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SENATE BILL 86

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

R. L. Stockard

AN ACT

RELATING TO PUBLIC SAFETY; STREAMLINING FUNDING FOR 911 PURPOSES; EXPANDING THE PURPOSES FOR WHICH THE 911 EMERGENCY SURCHARGE MAY BE USED; PROVIDING FOR PAYMENTS OF THE SURCHARGE ON WIRELESS COMMUNICATIONS; AMENDING AND REPEALING 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,~~

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1 ~~including the repayment of bonds issued pursuant to the~~
2 ~~Enhanced 911 Bond Act]~~ each subscriber of a telecommunications
3 company;

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

8 C. "911 system" means the basic 911 system or the
9 enhanced 911 system;

10 D. "basic 911 system" means a telephone service
11 that automatically connects a person dialing the single three-
12 digit number 911 to an established public safety answering
13 point through normal telephone service facilities;

14 E. "commission" means the public regulation
15 commi ssi on;

16 F. "department" means the taxation and revenue
17 department;

18 G. "division" means the local government division
19 of the department of finance and administration;

20 H. "enhanced 911 system" means a telephone system
21 consisting of network, database and on-premises equipment that
22 uses the single three-digit number 911 for reporting police,
23 fire, medical or other emergency situations, thereby enabling
24 the users of a public telephone system to reach a public
25 safety answering point to report emergencies by dialing 911,

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1 and includes the capability to:

2 (1) selectively route incoming 911 calls to
3 the appropriate public safety answering point operating in a
4 911 service area; and

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

8 I. "enhanced 911 equipment" means the [~~customer-~~
9 ~~premises~~] public safety answering point equipment directly
10 related to the operation of an enhanced 911 system, including
11 automatic number identification or automatic location
12 identification controllers and display units, printers,
13 cathode ray tubes and software associated with call detail
14 recording;

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

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

24 K. "fund" means the 911 fund;

25 L. "[~~local exchange~~] access line" means a

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1 [telephone] line [~~that connects a local exchange service~~
2 ~~customer to the local switching office and~~] of a
3 telecommunications company that has the capability of reaching
4 local public safety service agencies, but does not include any
5 line used by a carrier for the provision of interexchange
6 services;

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

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

15 [O.] M. "local exchange telephone company" means a
16 telecommunications company [~~as defined by Subsection M of~~
17 ~~Section 63-9A-3 NMSA 1978~~] certified to provide local exchange
18 service;

19 [P.] N. "local governing body" means the board of
20 county commissioners of a county or the governing body of a
21 municipality as defined in the Municipal Code;

22 [Q.] O. "network" means a system designed to
23 provide one or more access paths for communications between
24 users at different geographic locations; provided that a
25 system may be designed for voice, data or both and may feature

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1 limited or open access and may employ appropriate analog,
2 digital switching or transmission technologies;

3 ~~[R. "network and database surcharge" means the~~
4 ~~monthly uniform charge assessed on each local exchange service~~
5 ~~customer in the state for each local exchange access line to~~
6 ~~pay for the costs of developing and maintaining a network and~~
7 ~~database for a 911 emergency system; and~~

8 ~~S.]~~ P. "public safety answering point" means a
9 twenty-four-hour local jurisdiction communications facility
10 that receives 911 service calls and directly dispatches
11 emergency response services or that relays calls to the
12 appropriate public or private safety agency;

13 Q. "telecommunications company" means a person who
14 provides wire or wireless telecommunications services that are
15 capable of originating a 911 emergency call; and

16 R. "subscriber" means a person who is a retail
17 purchaser of telecommunications services that are capable of
18 originating a 911 call. "

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

21 "63-9D-4. PROVISION FOR 911 SERVICES BY LOCAL GOVERNING
22 BODIES-- 911 SYSTEM COSTS AND NETWORK AND DATABASE COSTS--
23 PAYMENT OF COSTS-- JOINT POWERS AGREEMENTS-- AID OUTSIDE
24 JURISDICTIONAL BOUNDARIES. --

25 A. A local governing body may incur costs for [the

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1 ~~purchase or lease, installation and maintenance of equipment]~~
2 911 call reception training; addressing; purchasing, leasing,
3 installing and maintaining 911 voice call reception and
4 recording equipment; hardware and software for automatic
5 number identification and automatic location identification
6 processing; and developing and maintaining a network and
7 database necessary for the establishment of a 911 system at
8 public safety answering points and may pay such costs through
9 disbursements from the [~~enhanced 911~~] fund. Necessary network
10 and database costs may:

11 (1) be recovered by a local governing body
12 from the [~~network and database~~] fund in amounts approved by
13 the state board of finance; or

14 (2) be disbursed from the fund and paid
15 directly to a vendor pursuant to a state price agreement or to
16 a telecommunications company on behalf of a local governing
17 body. The amount of the payment shall be approved by the
18 state board of finance.

