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HOUSE BILL 174

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Joe M Stell

AN ACT

RELATING TO EMERGENCY 911 SERVICE; ESTABLISHING ONE SURCHARGE
AND FUND FOR FINANCING EMERGENCY 911 SERVICE; 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 access line in the state and on
each active number for a commercial mobile radio service
subscriber whose billing address is in New Mexico;

B. "911 service area" means the area [~~within a~~
~~local governing body's jurisdiction that has been~~] designated
by the fiscal agent, local governing body or the division to

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1 receive enhanced 911 service;

2 ~~[C. "911 system" means the basic 911 system or the~~
3 ~~enhanced 911 system;~~

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

9 ~~[E. "basic 911 system" means a telephone service~~
10 ~~that automatically connects a person dialing the single three-~~
11 ~~digit number 911 to a designated public safety answering point;~~

12 ~~F.]~~ D. "commercial mobile radio service" means
13 service provided by a wireless real-time two-way voice
14 communication device, including:

15 (1) radio-telephone communications used in
16 cellular telephone service;

17 (2) the functional or competitive equivalent
18 of radio-telephone communications used in cellular telephone
19 service;

20 (3) a personal communications service; or

21 (4) a network radio access line;

22 ~~[G.]~~ E. "commercial mobile radio service provider"
23 means a person who provides commercial mobile radio services,
24 including a person who purchases commercial mobile radio
25 service from a provider and resells that service;

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1 ~~[H.]~~ F. "commission" means the public regulation
2 commissi on;

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

8 ~~[I.]~~ H. "department" means the taxation and revenue
9 department;

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

12 ~~[K.]~~ J. "enhanced 911 system" means a landline or
13 wireless system consisting of network switching equipment,
14 database, mapping and on-premises equipment that uses the
15 single three-digit number 911 for reporting police, fire,
16 medical or other emergency situations, thereby enabling 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 monitor
24 at the appropriate public safety answering point;

25 (3) provide one or more access paths for

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1 communications between users at different geographic locations
2 through a network system that may be designed for voice or
3 data, or both, and may feature limited or open access and may
4 employ appropriate analog, digital switching or transmission
5 technologies; and

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

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

21 [~~M.~~] "~~enhanced 911 wireless service~~" means the relay
22 ~~to a designated public safety answering point of:~~

23 (1) ~~a 911 caller's number and base station or~~
24 ~~cell site location; and~~

25 (2) ~~the latitude and longitude of the 911~~

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1 ~~caller's location in relation to a designated public safety~~
2 ~~answering point;~~

3 ~~N.]~~ L. "equipment supplier" means a person who
4 provides or offers to provide telecommunications equipment
5 necessary for the establishment of enhanced 911 services;

6 M "fiscal agent" means the local governing body
7 that administers grants from the fund for a given locality or
8 region by agreement;

9 N. "fund" means the enhanced 911 fund;

10 O. "local governing body" means the board of county
11 commissioners of a county or the governing body of a
12 municipality as defined in the Municipal Code;

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

19 ~~Q.~~ ~~"network and database surcharge" means the~~
20 ~~monthly uniform charge assessed on each access line to pay the~~
21 ~~costs of developing and maintaining a network and database for~~
22 ~~a 911 emergency system;~~

23 ~~R.]~~ P. "proprietary information" means customer
24 lists, customer counts, technology descriptions or trade
25 secrets, including the actual or development costs of

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1 individual components of an enhanced 911 [~~wireless service~~]
2 system; provided that such information is designated as
3 proprietary by the commercial mobile radio service provider or
4 telecommunications company; and provided further that

5 "proprietary information" does not include individual payments
6 made by the division or any list of names and identifying
7 information of subscribers who have not paid the surcharge;

8 [S.] Q. "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 [F.] R. "subscriber" means a person who is a retail
14 purchaser of telecommunications services that are capable of
15 originating a 911 call;

16 S. "surcharge" means the 911 emergency surcharge;

17 [U.] T. "telecommunications company" means a person
18 who provides wire telecommunications services that are capable
19 of originating a 911 call; and

20 [~~V. "wireless enhanced 911 surcharge" means the~~
21 ~~monthly uniform charge assessed on each active number for a~~
22 ~~commercial mobile radio service subscriber whose billing~~
23 ~~address is in New Mexico;~~]

