

1 HOUSE BILL 328

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Roberto "Bobby" J. Gonzales

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10 AN ACT

11 RELATING TO COMMUNICATIONS; AMENDING, REPEALING AND ENACTING
12 SECTIONS OF THE ENHANCED 911 ACT AND AMENDING SECTIONS OF THE
13 ENHANCED 911 BOND ACT TO PROVIDE FOR SURCHARGES TO BE IMPOSED
14 ON COMMUNICATIONS SERVICES, INCLUDING VOICE OVER INTERNET
15 PROTOCOL SUBSCRIPTIONS AND ELECTRONIC DATA NETWORKS.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 63-9D-2 NMSA 1978 (being Laws 1989,
19 Chapter 25, Section 2, as amended) is amended to read:

20 "63-9D-2. FINDINGS AND PURPOSE.--

21 A. The legislature finds that:

22 (1) isolated people, the elderly, the young
23 and victims of crime are often at risk and without help;

24 (2) children, elderly persons and victims of
25 crime are frequently unable to explain directions to the

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1 location of an emergency situation;

2 (3) life-threatening accidents, fires, crimes
3 and natural disasters occur in the state each year;

4 (4) an enhanced 911 [~~telephone~~] emergency
5 system provides:

6 (a) expansion of the benefits of the
7 basic 911 emergency telephone number;

8 (b) faster response time which minimizes
9 the loss of life and property;

10 (c) automatic routing to the appropriate
11 [~~emergency response unit~~] public safety answering point;

12 (d) immediate visual display of the
13 location and [~~telephone~~] number of the caller; and

14 (e) curtailment of abuses of the
15 emergency system by documenting callers; and

16 (5) New Mexico communities could make
17 efficient use of the enhanced 911 [~~telephone~~] emergency system
18 if the communities had adequate funding available.

19 B. It is the purpose of the Enhanced 911 Act to
20 further the public interest and protect the safety, health and
21 welfare of the people of New Mexico by enabling the
22 development, installation and operation of enhanced 911
23 emergency reporting systems to be operated under shared state
24 and local governmental management and control."

25 SECTION 2. Section 63-9D-3 NMSA 1978 (being Laws 1989,

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1 Chapter 25, Section 3, as amended) is amended to read:

2 "63-9D-3. DEFINITIONS.--As used in the Enhanced 911 Act:

3 A. "911 call" means any real-time communication,
4 message, signal or transmission between a person needing
5 assistance and a public safety answering point call-taker;

6 B. "911 emergency surcharge" means the monthly
7 uniform charge assessed on each access line in the state [and],
8 on each active number for a commercial mobile radio service
9 subscriber [whose billing address is] on each active number for
10 a VoIP service subscriber in New Mexico and the charge assessed
11 on any other consumer purchase of communications service
12 provided by a communications service provider that enables
13 communication between a person needing assistance and a public
14 safety answering point call-taker. The E911 surcharge should
15 be assessed to the retail customer based upon the maximum
16 number of active telephone numbers capable of simultaneously
17 contacting the local public safety answering point;

18 ~~[B.]~~ C. "911 service area" means the area
19 designated by the fiscal agent, local governing body or the
20 division to receive enhanced 911 service;

21 ~~[C.]~~ D. "access line" means a telecommunications
22 company's line that has the capability to reach local public
23 safety agencies by dialing 911, but does not include a line
24 used for the provision of interexchange services or commercial
25 mobile radio service;

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1 ~~[D-]~~ E. "commercial mobile radio service" means
2 service provided by a wireless real-time two-way voice
3 communication device, including:

4 (1) radio-telephone communications used in
5 cellular telephone service;

6 (2) the functional or competitive equivalent
7 of radio-telephone communications used in cellular telephone
8 service;

9 (3) a personal communications service; or

10 (4) a network radio access line;

11 ~~[E-]~~ F. "commercial mobile radio service provider"
12 means a person who provides commercial mobile radio services,
13 including a person who purchases commercial mobile radio
14 service from a provider and resells that service;

