investment of the
2 network and database surcharge fund are [~~hereby~~] appropriated
3 for expenditure in accordance with the provisions of the
4 Enhanced 911 Act and shall not revert to the general fund.

5 D. Payments shall be made from the network and
6 database surcharge fund to, or on behalf of, participating
7 local governing bodies upon vouchers signed by the director
8 of the division.

9 E. Annually the division may expend no more than
10 two and one-half percent of all money deposited annually in
11 the network and database surcharge fund for the purpose of
12 administering and coordinating activities associated with
13 implementation of the network and database surcharge fund.

14 F. Money in the network and database surcharge
15 fund may be awarded as grant assistance upon application of
16 local governing bodies to the division and approval by the
17 state board of finance. If it is anticipated that
18 insufficient funds will be available to pay all requests for
19 grants, the state board of finance may reduce the percentage
20 of assistance to be awarded. In the event of such a
21 reduction, the state board of finance may award supplemental
22 grants to local governing bodies that can demonstrate
23 financial hardship.

24 G. The division shall report to the legislature
25 each session as to the status of the network and database
surcharge fund and whether the current level of the network
and database surcharge is adequate, excessive or insufficient

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1 to fund the anticipated needs for the next year."

2 Section 9. Section 63-9D-9 NMSA 1978 (being Laws 1989,
3 Chapter 25, Section 9, as amended) is amended to read:

4 "63-9D-9. [~~AGREEMENTS OR CONTRACTS FOR 911 SYSTEMS~~] USE
5 OF FUNDS COLLECTED [~~TRANSFER OF FUNDS~~].--

6 [A.] Money received by a local governing body from
7 the enhanced 911 fund shall be spent solely to pay for 911
8 equipment costs, associated installation costs and
9 maintenance costs necessary to provide enhanced 911 services.
10 Money received as a result of the network and database
11 surcharge shall be spent solely to pay for the network
12 capability and database for an enhanced 911 system.

13 [~~B. Money received by a local governing body from
14 the local 911 surcharge shall be credited to separate cash
15 funds, apart from the general fund of the local governing
16 body, for network and database payments. Any local 911
17 surcharge money remaining on July 1, 1993 shall be
18 transferred to the network and database surcharge fund.]"~~

19 Section 10. Section 63-9D-10 NMSA 1978 (being Laws
20 1989, Chapter 25, Section 10) is amended to read:

21 "63-9D-10. IMMUNITY.--911 systems are within the
22 governmental powers and authorities of the local governing
23 body or state agency in the provision of services for the
24 public health, welfare and safety. In contracting for such
25 services or the provisioning of a 911 system, except for
willful or wanton negligence or intentional acts, the local
governing body, public agency, equipment supplier, [~~local~~

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1 ~~exchange telephone company, and mobile telephone company,~~
2 ~~including a cellular service company as defined in Subsection~~
3 ~~B of Section 63-9B-3 NMSA 1978]~~ telecommunications company
4 and commercial mobile radio service provider, their employees
5 and agents shall be immune from litigation or the payment of
6 any damages in the performance of installing, maintaining or
7 providing 911 systems and transmitting 911 calls."

8 Section 11. Section 63-9D-11 NMSA 1978 (being Laws
9 1989, Chapter 25, Section 11) is amended to read:

10 "63-9D-11. PRIVATE LISTING SUBSCRIBERS AND 911 SERVICE.-

11 - A. Private listing subscribers waive the privacy
12 afforded by nonlisted or nonpublished numbers only to the
13 extent that the name and address associated with the telephone
14 number may be furnished to the enhanced 911 system for call
15 routing or for automatic retrieval of location information in
16 response to a call initiated to 911.

17 B. Information regarding the identity of private
18 listing subscribers, including names, addresses, telephone
19 numbers or other identifying information, is not a public
20 record and is not available for inspection."

21 Section 12. A new section of the Enhanced 911 Act is
22 enacted to read:

23 "[NEW MATERIAL] WIRELESS ENHANCED 911 FUND--CREATION--
24 ADMINISTRATION--DISBURSEMENT--NOTIFICATION.--

25 A. There is created in the state treasury the
"wireless enhanced 911 fund". The wireless enhanced 911 fund
shall be administered by the division.

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B. All money remitted to the department as a result of the wireless enhanced 911 surcharge shall be deposited in the wireless enhanced 911 fund.

