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SENATE BILL 1167

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

WILLIAM H. PAYNE

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING THE ENHANCED 911 ACT TO  
ABOLISH THE 911 EMERGENCY SURCHARGE; AMENDING CERTAIN SECTIONS  
OF THE NMSA 1978.

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

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

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

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

~~B.]~~ A. "911 service area" means the area within a

1 local governing body's jurisdiction that has been designated by  
2 the local governing body or the division to receive enhanced 911  
3 service;

4 ~~[C.]~~ B. "911 system" means the basic 911 system or  
5 the enhanced 911 system;

6 ~~[D.]~~ C. "basic 911 system" means a telephone service  
7 that automatically connects a person dialing the single three-  
8 digit number 911 to an established public safety answering point  
9 through normal telephone service facilities;

10 ~~[E.]~~ D. "commission" means the state corporation  
11 commission;

12 ~~[F.]~~ E. "department" means the taxation and revenue  
13 department;

14 ~~[G.]~~ F. "division" means the local government  
15 division of the department of finance and administration;

16 ~~[H.]~~ G. "enhanced 911 system" means a telephone  
17 system consisting of network, database and on-premises equipment  
18 that utilizes the single three-digit number 911 for reporting  
19 police, fire, medical or other emergency situations, thereby  
20 enabling the users of a public telephone system to reach a  
21 public safety answering point to report emergencies by dialing  
22 911, and includes the capability to:

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

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

4 [~~I.~~] H. "enhanced 911 equipment" means the customer  
5 premises equipment directly related to the operation of an  
6 enhanced 911 system, including, but not limited to, automatic  
7 number identification or automatic location identification  
8 controllers and display units, printers, cathode ray tubes and  
9 software associated with call detail recording;

10 [~~J.~~] L. "equipment supplier" means any person or  
11 entity who provides or offers to provide telecommunications  
12 equipment necessary for the establishment of enhanced 911  
13 services;

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

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

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1           [M-] L. "local exchange area" means a geographic  
2 area encompassing one or more local communities, as described in  
3 maps, tariffs or rate schedules filed with the commission, where  
4 local exchange rates apply;

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

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

14           [P-] O. "local governing body" means the board of  
15 county commissioners of a county or the governing body of a  
16 municipality as defined in the Municipal Code;

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

23           [R-] Q. "network and database surcharge" means the  
24 monthly uniform charge assessed on each local exchange service  
25 customer in the state for each local exchange access line to pay

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1 for the costs of developing and maintaining a network and  
2 database for a 911 emergency system; and

3 [S-] R. "public safety answering point" means a  
4 twenty-four-hour local jurisdiction communications facility that  
5 receives 911 service calls and directly dispatches emergency  
6 response services or that relays calls to the appropriate public  
7 or private safety agency. "

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

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

14 A. A local governing body may incur costs for the  
15 purchase [~~or~~], lease, installation and maintenance of equipment  
16 necessary for the establishment of a 911 system at public safety  
17 answering points [~~and may pay such costs through disbursements~~  
18 ~~from the enhanced 911 fund~~]. Necessary network and database  
19 costs may be recovered by a local governing body from the  
20 network and database fund in amounts approved by the state board  
21 of finance.

22 B. If the enhanced 911 system is to be provided for  
23 territory that is included in whole or in part in the  
24 jurisdiction of the local governing bodies of two or more public  
25 agencies that are the primary providers of emergency fire

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1 fighting, law enforcement, ambulance, emergency medical or other  
2 emergency services, the agreement for the procurement of the  
3 necessary equipment for a 911 system shall be entered into by  
4 each local governing body, unless a local governing body  
5 expressly excludes itself from the agreement. Any agreement  
6 shall provide that each local governing body not excluded from  
7 the agreement shall make payment therefor from general revenues.  
8 Nothing in this subsection shall be construed to prevent two or  
9 more such local governing bodies from entering into a contract  
10 to establish a separate legal entity, that is, separate  
11 governing body, and thereunder to enter into an agreement as the  
12 enhanced 911 customer.

