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HOUSE BILL 339

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Joe M Stell

AN ACT

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

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

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

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

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

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

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

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

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

25 (3) a personal communications service; or

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1 (4) a network radio access line;

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

6 [E-] H. "commission" means the public regulation
7 commi ssi on;

8 [F-] I. "department" means the taxation and
9 revenue department;

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

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

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1 ~~[customer premises]~~ public safety answering point equipment
2 directly related to the operation of an enhanced 911 system,
3 including automatic number identification or automatic
4 location identification controllers and display units,
5 printers, cathode ray tubes and software associated with call
6 detail recording;

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

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

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

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

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

23 ~~L. "local exchange access line" means a telephone~~
24 ~~line that connects a local exchange service customer to the~~
25 ~~local switching office and has the capability of reaching~~

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1 ~~local public safety service agencies, but does not include any~~
2 ~~line used by a carrier for the provision of interexchange~~
3 ~~services;~~

4 ~~M. "local exchange area" means a geographic area~~
5 ~~encompassing one or more local communities, as described in~~
6 ~~maps, tariffs or rate schedules filed with the commission,~~
7 ~~where local exchange rates apply;~~

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

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

16 ~~P.]~~ O. "local governing body" means the board of
17 county commissioners of a county or the governing body of a
18 municipality as defined in the Municipal Code;

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

25 ~~[R.]~~ Q. "network and database surcharge" means the

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1 monthly uniform charge assessed on each [~~local exchange~~
2 ~~service customer in the state for each local exchange~~] access
3 line to pay [~~for~~] the costs of developing and maintaining a
4 network and database for a 911 emergency system; [~~and~~]

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

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

20 T. "subscriber" means a person who is a retail
21 purchaser of telecommunications services that are capable of
22 originating a 911 call;

23 U. "telecommunications company" means a person who
24 provides wire telecommunications services that are capable of
25 originating a 911 call; and

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1 V. "wireless enhanced 911 surcharge" means the
2 monthly uniform charge assessed on each active number for a
3 commercial mobile radio service subscriber whose billing
4 address is in New Mexico. "

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

7 "63-9D-4. PROVISION FOR 911 SERVICES BY LOCAL GOVERNING
8 BODIES--911 SYSTEM COSTS AND NETWORK AND DATABASE COSTS--
9 PAYMENT OF COSTS--JOINT POWERS AGREEMENTS--AID OUTSIDE
10 JURISDICTIONAL BOUNDARIES. --

11 A. A local governing body may incur costs for the
12 purchase [~~or~~], lease, installation [~~and~~] or maintenance of
13 equipment necessary for the establishment of a 911 system at
14 public safety answering points and may pay such costs through
15 disbursements from the enhanced 911 fund. Necessary network
16 and database costs may:

17 (1) be recovered by a local governing body
18 from the network and database surcharge fund in amounts
19 approved by the state board of finance; or

20 (2) be disbursed from the network and
21 database surcharge fund and paid directly to a vendor pursuant
22 to a state price agreement or to a telecommunications company
23 on behalf of a local governing body. The amount of the
24 payment shall be approved by the state board of finance.

25 B. If the enhanced 911 system is to be provided

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

18 C. [A+] A public [~~agencies~~] agency in a 911
19 system shall provide that, once an emergency unit is
20 dispatched in response to a request for aid through the 911
21 system, the emergency unit shall render services to the
22 requester without regard to whether the unit is operating
23 outside its normal jurisdictional boundaries. "

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

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1 "63-9D-5. IMPOSITION OF SURCHARGE-- NOTIFICATION. --