15 ~~[F-]~~ G. "commission" means the public regulation
16 commission;

17 H. "communication service" means any service that:

18 (1) uses telephone, internet protocol
19 addresses, electronic data networks or protocols or their
20 functional equivalents or successors;

21 (2) is capable of accessing, connecting with
22 or interfacing with the enhanced 911 system by dialing,
23 initializing or otherwise activating the enhanced 911 system
24 regardless of the transmission medium or technology employed;
25 and

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1 (3) provides or enables real-time or
2 interactive communications;

3 I. "communications service provider" means any
4 entity that provides communication services;

5 ~~[G.]~~ J. "database" means information that is
6 collected, formatted and disseminated and that is necessary for
7 the functioning of the enhanced 911 system, including
8 geographic information system (GIS) addressing and digital
9 mapping information;

10 ~~[H.]~~ K. "department" means the taxation and revenue
11 department;

12 ~~[I.]~~ L. "division" means the local government
13 division of the department of finance and administration;

14 ~~[J.]~~ M. "enhanced 911 system" means a landline
15 ~~[or]~~, wireless, NG-911 or ESInet system consisting of network
16 switching equipment, database, mapping and on-premises
17 equipment that uses the single three-digit number 911 for
18 reporting police, fire, medical or other emergency situations,
19 thereby enabling a caller to reach a public safety answering
20 point to report emergencies by dialing 911, and includes the
21 capability to:

22 (1) selectively route incoming 911 calls to
23 the appropriate public safety answering point operating in a
24 911 service area;

25 (2) automatically display the name, address

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1 and telephone number of an incoming 911 call on a video monitor
2 at the appropriate public safety answering point;

3 (3) provide one or more access paths for
4 communications between users at different geographic locations
5 through a network system that may be designed for voice or
6 data, or both, and may feature limited or open access and may
7 employ appropriate analog, digital switching or transmission
8 technologies; and

9 (4) relay to a designated public safety
10 answering point a 911 caller's number and base station or cell
11 site location and the latitude and longitude of the 911
12 caller's location in relation to the designated public safety
13 answering point;

14 [~~K-~~] N. "enhanced 911 equipment" means the public
15 safety answering point equipment directly related to the
16 operation of an enhanced 911 system, including automatic number
17 identification or automatic location identification controllers
18 and display units, printers, logging recorders and software
19 associated with call detail recording, call center work
20 stations, training, latitude and longitude base station or cell
21 site location data and GIS equipment necessary to obtain and
22 process locational map and emergency service zone data for
23 landline and wireless callers;

24 [~~H-~~] O. "equipment supplier" means a person who
25 provides or offers to provide [~~telecommunications~~]

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1 communications equipment necessary for the establishment of
2 enhanced 911 services;

3 P. "ESInet" means emergency services internet
4 protocol network, an internet-protocol-based, multipurpose
5 inter-network (network of networks) supporting local, regional,
6 state and national public safety communications services in
7 addition to 911;

8 [~~M-~~] Q. "fiscal agent" means the local governing
9 body that administers grants from the fund for a given locality
10 or region by agreement;

11 [~~N-~~] R. "fund" means the enhanced 911 fund;

12 [~~O-~~] S. "local governing body" means the board of
13 county commissioners of a county or the governing body of a
14 municipality as defined in the Municipal Code;

15 T. "NG-911" means a next generation 911 system
16 comprised of network, hardware, software, data and operational
17 policies and procedures to:

18 (1) provide standardized interfaces from call
19 and message services;

20 (2) process all types of emergency calls
21 including non-voice (multimedia) messages;

22 (3) acquire and integrate additional data
23 useful to call routing and handling;

24 (4) deliver the calls, messages and data to
25 appropriate public safety answering points and other

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1 appropriate emergency entities;

2 (5) support data and communications needs for
3 coordinated incident response and management; and

4 (6) provide a secure environment for emergency
5 communications;