13 C. All public agencies in a 911 system shall provide  
14 that once an emergency unit is dispatched in response to a  
15 request for aid through the 911 system, the emergency unit shall  
16 render services to the requester without regard to whether the  
17 unit is operating outside its normal 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.-- There  
21 is imposed a 911 [~~emergency surcharge in the amount of twenty-~~  
22 ~~five cents (\$.25) and a~~] network and database surcharge in the  
23 amount of twenty-six cents (\$.26) to be billed by local exchange  
24 telephone companies on all local exchange access lines in the  
25 state; provided, however, that [~~a 911 emergency surcharge and~~]

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

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

22 "63-9D-6. PARTICIPATION IN FUNDS--LIABILITY OF USER FOR  
23 SURCHARGE--COLLECTION--UNCOLLECTED AMOUNTS. --

24 A. The local governing body may, by ordinance or  
25 resolution, recover from ~~[the enhanced 911 fund and]~~ the network

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1 and database fund an amount necessary to recover [~~the costs of~~  
2 ~~purchasing, leasing, installing and maintaining equipment and~~  
3 the costs of developing and maintaining a network and database  
4 necessary to provide a 911 emergency system in its designated  
5 911 service area.

6 B. Local exchange telephone companies shall be  
7 required to bill and collect [~~the 911 emergency surcharge and~~  
8 the network and database surcharge from their local exchange  
9 service customers. The [~~911 emergency surcharge and the~~  
10 network and database surcharge required to be collected by the  
11 local exchange telephone company shall be added to and shall be  
12 stated in the billings to the local exchange service customer.  
13 The money collected by the local exchange telephone company as  
14 the [~~911 emergency surcharge and the~~] network and database  
15 surcharge shall not be considered as revenues of the local  
16 exchange telephone company.

17 C. Every billed local exchange service customer is  
18 liable for payment of the [~~911 emergency surcharge and the~~  
19 network and database surcharge until they have been paid to the  
20 local exchange telephone company.

21 D. The local exchange telephone company has no  
22 obligation to take any legal action to enforce the collection of  
23 the [~~911 emergency surcharge or the~~] network and database  
24 surcharge. An action may be brought by or on behalf of the  
25 department. The local exchange telephone company shall annually



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1 provide the department a list of the amounts uncollected along  
2 with the names and addresses of those local exchange service  
3 customers who carry a balance that can be determined by the  
4 local exchange telephone company to be the nonpayment of [~~the~~  
5 ~~911-emergency surcharge and~~] the network and database surcharge.  
6 The local exchange telephone company shall not be held liable  
7 for uncollected amounts."

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

10 "63-9D-7. REMITTANCE OF CHARGES--ADMINISTRATIVE FEE--  
11 AUDITS.--

12 A. Amounts collected by reason of the [~~911-emergency~~  
13 ~~surcharge and the~~] network and database surcharge shall be  
14 remitted monthly to the department, which shall administer and  
15 enforce collection of [~~each~~] the surcharge in accordance with  
16 the Tax Administration Act. The amount of the [~~911-emergency~~  
17 ~~surcharge and the~~] network and database surcharge shall be  
18 remitted to the department no later than the twenty-fifth day of  
19 the month following the month in which the surcharge was  
20 imposed. At that time, a return for the preceding month shall  
21 be filed with the department in such form as the department and  
22 local exchange telephone company shall agree upon. The local  
23 exchange telephone company required to file the return shall  
24 deliver the return together with a remittance of the amount of  
25 the [~~911-emergency surcharge and the~~] network and database

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1 surcharge payable to the department. The local exchange  
2 telephone company shall maintain a record of the amount of each  
3 charge collected pursuant to the Enhanced 911 Act. The record  
4 shall be maintained for a period of three years after the time  
5 the charges were collected.

6 B. From every remittance to the department made on  
7 or before the date when it becomes due, the local exchange  
8 telephone company required to make a remittance shall be  
9 entitled to deduct and retain one percent of the collected  
10 amount or fifty dollars (\$50.00), whichever is greater, as the  
11 cost of administration for collecting the [911 emergency  
12 surcharge and the] network and database surcharge. "

13 Section 6. Section 63-9D-8.2 NMSA 1978 (being Laws 1993,  
14 Chapter 48, Section 11) is amended to read:

15 "63-9D-8.2. NETWORK AND DATABASE SURCHARGE FUND--  
16 CREATION-- ADMINISTRATION-- DISBURSEMENT. --

17 A. There is created in the state treasury the  
18 "network and database surcharge fund". The network and database  
19 surcharge fund shall be administered by the division.

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

23 C. All money deposited in the network and database  
24 surcharge fund and all income earned by investment of the  
25 network and database surcharge fund are [hereby] appropriated

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1 for expenditure in accordance with the provisions of the  
2 Enhanced 911 Act and shall not revert to the general fund.

3 D. Payments shall be made from the network and  
4 database surcharge fund to participating local governing bodies  
5 upon vouchers signed by the director of the division.