2 There is imposed a 911 emergency surcharge in the amount of
3 twenty-five cents (\$.25) and a network and database surcharge
4 in the amount of twenty-six cents (\$.26) to be billed ~~by~~
5 ~~local exchange telephone companies on all local exchange~~
6 ~~access lines in the state]~~ to each subscriber access line by a
7 telecommunications company; provided, however, that ~~[a]~~ the
8 911 emergency surcharge and the network and database surcharge
9 shall not be imposed upon ~~[local exchange service customers]~~
10 subscribers receiving reduced rates pursuant to the Low Income
11 Telephone Service Assistance Act. The 911 emergency surcharge
12 shall commence with the first billing period of each
13 ~~[customer]~~ subscriber on or following ninety days after the
14 effective date of the Enhanced 911 Act. The network and
15 database surcharge shall commence with the first billing
16 period of each ~~[customer]~~ subscriber on or following ninety
17 days after July 1, 1993. Each local governing body shall
18 notify the division and the ~~[local exchange telephone]~~
19 telecommunications company providing local exchange service to
20 the 911 service area of the boundaries of the 911 service area
21 and the costs to the local governing body of purchasing or
22 leasing, installing and maintaining the equipment necessary to
23 provide 911 emergency services in the 911 service area.
24 ~~[Each]~~ A local governing body that seeks funding for its 911
25 system shall file an application with the division requesting

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1 approval of the state board of finance for disbursement from
2 the enhanced 911 fund and the network and database surchage
3 fund. "

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

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

8 A. The local governing body may, by ordinance or
9 resolution, recover from the enhanced 911 fund and the network
10 and database surchage fund an amount necessary to recover the
11 costs of purchasing, leasing, installing and maintaining
12 equipment and the costs of developing and maintaining a
13 network and database necessary to provide a 911 [emergency]
14 system in its designated 911 service area.

15 B. [~~Local exchange telephone~~] Telecommunications
16 companies shall be required to bill and collect the 911
17 emergency surcharge and the network and database surcharge
18 from their [~~local exchange service customers~~] subscribers.
19 The 911 emergency surcharge and the network and database
20 surcharge required to be collected by the [~~local exchange~~
21 ~~telephone~~] telecommunications company shall be added to and
22 [~~shall be~~] stated in the billings to the [~~local exchange~~
23 ~~service customer~~] subscriber. The [~~money collected by the~~
24 ~~local exchange telephone company as the~~] 911 emergency
25 surcharge and the network and database surcharge collected

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1 shall not be considered [as] revenues of the [~~local exchange~~
2 ~~telephone~~] telecommunications company.

3 C. [Every] A billed [~~local exchange service~~
4 ~~customer~~] subscriber is liable for payment of the 911
5 emergency surcharge and the network and database surcharge
6 until they have been paid to [~~the local exchange telephone~~] a
7 telecommunications company.

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

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

25 "63-9D-7. REMITTANCE OF CHARGES-- ADMINISTRATIVE FEE

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1 [AUDITS]. - -

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

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

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1 make a remittance shall be entitled to deduct and retain one
2 percent of the collected amount or fifty dollars (\$50.00),
3 whichever is greater, as the ~~[cost of administration]~~
4 administrative cost for collecting the 911 emergency surcharge
5 and the network and database 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]~~ 911 emergency surcharges collected
14 and remitted to the department ~~[as a result of collection of~~
15 ~~the 911 emergency surcharge]~~ shall be deposited in the
16 enhanced 911 fund.

17 C. ~~[All]~~ Money deposited in the enhanced 911 fund
18 and ~~[all]~~ income earned by investment of the fund are ~~[hereby]~~
19 appropriated for expenditure in accordance with the Enhanced
20 911 Act and shall not revert to the general fund.

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

24 E. Money in the enhanced 911 fund may be used for
25 the purchase, lease, installation or maintenance of equipment

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1 necessary for a 911 system, including the repayment of bonds
2 issued pursuant to the Enhanced 911 Bond Act. Annually, the
3 division may expend no more than five percent of all money
4 deposited annually in the enhanced 911 fund for [~~the purpose~~
5 ~~of administering~~] administering and coordinating activities
6 associated with implementation of the Enhanced 911 Act.

7 F. The division shall report to the legislature
8 each session [~~as to~~] the status of the enhanced 911 fund and
9 whether the current level of the 911 emergency surcharge is
10 [~~adequate~~] sufficient, excessive or insufficient to fund the
11 anticipated needs for the next year. "

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

14 "63-9D-8.1. DIVISION POWERS. --

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

18 B. The division [~~shall have the authority to~~] may
19 fund basic 911 systems pursuant to the provisions of the
20 Enhanced 911 Act.