C. All money deposited in the wireless enhanced 911 fund and all income earned by investment of the wireless enhanced 911 fund are appropriated for expenditure on enhanced 911 wireless service in accordance with the provisions of the Enhanced 911 Act and shall not revert to the general fund.

D. Payments shall be made from the wireless enhanced 911 fund to, or on behalf of, participating local governing bodies upon vouchers signed by the director of the division solely for the purpose of reimbursing local governing bodies and commercial mobile radio service providers for their costs of providing enhanced 911 wireless service. A person who purchases commercial mobile radio services from a commercial mobile radio service provider for the purpose of reselling that service is not eligible for reimbursement from the wireless enhanced 911 fund.

E. The division may expend no more than five percent of all money deposited annually in the wireless enhanced 911 fund for the purpose of administering and coordinating activities associated with implementation of the wireless enhanced 911 fund.

F. Money in the wireless enhanced 911 fund may be awarded as grant assistance to provide for enhanced 911 wireless services upon application of local governing bodies to the division and approval by the state board of finance. If it

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1 is anticipated that insufficient funds will be available to pay
2 all requests for grants, the state board of finance may reduce
3 the percentage of assistance to be awarded. In the event of
4 such reduction, the state board of finance may award
5 supplemental grants to local governing bodies that can
6 demonstrate financial hardship.

7 G. Each local governing body shall notify the
8 division and the commercial mobile radio service provider
9 providing enhanced 911 wireless service to the 911 service area
10 of the boundaries of the 911 service area and the costs to the
11 local governing body for providing enhanced 911 wireless
12 service to the 911 service area.

13 H. After requesting enhanced 911 wireless service
14 from a commercial mobile radio service provider, a local
15 governing body may, by ordinance or resolution, recover from
16 the wireless enhanced 911 fund an amount necessary to recover
17 the costs of purchasing, leasing, installing and maintaining
18 911 voice call reception and recording equipment; hardware and
19 software for automatic number identification processing;
20 hardware and software for automatic location identification
21 processing; and developing and maintaining a network and
22 database necessary to provide enhanced 911 wireless service in
23 its designated 911 service area. The division, on behalf of
24 local governing bodies, shall directly pay or reimburse
25 commercial mobile radio service providers for their incremental
costs of providing enhanced 911 wireless service. If a
commercial mobile radio service provider does not receive

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1 payment or reimbursement for the incremental cost of providing
2 enhanced 911 wireless service, the provider is not obligated to
3 provide that service.

4 I. The division shall report to the legislature
5 each session as to the status of the wireless enhanced 911 fund
6 and whether the current level of the wireless enhanced 911
7 surcharge is adequate, excessive or insufficient to fund the
8 anticipated needs for the next year."

9 Section 13. A new section of the Enhanced 911 Act is
10 enacted to read:

11 "[NEW MATERIAL] IMPOSITION OF SURCHARGE--LIABILITY OF
12 USER FOR SURCHARGE--COLLECTION--UNCOLLECTED AMOUNTS.--

13 A. There is imposed a wireless enhanced 911
14 surcharge in the amount of fifty-one cents (\$.51) that shall
15 commence with the first billing period of each subscriber on or
16 following ninety days after July 1, 2000.

17 B. Commercial mobile radio service providers shall
18 be required to bill and collect the wireless enhanced 911
19 surcharge from their subscribers whose billing addresses are
20 within New Mexico. The wireless enhanced 911 surcharge
21 required to be collected by the commercial mobile radio service
22 provider shall be added to and stated clearly and separately in
23 the billings to the subscriber. The money collected by the
24 commercial mobile radio service provider as the wireless
25 enhanced 911 surcharge shall not be considered as revenues of
the commercial mobile radio service provider.

C. Every billed subscriber is liable for payment of

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1 the wireless enhanced 911 surcharge until it has been paid to
2 the commercial mobile radio service provider.

3 D. The commercial mobile radio service provider has
4 no obligation to take any legal action to enforce the
5 collection of the wireless enhanced 911 surcharge. An action
6 may be brought by or on behalf of the department. The
7 commercial mobile radio service provider shall annually provide
8 the department a list of the amounts uncollected along with the
9 names and addresses of subscribers who carry a balance that can
10 be determined by the commercial mobile radio service provider
11 to be the nonpayment of the wireless enhanced 911 surcharge.
12 The commercial mobile radio service provider shall not be held
13 liable for uncollected amounts."