6 E. Annually, the division may expend or contract to  
7 be expended no more than [~~two and one-half~~] ten percent of all  
8 money deposited annually in the network and database surcharge  
9 fund for the purpose of administering and coordinating  
10 activities associated with implementation of the network and  
11 database surcharge fund.

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

21 G. Effective July 1, 1997, the unencumbered balance  
22 of the enhanced 911 fund, and future reversions, if any, shall  
23 be transferred to the network and database surcharge fund."

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

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1 "63-9D-9. AGREEMENTS OR CONTRACTS FOR 911 SYSTEMS-- USE OF  
2 FUNDS COLLECTED-- TRANSFER OF FUNDS. --

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

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

16 Section 8. Section 63-9D-14 NMSA 1978 (being Laws 1990,  
17 Chapter 61, Section 3, as amended) is amended to read:

18 "63-9D-14. ENHANCED 911 BONDS-- AUTHORITY TO ISSUE-- PLEDGE  
19 OF REVENUES-- LIMITATION ON ISSUANCE. -- ~~[A-]~~ In addition to any  
20 other law authorizing the board to issue revenue bonds, the  
21 board may issue enhanced 911 bonds pursuant to the Enhanced 911  
22 Bond Act. ~~[for the purposes specified in this section.~~

23 ~~B. Enhanced 911 bonds may be issued for acquiring,~~  
24 ~~extending, enlarging, bettering, repairing, improving,~~  
25 ~~constructing, purchasing, furnishing, equipping or~~

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1 ~~rehabilitating the enhanced 911 system. The board may pledge~~  
2 ~~irrevocably any or all of the projected revenues of the enhanced~~  
3 ~~911 fund, specifically including the 911 emergency surcharge~~  
4 ~~authorized under the Enhanced 911 Act, to the payment of the~~  
5 ~~interest on and principal of such bonds. Any general~~  
6 ~~determination by the board that any facilities or equipment are~~  
7 ~~reasonably related to and shall constitute a part of a specified~~  
8 ~~enhanced 911 project shall be conclusive if set forth in the~~  
9 ~~proceedings authorizing the enhanced 911 bonds.]"~~

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

12 "63-9D-20. ~~[AMOUNT OF SURCHARGE]~~ - - SECURITY FOR BONDS. - -

13 A. ~~[Notwithstanding the amount of the 911 emergency~~  
14 ~~surcharge set forth in Subsection A of Section 63-9D-5 NMSA~~  
15 ~~1978]~~ The legislature shall provide ~~[for the continued~~  
16 ~~imposition, collection and deposit of the 911 emergency~~  
17 ~~surcharge into the enhanced 911 fund in]~~ for amounts that  
18 ~~[together with other amounts deposited into the fund]~~ will ~~[be~~  
19 ~~sufficient to]~~ produce ~~[an]~~ the amount necessary to meet annual  
20 debt service charges on all outstanding enhanced 911 bonds.

21 B. The legislature shall not repeal, amend or  
22 otherwise modify any law that ~~[affects the 911 emergency~~  
23 ~~surcharge in a manner that]~~ impairs any outstanding enhanced 911  
24 bonds ~~[secured by a pledge of the 911 emergency surcharge]~~  
25 unless:

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1 (1) the outstanding enhanced 911 bonds have  
2 been discharged in full; or

3 (2) provision has been made to discharge fully  
4 the outstanding enhanced 911 bonds.

5 C. The terms of any bonds issued after [the  
6 ~~effective date of this section~~] March 10, 1992 shall not  
7 conflict with the provisions of this section.

8 [~~D. Nothing in this section shall require any~~  
9 ~~increase in the 911 emergency surcharge set forth in Subsection~~  
10 ~~A of Section 63-9D-5 NMSA 1978.~~]"

1 FORTY-THIRD LEGISLATURE  
2 FIRST SESSION, 1997  
3  
4

5 March 10, 1997  
6

7 Mr. President:  
8

9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom  
10 has been referred  
11

12 SENATE BILL 1167  
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14 has had it under consideration and reports same WITHOUT  
15 RECOMMENDATION, and thence referred to the WAYS & MEANS  
16 COMMITTEE.  
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18 Respectfully submitted,  
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22 Roman M. Maes, III, Chairman  
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25 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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KEYBOARD(TYPE SLUGS)

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Date \_\_\_\_\_

The roll call vote was 5 For 1 Against

Yes: 5

No: Gri ego

Excused: Fi del , Ki dd, McKi bben, Robi nson

Absent: None

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