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

23 D. Unless otherwise provided by law, no rule
24 affecting any person, agency, local governing body, [~~or local~~
25 ~~exchange telephone~~] commercial mobile radio service provider

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1 or telecommunications company shall be adopted, amended or
2 repealed without a public hearing on the proposed action
3 before the director of the division or a hearing officer
4 designated by him. The public hearing shall be held in Santa
5 Fe unless otherwise permitted by statute. Notice of the
6 subject matter of the rule, the action proposed to be taken,
7 the time and place of the hearing, the manner in which
8 interested persons may present their views and the method by
9 which copies of the proposed rule or proposed amendment or
10 repeal of an existing rule may be obtained shall be published
11 once at least thirty days prior to the hearing in a newspaper
12 of general circulation and mailed at least thirty days prior
13 to the hearing date to all persons or agencies who have made a
14 written request for advance notice of the hearing and to all
15 local governing bodies, [~~and local exchange telephone~~]
16 telecommunications companies and commercial mobile radio
17 service providers.

18 E. All rules shall be filed in accordance with the
19 State Rules Act. "

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

22 "63-9D-8.2. NETWORK AND DATABASE SURCHARGE FUND--
23 CREATION-- ADMINISTRATION-- DISBURSEMENT-- REPORT. --

24 A. There is created in the state treasury the
25 "network and database surcharge fund". The network and

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1 database surcharge fund shall be administered by the division.

2 B. ~~[All money]~~ Network and database surcharges
3 collected and remitted to the department ~~[as a result of the~~
4 ~~network and database surcharge]~~ shall be deposited in the
5 network and database surcharge fund.

6 C. ~~[All]~~ Money deposited in the network and
7 database surcharge fund and ~~[all]~~ income earned by investment
8 of the network and database surcharge fund are ~~[hereby]~~
9 appropriated for expenditure in accordance with the provisions
10 of the Enhanced 911 Act and shall not revert to the general
11 fund.

12 D. Payments shall be made from the network and
13 database surcharge fund to, or on behalf of, participating
14 local governing bodies upon vouchers signed by the director of
15 the division.

16 E. Annually, the division may expend no more than
17 two and one-half percent of all money deposited annually in
18 the network and database surcharge fund for ~~[the purpose of]~~
19 administering and coordinating activities associated with
20 implementation of the network and database surcharge fund.

21 F. Money in the network and database surcharge
22 fund may be awarded as grant assistance upon application of
23 local governing bodies to the division and approval by the
24 state board of finance. If it is anticipated that
25 ~~[insufficient]~~ the funds ~~[will be]~~ available will not be

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1 sufficient to pay all requests for grants, the state board of
2 finance may reduce the percentage of assistance to be awarded.
3 In the event of such a reduction, the state board of finance
4 may award supplemental grants to local governing bodies that
5 ~~[can]~~ demonstrate financial hardship.

6 G. The division shall report to the legislature
7 each session the status of the network and database surcharge
8 fund and whether the current level of the network and database
9 surcharge is sufficient, excessive or insufficient to fund the
10 anticipated needs for the next year."

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

13 "63-9D-9. ~~[AGREEMENTS OR CONTRACTS FOR 911 SYSTEMS]~~ USE
14 OF FUNDS COLLECTED. -- ~~[TRANSFER OF FUNDS. -- A.]~~ Money received
15 by a local governing body from the enhanced 911 fund shall be
16 spent solely to pay for 911 equipment costs, associated
17 installation costs and maintenance costs necessary to provide
18 enhanced 911 services. Money ~~[received as a result of the]~~
19 from the network and database surcharge fund shall be spent
20 solely to pay for the network capability and ~~[database]~~
21 databases for an enhanced 911 system.