14 Section 14. A new section of the Enhanced 911 Act is
15 enacted to read:

16 "[NEW MATERIAL] REMITTANCE OF CHARGES--ADMINISTRATIVE FEE--
17 -AUDITS.--

18 A. Amounts collected by reason of the wireless
19 enhanced 911 surcharge shall be remitted monthly to the
20 department, which shall administer and enforce collection of
21 each surcharge in accordance with the Tax Administration Act.
22 The amounts collected from the wireless enhanced 911 surcharge
23 shall be remitted to the department no later than the twenty-
24 fifth day of the month following the month in which the
25 surcharge was imposed. At that time, a return for the
preceding month shall be filed with the department in such form
as the department and the commercial mobile radio service

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1 provider shall agree upon. The commercial mobile radio service
2 provider required to file the return shall deliver the return
3 together with a remittance of the amount of the wireless
4 enhanced 911 surcharge payable to the department. The
5 commercial mobile radio service provider shall maintain a
6 record of the amount of each charge collected pursuant to the
7 Enhanced 911 Act. The record shall be maintained for a period
8 of three years after the time the charges are collected.

9 B. From every remittance to the department made on
10 or before the date when it becomes due, the commercial mobile
11 radio service provider required to make a remittance shall be
12 entitled to deduct and retain one percent of the collected
13 amount or fifty dollars (\$50.00), whichever is greater, as the
14 cost of administration for collecting the wireless enhanced 911
15 surcharge."

16 Section 15. Section 63-9D-13 NMSA 1978 (being Laws 1990,
17 Chapter 61, Section 2, as amended) is amended to read:

18 "63-9D-13. DEFINITIONS.--As used in the Enhanced 911 Bond
19 Act:

- 20 A. "board" means the state board of finance;
- 21 B. "division" means the local government division of
22 the department of finance and administration;
- 23 C. "enhanced 911 bonds" means the bonds authorized
24 in the Enhanced 911 Bond Act;
- 25 D. "enhanced 911 project" means actions authorized
under Section 63-9D-14 NMSA 1978 that pertain to a specific
component of the 911 system; ~~and~~

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1 E. [~~pledged~~] "enhanced 911 revenues" means the
2 revenues to and the income of the enhanced 911 fund that are
3 pledged to the payment of enhanced 911 bonds under the Enhanced
4 911 Bond Act;

5 F. "network and database surcharge revenues" means
6 the revenue to and the income of the network and database
7 surcharge fund that are pledged to the payment of enhanced 911
8 bonds under the Enhanced 911 Bond Act; and

9 G. "wireless enhanced 911 revenues" means the
10 revenue to and the income of the wireless enhanced 911 fund
11 that are pledged to the payment of enhanced 911 bonds under the
12 Enhanced 911 Bond Act."

13 Section 16. Section 63-9D-14 NMSA 1978 (being Laws 1990,
14 Chapter 61, Section 3, as amended) is amended to read:

15 "63-9D-14. ENHANCED 911 BONDS--AUTHORITY TO ISSUE--PLEDGE
16 OF REVENUES--LIMITATION ON ISSUANCE.--

17 A. In addition to any other law authorizing the
18 board to issue revenue bonds, the board may issue enhanced 911
19 bonds pursuant to the Enhanced 911 Bond Act for the purposes
20 specified in this section.

21 B. Enhanced 911 bonds may be issued for:
22 (1) acquiring, extending, enlarging, bettering,
23 repairing, improving, constructing, purchasing, furnishing,
24 equipping or rehabilitating the enhanced 911 system, the
25 payment of which shall be secured by enhanced 911 revenues or
network and database surcharge revenues;

 (2) reimbursing a commercial mobile radio

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1 service provider for its reasonable costs of providing enhanced
2 wireless 911 service, the payment of which shall be secured by
3 wireless enhanced 911 revenues; or

4 (3) reimbursing a local governing body for its
5 reasonable costs of providing enhanced wireless 911 service,
6 the payment of which shall be secured by wireless enhanced 911
7 revenues.

8 C. The board may pledge irrevocably ~~[any or all of~~
9 ~~the projected revenues of the enhanced 911 fund, specifically~~
10 ~~including the 911 emergency surcharge authorized under the~~
11 ~~Enhanced 911 Act]~~ enhanced 911 revenues, network and database
12 surcharge revenues and wireless enhanced 911 revenues in the
13 manner set forth in Subsection B of this section to the payment
14 of the interest on and principal of ~~[such]~~ enhanced 911 bonds.
15 Any general determination by the board that any facilities or
16 equipment are reasonably related to and shall constitute a part
17 of a specified enhanced 911 project shall be conclusive if set
18 forth in the proceedings authorizing the enhanced 911 bonds."