19 B. If the enhanced 911 system is to be provided
20 for territory that is included in whole or in part in the
21 jurisdiction of the local governing bodies of two or more
22 public agencies that are the primary providers of emergency
23 fire fighting, law enforcement, ambulance, emergency medical
24 or other emergency services, the agreement for the procurement
25 of the necessary equipment for a 911 system shall be entered

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1 into by each local governing body, unless a local governing
2 body expressly excludes itself from the agreement. Any
3 agreement shall provide that each local governing body not
4 excluded from the agreement shall make payment [~~therefor~~] for
5 the enhanced 911 system from general revenues. Nothing in
6 this subsection shall be construed to prevent two or more such
7 local governing bodies from entering into a [~~contract~~] joint
8 powers agreement pursuant to the Joint Powers Agreements Act
9 to establish a separate legal entity [~~that is, separate~~
10 ~~governing body, and thereunder to~~] that can enter into an
11 agreement as the enhanced 911 customer.

12 C. All public agencies in a 911 system shall
13 provide that once an emergency unit is dispatched in response
14 to a request for aid through the 911 system, the emergency
15 unit shall render services to the requester without regard to
16 whether the unit is operating outside its normal
17 jurisdictional boundaries. "

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

20 "63-9D-5. IMPOSITION OF SURCHARGE- - NOTIFICATION. - -

21 A. [~~There is imposed~~] A 911 emergency surcharge
22 in the amount of [~~twenty-five cents (\$.25) and a network and~~
23 ~~database surcharge in the amount of twenty-six cents (\$.26) to~~
24 ~~be billed by local exchange telephone companies on all local~~
25 ~~exchange access lines in the state~~] fifty-one cents (\$.51) is

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1 imposed on each telecommunications company's subscriber ;
2 provided, however, that [a] the 911 emergency surcharge [and
3 ~~the network and database surcharge~~] shall not be imposed upon
4 local exchange service customers receiving reduced rates
5 pursuant to the Low Income Telephone Service Assistance Act.
6 ~~[The 911 emergency surcharge shall commence with the first~~
7 ~~billing period of each customer on or following ninety days~~
8 ~~after the effective date of the Enhanced 911 Act. The network~~
9 ~~and database surcharge shall commence with the first billing~~
10 ~~period of each customer on or following ninety days after July~~
11 ~~1, 1993. Each local governing body shall notify the division~~
12 ~~and the local exchange telephone company providing local~~
13 ~~exchange service to the 911 service area of the boundaries of~~
14 ~~the 911 service area and the costs to the local governing body~~
15 ~~of purchasing or leasing, installing and maintaining the~~
16 ~~equipment necessary to provide 911 emergency services in the~~
17 ~~911 service area. Each local governing body that seeks~~
18 ~~funding for its 911 system shall file an application with the~~
19 ~~division requesting approval of the state board of finance for~~
20 ~~disbursement from the enhanced 911 fund and the network and~~
21 ~~database fund.]~~

22 B. Each telecommunications company shall bill and
23 collect the 911 emergency surcharge from its subscribers. The
24 911 emergency surcharge shall be clearly stated on the
25 subscriber's bill. The money collected as the 911 emergency

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1 surcharge shall not be considered as revenue of the
2 telecommunications company.

3 C. Every billed subscriber is liable for payment
4 of the 911 emergency surcharge until it has been paid to the
5 telecommunications company.

6 D. The telecommunications company has no
7 obligation to take legal action to enforce collection of the
8 911 emergency surcharge. An action may be brought by or on
9 behalf of the department. The telecommunications company
10 shall annually provide the department with a list of the
11 amounts uncollected and the names and addresses of those
12 subscribers who carry a balance that can be determined by the
13 telecommunications company to be the nonpayment of the 911
14 emergency surcharge. The telecommunications company is not
15 liable for uncollected amounts.