22 ~~[B. Money received by a local governing body from~~
23 ~~the local 911 surcharge shall be credited to separate cash~~
24 ~~funds, apart from the general fund of the local governing~~
25 ~~body, for network and database payments. Any local 911~~

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1 ~~surcharge money remaining on July 1, 1993 shall be transferred~~
2 ~~to the network and database surcharge fund.]"~~

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

5 "63-9D-10. IMMUNITY. -- 911 systems are within the
6 governmental powers and authorities of the local governing
7 body or state agency in the provision of services for the
8 public health, welfare and safety. In contracting for such
9 services or the provisioning of a 911 system, except for
10 willful or wanton negligence or intentional acts, the local
11 governing body, public agency, equipment supplier [~~local~~
12 ~~exchange telephone company and mobile telephone company,~~
13 ~~including a cellular service company as defined in Subsection B~~
14 ~~of Section 63-9B-3 NMSA 1978], telecommunications company,
15 commercial mobile radio service provider, and their employees
16 and agents [shall be immune from litigation or the payment of
17 any damages in the performance of] are not liable for damages
18 resulting from installing, maintaining or providing 911
19 systems [and] or transmitting 911 calls."~~

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

22 "63-9D-11. PRIVATE LISTING SUBSCRIBERS AND 911
23 SERVICE. --

24 A. Private listing subscribers waive the privacy
25 afforded by nonlisted or nonpublished numbers only to the

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1 extent that the name and address associated with the telephone
2 number may be furnished to the enhanced 911 system for call
3 routing or for automatic retrieval of location information in
4 response to a call initiated to 911.

5 B. Information regarding the identity of private
6 listing subscribers, including names, addresses, telephone
7 numbers or other identifying information, is not a public
8 record and is not available for inspection.

9 C. Proprietary information provided by a
10 commercial mobile radio service provider is not public
11 information and may not be released to any person without the
12 express permission of the submitting provider, except that
13 information may be released or published as aggregated data
14 that does not identify the number of subscribers or identify
15 enhanced 911 system costs attributable to an individual
16 commercial mobile radio service provider. "

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

19 "[NEW MATERIAL] WIRELESS ENHANCED 911 FUND-- CREATION--
20 ADMINISTRATION-- DISBURSEMENT-- NOTIFICATION. --

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

24 B. Wireless 911 enhanced surcharges remitted to
25 the department shall be deposited in the wireless enhanced 911

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1 fund.

2 C. Money deposited in the wireless enhanced 911
3 fund and income earned by investment of the wireless enhanced
4 911 fund are appropriated for expenditure on enhanced 911
5 wireless service in accordance with the provisions of the
6 Enhanced 911 Act and shall not revert to the general fund.

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

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

22 F. Money in the wireless enhanced 911 fund may be
23 awarded as grant assistance to provide enhanced 911 wireless
24 service upon application of local governing bodies to the
25 division and upon approval by the state board of finance. If

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

7 G. A 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
10 area of the boundaries of the 911 service area and the costs
11 to the local governing body for providing enhanced 911
12 wireless 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 costs of

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1 providing enhanced 911 wireless service. If a commercial
2 mobile radio service provider does not receive payment or
3 reimbursement for the costs of providing enhanced 911 wireless
4 service, the provider is not obligated to provide that
5 service.

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

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

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

15 A. There is imposed a wireless enhanced 911
16 surcharge in the amount of fifty-one cents (\$.51) that shall
17 commence with the first billing period of each subscriber on
18 or following ninety days after July 1, 2001.

19 B. Commercial mobile radio service providers shall
20 be required to bill and collect the wireless enhanced 911
21 surcharge from their subscribers whose billing addresses are
22 in New Mexico. The wireless enhanced 911 surcharge required
23 to be collected by the commercial mobile radio service
24 provider shall be added to and stated clearly and separately
25 in the billings to the subscriber. The wireless enhanced 911

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1 surcharge collected by the commercial mobile radio service
2 provider shall not be considered revenue of the commercial
3 mobile radio service provider.

4 C. A billed subscriber is liable for payment of
5 the wireless enhanced 911 surcharge until it has been paid to
6 the commercial mobile radio service provider.