19 Section 17. Section 63-9D-17 NMSA 1978 (being Laws 1990,
20 Chapter 61, Section 6) is amended to read:

21 "63-9D-17. BOND AUTHORIZATION.--The board may issue and
22 sell enhanced 911 bonds in compliance with the Enhanced 911
23 Bond Act. The board shall schedule the issuance and sale of
24 the bonds in the most expeditious and economical manner upon a
25 finding by the board that the division has certified that the
need exists for the issuance of bonds and upon an action by the
board designating the enhanced 911 fund, the network and

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1 database surcharge fund or the wireless enhanced 911 fund to be
2 the source of pledged revenues."

3 Section 18. Section 63-9D-18 NMSA 1978 (being Laws 1990,
4 Chapter 61, Section 7, as amended) is amended to read:

5 "63-9D-18. AUTHORITY TO REFUND BONDS.--

6 A. The board may issue and sell at public or private
7 sale enhanced 911 bonds to refund outstanding enhanced 911
8 bonds and other bonds payable from the enhanced 911 fund by
9 exchange, immediate or prospective redemption, cancellation or
10 escrow, including the escrow of debt service funds accumulated
11 for payment of outstanding bonds, or any combination thereof,
12 when, in its opinion, such action will be beneficial to the
13 state.

14 ~~[B. In performing an advanced refunding, the board~~
15 ~~shall use the level savings method of advance refunding to the~~
16 ~~greatest extent possible.]~~

17 ~~C. No bonds shall be issued to refund outstanding~~
18 ~~enhanced 911 bonds or other bonds payable from the enhanced 911~~
19 ~~fund if any of the refunding bonds have maturity dates after~~
20 ~~the latest maturity date of a bond to be refunded.]~~

21 B. No enhanced 911 bonds that are secured by
22 enhanced 911 revenues or network and database surcharge
23 revenues shall be refunded by enhanced 911 bonds that are
24 secured by wireless enhanced 911 revenues. No enhanced 911
25 bonds that are secured by wireless enhanced 911 revenues shall
be refunded by enhanced 911 bonds that are secured by enhanced
911 revenues or network and database surcharge revenues."

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1 Section 19. Section 63-9D-20 NMSA 1978 (being Laws 1992,
2 Chapter 102, Section 5) is amended to read:

3 "63-9D-20. AMOUNT OF ~~[SURCHARGE]~~ SURCHARGES--SECURITY FOR
4 BONDS.--

5 A. ~~[Notwithstanding the amount of the 911 emergency~~
6 ~~surchage set forth in Subsection A of Section 63-9D-5 NMSA~~
7 ~~1978]~~ The legislature shall provide for the continued
8 imposition, collection and deposit of the 911 emergency
9 surcharge, the network and database surcharge and the wireless
10 enhanced 911 surcharge into the enhanced 911 fund, the network
11 and database surcharge fund and the wireless enhanced 911 fund,
12 as applicable, in amounts that, together with other amounts
13 deposited into the ~~[fund]~~ funds, will be sufficient to produce
14 an amount necessary to meet annual debt service charges on all
15 respective outstanding enhanced 911 bonds.

16 B. The legislature shall not repeal, amend or
17 otherwise modify any law that affects the 911 emergency
18 surcharge, the network and database surcharge or the wireless
19 enhanced 911 surcharge in a manner that impairs any outstanding
20 enhanced 911 bonds secured by a pledge of the 911 emergency
21 surcharge, the network and database surcharge or the wireless
22 enhanced 911 surcharge unless:

23 (1) the outstanding enhanced 911 bonds to which
24 the revenues from such surcharges are pledged have been
25 discharged in full; or

 (2) provision has been made to discharge fully
the outstanding enhanced 911 bonds to which the revenues from

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such surcharges are pledged.

~~[C. The terms of any bonds issued after the effective date of this section shall not conflict with the provisions of this section.~~

~~D.]~~ C. Nothing in this section shall require any increase in the 911 emergency surcharge [~~set forth in Subsection A of Section 63-9D-5 NMSA 1978~~], the network and database surcharge or the wireless enhanced 911 surcharge."

Section 20. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.