24 U. "vendor" means a person that provides 911
25 equipment, service or network support. "

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

3 "63-9D-4. PROVISION FOR ENHANCED 911 SERVICES BY LOCAL
4 GOVERNING BODIES-- ENHANCED 911 SYSTEM COSTS [~~AND NETWORK AND~~
5 ~~DATABASE COSTS~~]- - PAYMENT OF COSTS- - JOINT POWERS AGREEMENTS- - AID
6 OUTSIDE JURISDICTIONAL BOUNDARIES. - -

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

14 (1) ~~be recovered by a local governing body~~
15 ~~from the network and database surcharge fund in amounts~~
16 ~~approved by the state board of finance; or~~

17 (2) ~~be disbursed from the network and database~~
18 ~~surcharge fund and paid directly to a vendor pursuant to a~~
19 ~~state price agreement or to a telecommunications company on~~
20 ~~behalf of a local governing body. The amount of the payment~~
21 ~~shall be approved by the state board of finance]; provided that
22 the local governing body has employed properly trained staff in
23 its public safety answering point pursuant to the Public Safety
24 Telecommunicator Training Act.~~

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

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1 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 the]~~ enhanced 911 system shall be
7 entered into by ~~[each]~~ the fiscal agent designated by the local
8 governing ~~[body, unless]~~ bodies. A local governing body may
9 expressly ~~[excludes]~~ exclude itself from the agreement. ~~[An~~
10 ~~agreement shall provide that each local governing body not~~
11 ~~excluded from the agreement shall make payment for the enhanced~~
12 ~~911 system from general revenues.]~~ Nothing in this subsection
13 shall be construed to prevent two or more local governing
14 bodies from entering into a joint powers agreement pursuant to
15 the Joint Powers Agreements Act to establish a separate legal
16 entity that can enter into an agreement as the enhanced 911
17 system customer.

18 C. A public agency in ~~[a]~~ an enhanced 911 service
19 area shall provide that, once an emergency unit is dispatched
20 in response to a request for aid through the enhanced 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 D. A local governing body in an enhanced 911
25 service area shall provide GIS addressing and digital mapping

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1 data to the public safety answering point that provides the
2 enhanced 911 service to the local governing body."

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

5 "63-9D-5. IMPOSITION OF SURCHARGE [NOTIFICATION]. --

6 A. There is imposed a 911 emergency surcharge in
7 the amount of [~~twenty-five cents (\$.25) and a network and~~
8 ~~database surcharge in the amount of twenty-six cents (\$.26)]~~
9 fifty-one cents (\$.51) to be billed to each subscriber access
10 line by a telecommunications company and on each active number
11 for a commercial mobile radio service subscriber whose billing
12 address is in New Mexico; provided, however, that the [911
13 emergency] surcharge [and the network and database surcharge]
14 shall not be imposed upon subscribers receiving reduced rates
15 pursuant to the Low Income Telephone Service Assistance Act.
16 [The 911 emergency surcharge shall commence with the first
17 billing period of each subscriber on or following ninety days
18 after the effective date of the Enhanced 911 Act. The network
19 and database surcharge shall commence with the first billing
20 period of each subscriber on or following ninety days after
21 July 1, 1993. Each local governing body shall notify the
22 division and the telecommunications company providing local
23 exchange service to the 911 service area of the boundaries of
24 the 911 service area and the costs to the local governing body
25 of purchasing or leasing, installing and maintaining the

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1 ~~equipment necessary to provide 911 emergency services in the~~
2 ~~911 service area. A local governing body that seeks funding~~
3 ~~for its 911 system shall file an application with the division~~
4 ~~requesting approval of the state board of finance for~~
5 ~~disbursement from the enhanced 911 fund and the network and~~
6 ~~database surcharge fund.]~~

7 B. Commercial mobile radio service providers shall
8 be required to bill and collect the surcharge from their
9 subscribers whose places of primary use, as defined in the
10 federal Mobile Telecommunications Sourcing Act, are in New
11 Mexico. Telecommunications companies shall be required to bill
12 and collect the surcharge from their subscribers. The
13 surcharge required to be collected by the commercial mobile
14 radio service provider or telecommunications company shall be
15 added to and stated clearly and separately in the billings to
16 the subscriber. The surcharge collected by the commercial
17 mobile radio service provider or telecommunications company
18 shall not be considered revenue of the commercial mobile radio
19 service provider or telecommunications company.