16 E. The amount of the 911 emergency surcharge shall
17 be remitted monthly to the department. The department shall
18 administer and enforce collection of the 911 emergency
19 surcharge in accordance with the provisions of the Tax
20 Administration Act.

21 F. Money collected pursuant to this section shall
22 be deposited in the fund. "

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

25 "63-9D-6. PARTICIPATION IN [~~FUNDS--LIABILITY OF USER FOR~~
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1 ~~SURCHARGE--COLLECTION--UNCOLLECTED AMOUNTS]~~ FUND. -- [A.] The
2 local governing body may ~~[by ordinance or resolution]~~ submit a
3 request to recover from the ~~[enhanced 911 fund and the network~~
4 ~~and database]~~ fund an amount necessary to recover the costs of
5 ~~[purchasing, leasing, installing and maintaining equipment and~~
6 ~~the costs of]~~ 911 call reception training; addressing;
7 purchasing, leasing, installing and maintaining 911 voice call
8 reception and recording equipment; hardware and software for
9 automatic number identification and automatic location
10 identification processing; and developing and maintaining a
11 network and database necessary to provide a 911 [emergency]
12 system in its designated 911 service area.

13 ~~[B. Local exchange telephone companies shall be~~
14 ~~required to bill and collect the 911 emergency surcharge and~~
15 ~~the network and database surcharge from their local exchange~~
16 ~~service customers. The 911 emergency surcharge and the~~
17 ~~network and database surcharge required to be collected by the~~
18 ~~local exchange telephone company shall be added to and shall~~
19 ~~be stated in the billings to the local exchange service~~
20 ~~customer. The money collected by the local exchange telephone~~
21 ~~company as the 911 emergency surcharge and the network and~~
22 ~~database surcharge shall not be considered as revenues of the~~
23 ~~local exchange telephone company.~~

24 ~~C. Every billed local exchange service customer is~~
25 ~~liable for payment of the 911 emergency surcharge and the~~

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1 ~~network and database surcharge until they have been paid to~~
2 ~~the local exchange telephone company.~~

3 ~~D. The local exchange telephone company has no~~
4 ~~obligation to take any legal action to enforce the collection~~
5 ~~of the 911 emergency surcharge or the network and database~~
6 ~~surcharge. An action may be brought by or on behalf of the~~
7 ~~department. The local exchange telephone company shall~~
8 ~~annually provide the department a list of the amounts~~
9 ~~uncollected along with the names and addresses of those local~~
10 ~~exchange service customers who carry a balance that can be~~
11 ~~determined by the local exchange telephone company to be the~~
12 ~~nonpayment of the 911 emergency surcharge and the network and~~
13 ~~database surcharge. The local exchange telephone company~~
14 ~~shall not be held liable for uncollected amounts.]"~~

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

17 "63-9D-7. REMITTANCE OF CHARGES--ADMINISTRATIVE FEE--
18 AUDITS. --

19 A. Amounts collected by reason of the 911 emergency
20 surcharge [and the network and database surcharge] shall be
21 remitted monthly to the department, which shall administer and
22 enforce collection of each surcharge in accordance with the
23 Tax Administration Act. The amount of the 911 emergency
24 surcharge [and the network and database surcharge] shall be
25 remitted to the department no later than the twenty-fifth day

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1 of the month following the month in which the surcharge was
2 imposed. At that time, a return for the preceding month shall
3 be filed with the department in such form as the department
4 and [~~local exchange telephone~~] the telecommunications company
5 shall agree upon. The [~~local exchange telephone~~]
6 telecommunications company required to file the return shall
7 deliver the return together with a remittance of the amount of
8 the 911 emergency surcharge [~~and the network and database~~
9 ~~surcharge~~] payable to the department. The [~~local exchange~~
10 ~~telephone~~] telecommunications company shall maintain a record
11 of the amount of each [~~charge~~] 911 emergency surcharge
12 collected pursuant to the Enhanced 911 Act. The record shall
13 be maintained for a period of three years after the time the
14 [~~charges~~] emergency surcharges were collected.