6 [P-] U. "proprietary information" means customer
7 lists, customer counts, technology descriptions or trade
8 secrets, including the actual or development costs of
9 individual components of an enhanced 911 system; provided that
10 such information is designated as proprietary by the
11 [~~commercial mobile radio~~] communications service provider [~~or~~
12 ~~telecommunications company~~]; and provided further that
13 "proprietary information" does not include individual payments
14 made by the division or any list of names and identifying
15 information of subscribers who have not paid the surcharge;

16 [Q-] V. "public safety answering point" means a
17 twenty-four-hour local communications facility that receives
18 911 service calls and directly dispatches emergency response
19 services or that relays calls to the appropriate public or
20 private safety agency;

21 [R-] W. "subscriber" means a person who [~~is a~~
22 ~~retail purchaser of telecommunications~~] purchases
23 communications services at retail from a communications service
24 provider that are capable of originating a 911 call;

25 [S-] X. "surcharge" means the 911 emergency

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1 surcharge;

2 Y. "surcharge collected" means the amount of E911
3 surcharge billed or received or deemed to have been received by
4 the seller or provider, consistent with the seller's or
5 provider's method of accounting, including accrual or cash;

6 [~~F.~~] Z. "telecommunications company" means a person
7 who provides wire telecommunications services that are capable
8 of originating a 911 call; [~~and~~

9 H.] AA. "vendor" means a person that provides 911
10 equipment, service or network support;

11 BB. "VoIP" means "interconnected voice-over-
12 internet protocol service" or "interconnected VoIP service" as
13 defined in the Code of Federal Regulations, Title 47, Part 9
14 Section 9.3, as amended; and

15 CC. "VoIP service provider" or "interconnected
16 voice-over-internet protocol service provider" means an entity
17 that provides interconnected voice over internet protocol
18 service to end users."

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

21 "63-9D-5. IMPOSITION OF SURCHARGE.--

22 A. There is imposed a 911 emergency surcharge in
23 the amount of fifty-one cents (\$.51) to be billed to each
24 subscriber access line by a [~~telecommunications company and~~
25 communications service provider on each active number for a

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1 commercial mobile radio service subscriber, ~~[whose billing~~
2 ~~address]~~ and on each active number for a VoIP service
3 subscriber, that allows communication between a person needing
4 assistance and a public service answering point call-taker. The
5 surcharge is imposed on all subscribers whose place of primary
6 use as defined in the federal Mobile Telecommunications
7 Sourcing Act is in New Mexico; provided, however, that the
8 surcharge shall not be imposed upon subscribers receiving
9 reduced rates pursuant to the Low Income Telephone Service
10 Assistance Act; and provided further that the surcharge shall
11 not apply to prepaid wireless communication service, which
12 shall be subject to the surcharge imposed pursuant to the
13 Enhanced 911 Act.

14 B. ~~[Commercial mobile radio]~~ All communications
15 service providers shall be required to bill and collect the
16 surcharge from their subscribers whose places of primary use,
17 as defined in the federal Mobile Telecommunications Sourcing
18 Act, are in New Mexico. ~~[Telecommunications companies shall be~~
19 ~~required to bill and collect the surcharge from their~~
20 ~~subscribers.]~~ The surcharge required to be collected by ~~[the~~
21 ~~commercial mobile radio service provider or telecommunications~~
22 ~~company]~~ all communications service providers shall be added to
23 and stated clearly and separately in the billings to the
24 subscriber. The surcharge collected by the ~~[commercial mobile~~
25 ~~radio service provider or telecommunications company]~~

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1 communications service provider shall not be considered revenue
2 of the [~~commercial mobile radio~~] communications service
3 provider [~~or telecommunications company~~].

4 C. A billed subscriber is liable for payment of the
5 911 emergency surcharge until it has been paid to the
6 [~~commercial mobile radio~~] communications service provider [~~or~~
7 ~~telecommunications company~~].