7 D. A commercial mobile radio service provider has
8 no obligation to take legal action to enforce the collection
9 of the wireless enhanced 911 surcharge. An action may be
10 brought by or on behalf of the department. A commercial
11 mobile radio service provider, upon request and not more than
12 once a year, shall provide the department a list of the
13 wireless enhanced 911 surcharge amounts uncollected along with
14 the names and addresses of subscribers who carry a balance
15 that can be determined by the commercial mobile radio service
16 provider to be the nonpayment of the wireless enhanced 911
17 surcharge. The commercial mobile radio service provider shall
18 not be held liable for uncollected wireless enhanced 911
19 surcharge amounts. "

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

22 "[NEW MATERIAL] REMITTANCE OF SURCHARGES-- ADMINISTRATIVE
23 FEE-- AUDITS. --

24 A. Wireless enhanced 911 surcharges collected
25 shall be remitted monthly to the department, which shall

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1 administer and enforce collection of each surcharge in
2 accordance with the Tax Administration Act. The wireless
3 enhanced 911 surcharges collected shall be remitted to the
4 department no later than the twenty-fifth day of the month
5 following the month in which the surcharge was imposed. At
6 that time, a return for the preceding month shall be filed
7 with the department in such form as the department and the
8 commercial mobile radio service provider shall agree upon.
9 The commercial mobile radio service provider required to file
10 the return shall deliver the return together with a remittance
11 of the amount of the wireless enhanced 911 surcharge payable
12 to the department. The commercial mobile radio service
13 provider shall maintain a record of the amount of each
14 surcharge collected pursuant to the Enhanced 911 Act. The
15 record shall be maintained for a period of three years after
16 the time the surcharges are collected.

17 B. From every remittance to the department made on
18 or before the date it becomes due, the commercial mobile radio
19 service provider required to make a remittance shall be
20 entitled to deduct and retain one percent of the collected
21 amount or fifty dollars (\$50.00), whichever is greater, as the
22 cost of administration for collecting the wireless enhanced
23 911 surcharge. "

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

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1 "63-9D-13. DEFINITIONS. -- As used in the Enhanced 911
2 Bond Act:

3 A. "board" means the state board of finance;

4 B. "division" means the local government division
5 of the department of finance and administration;

6 C. "enhanced 911 bonds" means the bonds authorized
7 in the Enhanced 911 Bond Act;

8 D. "enhanced 911 project" means actions authorized
9 under Section 63-9D-14 NMSA 1978 that pertain to a specific
10 component of the 911 system; ~~and~~

11 E. "~~pledged~~ enhanced 911 revenue" means the
12 revenue to and the income of the enhanced 911 fund that are
13 pledged to the payment of enhanced 911 bonds under the
14 Enhanced 911 Bond Act;

15 F. "network and database surcharge revenue" means
16 the revenue to and the income of the network and database
17 surcharge fund that are pledged to the payment of enhanced 911
18 bonds under the Enhanced 911 Bond Act; and

19 G. "wireless enhanced 911 revenue" means the
20 revenue to and the income of the wireless enhanced 911 fund
21 that are pledged to the payment of enhanced 911 bonds under
22 the Enhanced 911 Bond Act. "

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

25 "63-9D-14. ENHANCED 911 BONDS-- AUTHORITY TO ISSUE--

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1 PLEDGE OF REVENUES- -LIMITATION ON ISSUANCE. - -

2 A. In addition to any other law authorizing the
3 board to issue revenue bonds, the board may issue enhanced 911
4 bonds pursuant to the Enhanced 911 Bond Act for the purposes
5 specified in this section.

6 B. Enhanced 911 bonds may be issued for:

7 (1) acquiring, extending, enlarging,
8 bettering, repairing, improving, constructing, purchasing,
9 furnishing, equipping or rehabilitating the enhanced 911
10 system, the payment of which shall be secured by enhanced 911
11 revenues or network and database surcharge revenues;

12 (2) reimbursing a commercial mobile radio
13 service provider for its reasonable costs of providing
14 enhanced wireless 911 service, the payment of which shall be
15 secured by wireless enhanced 911 revenues; or

16 (3) reimbursing a local governing body for
17 its reasonable costs of providing enhanced wireless 911
18 service, the payment of which shall be secured by wireless
19 enhanced 911 revenues.