15 B. From every remittance to the department made on
16 or before the date when it becomes due, the local exchange
17 telephone company required to make a remittance shall be
18 entitled to deduct and retain one percent of the collected
19 amount or fifty dollars (\$50.00), whichever is greater, as the
20 cost of administration for collecting the 911 emergency
21 surcharge and the network and database surcharge. "

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

24 "63-9D-8. [~~ENHANCED~~] 911 FUND-- CREATION-- ADMINISTRATION--
25 DISBURSEMENT-- REPORTS TO LEGISLATURE. --

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1 A. ~~[There is created in the state treasury a fund~~
2 ~~which shall be known as]~~ The "[~~enhanced~~] 911 fund" is created
3 in the state treasury. The [~~enhanced-911~~] fund shall be
4 administered by the division.

5 B. All money remitted to the department as a
6 result of collection of the 911 emergency surcharge shall be
7 deposited in the [~~enhanced-911~~] fund.

8 C. All money deposited in the [~~enhanced-911~~] fund
9 and all income earned by investment of the fund are [~~hereby~~]
10 appropriated for expenditure in accordance with the Enhanced
11 911 Act and shall not revert to the general fund.

12 D. Payments shall be made from the [~~enhanced-911~~]
13 fund to participating local governing bodies upon vouchers
14 signed by the director of the division.

15 E. Money in the [~~enhanced-911~~] fund may be used
16 for [~~the purchase, lease, installation or maintenance of~~
17 ~~equipment]~~ 911 call reception training; addressing;
18 purchasing, leasing, installing and maintaining 911 voice call
19 reception and recording equipment; hardware and software for
20 automatic number identification and automatic location
21 identification processing; and developing and maintaining a
22 network and database necessary for a 911 system, including the
23 repayment of bonds issued pursuant to the Enhanced 911 Bond
24 Act. [~~Annually~~] The division may expend no more than five
25 percent of all money deposited annually in the [~~enhanced-911~~]

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1 fund for the purpose of [~~admini-strating~~] administering and
2 coordinating activities associated with implementation of the
3 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 1990,
10 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 as
13 [~~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 areas.

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

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

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

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

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

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1 leasing, installing and maintaining 911 voice call reception
2 and recording equipment; hardware and software for automatic
3 number identification and automatic location identification
4 processing; and developing and maintaining a network and
5 database necessary for the establishment of a 911 system.

6 ~~[B. Money received by a local governing body from~~
7 ~~the local 911 surcharge shall be credited to separate cash~~
8 ~~funds, apart from the general fund of the local governing~~
9 ~~body, for network and database payments. Any local 911~~
10 ~~surcharge money remaining on July 1, 1993 shall be transferred~~
11 ~~to the network and database surcharge fund.]"~~

12 Section 9. TEMPORARY PROVISION--TRANSFER OF MONEY IN THE
13 NETWORK AND DATABASE SURCHARGE FUND--STATUTORY REFERENCES. --

14 A. All money in the network and database surcharge
15 fund shall be transferred to the 911 fund. All money in the
16 enhanced 911 fund shall be transferred to the 911 fund.

17 B. All references in the law to the network and
18 database surcharge fund shall be deemed to be references to
19 the 911 fund.

20 Section 10. REPEAL. --Section 63-9D-8.2 NMSA 1978 (being
21 Laws 1993, Chapter 48, Section 11) is repealed.

22 Section 11. EFFECTIVE DATE. --The effective date of the
23 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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4
5 January 27, 1999

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7 Mr. President:

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9 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
10 referred
11

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13 SENATE BILL 86

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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 WAYS & MEANS COMMITTEE.

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19 Respectfully submitted,
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Shannon Robinson, Chairman

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Boitano, Stockard

Absent: None

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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4
5 February 12, 1999

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7 Mr. President:

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9 Your WAYS & MEANS COMMITTEE, to whom has been referred

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11 SENATE BILL 86

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13 has had it under consideration and reports same with
14 recommendation that it DO PASS, and thence referred to the
15 FINANCE COMMITTEE.
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18 Respectfully submitted,

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24 Carlos R. Cisneros, Chairman
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1 Adopted _____ Not

2 Adopted _____

3 (Chief Clerk)

(Chief Clerk)

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6 Date _____

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9 The roll call vote was 5 For 1 Against

10 Yes: 5

11 No: Rawson

12 Excused: Carraro, Duran, Jennings

13 Absent: None

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