8 D. A [~~commercial mobile radio~~] communications
9 service provider [~~or telecommunications company~~] has no
10 obligation to take legal action to enforce the collection of
11 the surcharge; an action may be brought by or on behalf of the
12 department. A [~~commercial mobile radio~~] communications service
13 provider [~~or telecommunications company~~], upon request and not
14 more than once a year, shall provide to the department a list
15 of the surcharge amounts uncollected, along with the names and
16 addresses of subscribers who carry a balance that can be
17 determined by the [~~commercial mobile radio~~] communications
18 service provider [~~or telecommunications company~~] to be
19 nonpayment of the surcharge. The [~~commercial mobile radio~~]
20 communications service provider [~~or telecommunications company~~]
21 shall not be held liable for uncollected surcharge amounts.

22 E. The surcharge shall commence with the first
23 billing period of each subscriber on or [~~following~~] after July
24 1, 2005."

25 SECTION 4. A new section of the Enhanced 911 Act is

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1 enacted to read:

2 "[NEW MATERIAL] PREPAID WIRELESS 911 SURCHARGE--COLLECTION
3 AND ADMINISTRATION OF SURCHARGE--LIABILITY OF SELLERS--
4 EXCLUSIVITY OF SURCHARGE.--

5 A. As used in this section:

6 (1) "consumer" means a person who purchases
7 prepaid wireless communication service in a retail transaction;

8 (2) "department" means the taxation and
9 revenue department;

10 (3) "prepaid wireless E911 charge" means the
11 charge that is required to be collected by a seller from a
12 consumer in the amount established under Subsection B of this
13 section;

14 (4) "prepaid wireless communication service"
15 means a wireless communication service that allows a caller to
16 dial 911 to access the 911 system, which service must be paid
17 for in advance and is sold in predetermined units or dollars of
18 which the number declines with use in a known amount;

19 (5) "provider" means a person that provides
20 prepaid wireless communication service pursuant to a license
21 issued by the federal communications commission;

22 (6) "retail transaction" means the purchase of
23 prepaid wireless communication service from a seller for any
24 purpose other than resale;

25 (7) "seller" means a person who sells prepaid

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1 wireless communication service to another person; and

2 (8) "wireless communication service" means
3 commercial mobile radio service as defined by Section 20.3 of
4 Title 47 of the Code of Federal Regulations, as amended.

5 B. A prepaid wireless E911 charge of one and
6 thirty-eight hundredths percent is imposed on each retail
7 transaction. The prepaid wireless E911 charge shall be
8 collected by the seller from the consumer with respect to each
9 retail transaction occurring in this state. The amount of the
10 prepaid wireless E911 charge shall be either separately stated
11 on an invoice, receipt or other similar document that is
12 provided to the consumer by the seller, or otherwise disclosed
13 to the consumer.

14 C. For purposes of Subsection B of this section, a
15 retail transaction that is effected in person by a consumer at
16 a business location of the seller shall be treated as occurring
17 in this state if that business location is in this state, and
18 any other retail transaction shall be treated as occurring in
19 this state if the retail transaction is treated as occurring in
20 this state for purposes of the Gross Receipts and Compensating
21 Tax Act.

22 D. The prepaid wireless E911 charge is the
23 liability of the consumer and not of the seller or of any
24 provider, except that the seller shall be liable to remit all
25 prepaid wireless E911 charges that the seller collects from

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1 consumers as provided in this section, including all such
2 charges that the seller is deemed to collect where the amount
3 of the charge has not been separately stated on an invoice,
4 receipt or other similar document provided to the consumer by
5 the seller.

6 E. The amount of the prepaid wireless E911 charge
7 that is collected by a seller from a consumer, if such amount
8 is separately stated on an invoice, receipt or other similar
9 document provided to the consumer by the seller, shall not be
10 included in the base for measuring any tax, fee, surcharge or
11 other charge that is imposed by this state, any political
12 subdivision of this state or any intergovernmental agency.

13 F. When prepaid wireless communication service is
14 sold with one or more other products or services for a single,
15 non-itemized price, then the percentage specified in Subsection
16 B of this section shall apply to the entire non-itemized price
17 unless the seller can identify and disclose to the purchaser
18 the:

19 (1) actual dollar amount of the prepaid
20 wireless communication service included in the package; or

21 (2) portion of the price that is attributable
22 to the prepaid wireless communication service by reasonable and
23 verifiable standards from its books and records that are kept
24 in the regular course of business for other purposes, including
25 but not limited to non-tax purposes.