20 C. The board may pledge irrevocably ~~[any or all of~~
21 ~~the projected revenues of the enhanced 911 fund, specifically~~
22 ~~including the 911 emergency surcharge authorized under the~~
23 ~~Enhanced 911 Act]~~ enhanced 911 revenues, network and database
24 surcharge revenues and wireless enhanced 911 revenues in the
25 manner set forth in Subsection B of this section, to the

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1 payment of the interest on and principal of [~~such~~] enhanced
2 911 bonds. Any general determination by the board that any
3 facilities or equipment are reasonably related to and shall
4 constitute a part of a specified enhanced 911 project shall be
5 conclusive if set forth in the proceedings authorizing the
6 enhanced 911 bonds. "

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

9 "63-9D-17. BOND AUTHORIZATION. --The board may issue and
10 sell enhanced 911 bonds in compliance with the Enhanced 911
11 Bond Act. The board shall schedule the issuance and sale of
12 the bonds in the most expeditious and economical manner upon a
13 finding by the board that the division has certified that the
14 need exists for the issuance of bonds and upon an action by
15 the board designating the enhanced 911 fund, the network and
16 database surcharge fund or the wireless enhanced 911 fund to
17 be the source of pledged revenues. "

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

20 "63-9D-18. AUTHORITY TO REFUND BONDS. --

21 A. The board may issue and sell at public or
22 private sale enhanced 911 bonds to refund outstanding enhanced
23 911 bonds and other bonds payable from the enhanced 911 fund
24 by exchange, immediate or prospective redemption, cancellation
25 or escrow, including the escrow of debt service funds

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1 accumulated for payment of outstanding bonds, or any
2 combination thereof, when, in its opinion, such action will be
3 beneficial to the state.

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

7 ~~C. No bonds shall be issued to refund outstanding
8 enhanced 911 bonds or other bonds payable from the enhanced
9 911 fund if any of the refunding bonds have maturity dates
10 after the latest maturity date of a bond to be refunded.]~~

11 B. No enhanced 911 bonds that are secured by
12 enhanced 911 revenues or network and database surcharge
13 revenues shall be refunded by enhanced 911 bonds that are
14 secured by wireless enhanced 911 revenues. No enhanced 911
15 bonds that are secured by wireless enhanced 911 revenues shall
16 be refunded by enhanced 911 bonds that are secured by enhanced
17 911 revenues or network and database surcharge revenues. "

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

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

22 A. ~~[Notwithstanding the amount of the 911~~
23 ~~emergency surcharge set forth in Subsection A of Section 63-~~
24 ~~9D-5 NMSA 1978]~~ The legislature shall provide for the
25 continued imposition, collection and deposit of the 911

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1 emergency surcharge, the network and database surcharge and
2 the wireless enhanced 911 surcharge into the enhanced 911
3 fund, the network and database surcharge fund and the wireless
4 enhanced 911 fund, as applicable, in amounts that, together
5 with other amounts deposited into the ~~[fund]~~ funds, will be
6 sufficient to produce an amount necessary to meet annual debt
7 service charges on all respective outstanding enhanced 911
8 bonds.

9 B. The legislature shall not repeal, amend or
10 otherwise modify any law that affects the 911 emergency
11 surcharge, the network and database surcharge or the wireless
12 enhanced 911 surcharge in a manner that impairs any
13 outstanding enhanced 911 bonds secured by a pledge of the 911
14 emergency surcharge, the network and database surcharge or the
15 wireless enhanced 911 surcharge unless:

16 (1) the outstanding enhanced 911 bonds to
17 which the revenues from such surcharges are pledged have been
18 discharged in full; or

19 (2) provision has been made to discharge
20 fully the outstanding enhanced 911 bonds to which the revenues
21 from such surcharges are pledged.

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

25 ~~D.]~~ C. Nothing in this section shall require any

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1 increase in the 911 emergency surcharge [~~set forth in~~
2 ~~Subsection A of Section 63-9D-5 NMSA 1978~~], the network and
3 database surcharge or the wireless enhanced 911 surcharge. "

4 Section 20. EFFECTIVE DATE. -- The effective date of the
5 provisions of this act is July 1, 2001.

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