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1 If such identification and disclosure can be made, the
2 percentage shall be applied to that portion of the package.
3 However, if a minimal amount of prepaid wireless communication
4 service is sold with a prepaid wireless device for a single,
5 non-itemized price, then the seller may elect not to apply the
6 percentage specified in Subsection B of this section to such
7 transaction. For purposes of this subsection, an amount of
8 service denominated as ten minutes or less, or five dollars
9 (\$5.00) or less, is minimal.

10 G. Prepaid wireless E911 charges collected by
11 sellers shall be remitted to the department at the times and in
12 the manner provided by with respect to the Gross Receipts and
13 Compensating Tax Act. The department shall establish
14 registration and payment procedures that substantially coincide
15 with the registration and payment procedures that apply to the
16 Gross Receipts and Compensating Tax Act.

17 H. A seller shall be permitted to deduct and retain
18 three percent of prepaid wireless E911 charges that are
19 collected by the seller from consumers as the administrative
20 cost for collecting the surcharge.

21 I. The audit and appeal procedures applicable to
22 the Gross Receipts and Compensating Tax Act shall apply to
23 prepaid wireless E911 charges.

24 J. The department shall establish procedures by
25 which a seller of prepaid wireless communication services may

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1 document that a sale is not a retail transaction, which
2 procedures shall substantially coincide with the procedures for
3 documenting sale for resale transactions for the Gross Receipts
4 and Compensating Tax Act.

5 K. No provider or seller of prepaid wireless
6 communication services shall be liable for damages to any
7 person resulting from or incurred in connection with the
8 provision of, or failure to provide, 911 or E911 service, or
9 for identifying, or failing to identify, the telephone number,
10 address, location or name associated with any person or device
11 that is accessing or attempting to access 911 or E911 service.

12 L. No provider or seller of prepaid wireless
13 communication services shall be liable for damages to any
14 person resulting from or incurred in connection with the
15 provision of any assistance to any investigative or law
16 enforcement officer of the United States, this or any other
17 state, or any political subdivision of this or any other state,
18 in connection with any investigation or other law enforcement
19 activity by such law enforcement officer.

20 M. In addition to the protection from liability
21 provided by Subsections K and L of this section, each provider
22 and seller shall be entitled to the further protection from
23 liability as provided pursuant to Section 63-9D-10 NMSA 1978.

24 N. The prepaid wireless E911 charge applies to
25 retail transactions occurring on or after May 19, 2011."

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

3 "63-9D-7. REMITTANCE OF CHARGES--ADMINISTRATIVE FEE.--

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

23 B. From a remittance to the department made on or
24 before the date it becomes due, a [~~telecommunications company~~
25 ~~or commercial mobile radio~~] communications service provider

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1 required to make a remittance shall be entitled to deduct and
2 retain one percent of the collected amount or fifty dollars
3 (\$50.00), whichever is greater, as the administrative cost for
4 collecting the surcharge."

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

7 "63-9D-8. ENHANCED 911 FUND--CREATION--ADMINISTRATION--
8 DISBURSEMENT--REPORTS TO LEGISLATURE.--

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

12 B. All surcharges collected and remitted to the
13 department shall be deposited in the fund.

14 C. Money deposited in the fund and income earned by
15 investment of the fund are appropriated for expenditure in
16 accordance with the Enhanced 911 Act and shall not revert to
17 the general fund.

18 D. Payments shall be made from the fund to, or on
19 behalf of, participating local governing bodies or their fiscal
20 agents upon vouchers signed by the director of the division
21 solely for the purpose of reimbursing local governing bodies or
22 their fiscal agents [~~commercial mobile radio~~] and
23 communications service providers [~~or telecommunications~~
24 ~~companies~~] for their costs of providing enhanced 911 service.

25 A person who purchases [~~commercial mobile radio services or~~

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1 ~~telecommunications~~] communications services from a [~~commercial~~
2 ~~mobile radio~~] communications service provider [~~or~~
3 ~~telecommunications company~~] for the purpose of reselling that
4 service is not eligible for reimbursement from the fund. Money
5 in the fund may be used for the payment of bonds issued
6 pursuant to the Enhanced 911 Bond Act.

7 E. Annually, the division may expend no more than
8 five percent of all money deposited annually in the fund for
9 administering and coordinating activities associated with
10 implementation of the Enhanced 911 Act.

11 F. Money in the fund may be awarded as grant
12 assistance to provide enhanced 911 service and equipment upon
13 application of local governing bodies or their fiscal agents to
14 the division and upon approval by the state board of finance.
15 If it is anticipated that the funds available to pay all
16 requests for grants will be insufficient, the state board of
17 finance may reduce the percentage of assistance to be awarded.
18 In the event of such reduction, the state board of finance may
19 award supplemental grants to local governing bodies that
20 demonstrate financial hardship.

21 G. After requesting enhanced 911 service from a
22 [~~telecommunications company or commercial mobile radio~~]
23 communications service provider, a local governing body may, by
24 ordinance or resolution, recover from the fund an amount
25 necessary to recover the costs of providing the enhanced 911

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1 system in its designated 911 service area. The division, on
2 behalf of local governing bodies, shall directly pay or
3 reimburse [~~commercial mobile radio~~] communications service
4 providers [~~and telecommunications companies~~] for their costs of
5 providing enhanced 911 service. If a [~~commercial mobile radio~~]
6 communications service provider [~~or telecommunications company~~]
7 does not receive payment or reimbursement for the costs of
8 providing enhanced 911 service, the provider is not obligated
9 to provide that service.

10 H. The division shall report to the legislature
11 each session the status of the fund and whether the current
12 level of the 911 emergency surcharge is sufficient, excessive
13 or insufficient to fund the anticipated needs for the next
14 year."

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

17 "63-9D-8.1. DIVISION POWERS.--

18 A. The division may adopt reasonable rules
19 necessary to carry out the provisions of the Enhanced 911 Act.

20 B. The division may fund enhanced 911 systems
21 pursuant to the provisions of the Enhanced 911 Act.

22 C. Division powers are limited and do not include
23 power to intervene between two vendors or restrict marketing
24 efforts of vendors.

25 D. The division and the local governing body may

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1 establish 911 service areas.

2 E. Unless otherwise provided by law, no rule
3 affecting any person, agency, local governing body [~~commercial~~
4 ~~mobile radio~~] or communications service provider [~~or~~
5 ~~telecommunications company~~] shall be adopted, amended or
6 repealed without a public hearing on the proposed action before
7 the director of the division or a hearing officer designated by
8 the director. The public hearing shall be held in Santa Fe
9 unless otherwise permitted by statute. Notice of the subject
10 matter of the rule, the action proposed to be taken, the time
11 and place of the hearing, the manner in which interested
12 persons may present their views and the method by which copies
13 of the proposed rule or proposed amendment or repeal of an
14 existing rule may be obtained shall be published once at least
15 thirty days prior to the hearing in a newspaper of general
16 circulation and mailed at least thirty days prior to the
17 hearing date to all persons or agencies who have made a written
18 request for advance notice of the hearing and to all local
19 governing bodies [~~telecommunications companies~~] and [~~commercial~~
20 ~~mobile radio~~] communications service providers.

21 F. All rules shall be filed in accordance with the
22 State Rules Act."

23 SECTION 8. Section 63-9D-10 NMSA 1978 (being Laws 1989,
24 Chapter 25, Section 10, as amended) is amended to read:

25 "63-9D-10. IMMUNITY.--Enhanced 911 systems are within the

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1 governmental powers and authorities of the local governing body
2 or state agency in the provision of services for the public
3 health, welfare and safety. In contracting for such services
4 or the provisioning of an enhanced 911 system, except for gross
5 or willful or wanton negligence or intentional acts, the local
6 governing body, public agency, equipment supplier,
7 [~~telecommunications company, commercial mobile radio~~]
8 communications service provider and their employees and agents
9 are not liable for damages resulting from installing,
10 maintaining or providing enhanced 911 systems or transmitting
11 911 calls."

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

14 "63-9D-11. PRIVATE LISTING SUBSCRIBERS AND 911 SERVICE.--

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

21 B. Information regarding the identity of private
22 listing subscribers provided by a communications service
23 provider, including names, addresses, telephone numbers or
24 other identifying information, is not a public record and is
25 not available for inspection.

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1 C. Proprietary information provided by a
2 [~~commercial mobile radio~~] communications service provider [~~or~~
3 ~~telecommunications company~~] is not public information and may
4 not be released to any person without the express permission of
5 the submitting provider, except that information may be
6 released or published as aggregated data that does not identify
7 the number of subscribers or identify enhanced 911 system costs
8 attributable to an individual [~~commercial mobile radio~~]
9 communications service provider [~~or telecommunications~~
10 ~~company~~]."

11 **SECTION 10.** Section 63-9D-11.1 NMSA 1978 (being Laws
12 1993, Chapter 48, Section 13) is amended to read:

13 "63-9D-11.1. VIOLATION--PENALTIES.--

14 A. Any person who knowingly dials 911 for the
15 purpose of reporting a false alarm, making a false complaint or
16 reporting false information that results in an emergency
17 response by any public safety agency is guilty of a petty
18 misdemeanor and shall be punished by a fine of not more than
19 five hundred dollars (\$500) or imprisonment for a term not to
20 exceed six months, or both.

21 B. A municipality or a county may adopt an
22 ordinance making it a violation for any person to knowingly
23 dial 911 for the purpose of reporting a false alarm, making a
24 false complaint or reporting false information that results in
25 an emergency response by any public safety agency. The

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1 municipality may adopt and enforce the ordinance pursuant to
2 the authority provided in Section 3-17-1 NMSA 1978. The county
3 may adopt and enforce the ordinance pursuant to the authority
4 provided in Section 4-37-1 NMSA 1978."

5 SECTION 11. Section 63-9D-14 NMSA 1978 (being Laws 1990,
6 Chapter 61, Section 3, as amended) is amended to read:

7 "63-9D-14. ENHANCED 911 BONDS--AUTHORITY TO ISSUE--PLEDGE
8 OF REVENUES--LIMITATION ON ISSUANCE.--

9 A. In addition to any other law authorizing the
10 board to issue revenue bonds, the board may issue enhanced 911
11 bonds pursuant to the Enhanced 911 Bond Act for the purposes
12 specified in this section.

13 B. Enhanced 911 bonds may be issued for:

14 (1) acquiring, extending, enlarging,
15 bettering, repairing, improving, constructing, purchasing,
16 furnishing, equipping or rehabilitating the enhanced 911
17 system, the payment of which shall be secured by enhanced 911
18 revenues;

19 (2) reimbursing a [~~commercial mobile radio~~]
20 communications service provider [~~or telecommunications company~~]
21 for its reasonable costs of providing enhanced 911 service, the
22 payment of which shall be secured by enhanced 911 revenues; or

23 (3) reimbursing a local governing body or its
24 fiscal agent for its reasonable costs of providing the enhanced
25 911 system, the payment of which shall be secured by enhanced

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underscoring material = new
~~[bracketed material] = delete~~

1 911 revenues.

2 C. The board may pledge irrevocably enhanced 911
3 revenues in the manner set forth in Subsection B of this
4 section to the payment of the interest on and principal of
5 enhanced 911 bonds. Any general determination by the board
6 that expenditures are reasonably related to and constitute a
7 part of a specified enhanced 911 project shall be conclusive if
8 set forth in the proceedings authorizing the enhanced 911
9 bonds."

10 SECTION 12. REPEAL.--Section 63-9D-4.1 NMSA 1978 (being
11 Laws 2003, Chapter 339, Section 1) is repealed.