20 C. A billed subscriber is liable for payment of the
21 911 emergency surcharge until it has been paid to the
22 commercial mobile radio service provider or telecommunications
23 company.

24 D. A commercial mobile radio service provider or
25 telecommunications company has no obligation to take legal

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1 action to enforce the collection of the surcharge; an action
2 may be brought by or on behalf of the department. A commercial
3 mobile radio service provider or telecommunications company,
4 upon request and not more than once a year, shall provide to
5 the department a list of the surcharge amounts uncollected,
6 along with the names and addresses of subscribers who carry a
7 balance that can be determined by the commercial mobile radio
8 service provider or telecommunications company to be nonpayment
9 of the surcharge. The commercial mobile radio service provider
10 or telecommunications company shall not be held liable for
11 uncollected surcharge amounts.

12 E. The surcharge shall commence with the first
13 billing period of each subscriber on or following July 1,
14 2005."

15 Section 4. 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 A. The [911-emergency] surcharge [and the network
19 and database surcharge] collected shall be remitted monthly to
20 the department, which shall administer and enforce collection
21 of [each] the surcharge in accordance with the Tax
22 Administration Act. The [911-emergency] surcharge [and the
23 network and database surcharge] shall be remitted to the
24 department no later than the twenty-fifth day of the month
25 following the month in which the surcharge was imposed. At

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1 that time, a return for the preceding month shall be filed with
2 the department in such form as the department and
3 telecommunications company or commercial mobile radio service
4 provider shall agree upon. A telecommunications company or
5 commercial mobile radio service provider required to file a
6 return shall deliver the return together with a remittance of
7 the amount of the ~~[911-emergency]~~ surcharge ~~[and the network~~
8 ~~and database surcharge]~~ payable to the department. The
9 telecommunications company or commercial mobile radio service
10 provider shall maintain a record of the amount of each
11 surcharge collected pursuant to the Enhanced 911 Act. The
12 record shall be maintained for a period of three years after
13 the time the surcharges were collected.

14 B. From a remittance to the department made on or
15 before the date it becomes due, a telecommunications company or
16 commercial mobile radio service provider required to make a
17 remittance shall be entitled to deduct and retain one percent
18 of the collected amount or fifty dollars (\$50.00), whichever is
19 greater, as the administrative cost for collecting the ~~[911~~
20 ~~emergency]~~ surcharge ~~[and the network and database surcharge]. "~~

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

23 "63-9D-8. ENHANCED 911 FUND-- CREATION-- ADMINISTRATION--
24 DISBURSEMENT-- REPORTS TO LEGISLATURE. --

25 A. There is created in the state treasury a fund

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1 that shall be known as the "enhanced 911 fund". The [~~enhanced~~
2 ~~911~~] fund shall be administered by the division.

3 B. All [~~911-emergency~~] surcharges collected and
4 remitted to the department shall be deposited in the [~~enhanced~~
5 ~~911~~] fund.

6 C. Money deposited in the [~~enhanced-911~~] fund and
7 income earned by investment of the fund are appropriated for
8 expenditure in accordance with the Enhanced 911 Act and shall
9 not revert to the general fund.

10 D. Payments shall be made from the [~~enhanced-911~~]
11 fund to, or on behalf of, participating local governing bodies
12 or their fiscal agents upon vouchers signed by the director of
13 the division solely for the purpose of reimbursing local
14 governing bodies or their fiscal agents, commercial mobile
15 radio service providers or telecommunications companies for
16 their costs of providing enhanced 911 service. A person who
17 purchases commercial mobile radio services or
18 telecommunications services from a commercial mobile radio
19 service provider or telecommunications company for the purpose
20 of reselling that service is not eligible for reimbursement
21 from the fund. Money in the fund may be used for the payment
22 of bonds issued pursuant to the Enhanced 911 Bond Act.

23 E. [~~Money in the enhanced 911 fund may be used for~~
24 ~~the purchase, lease, installation or maintenance of equipment~~
25 ~~necessary for a 911 system, including the repayment of bonds~~

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

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

16 G. After requesting enhanced 911 service from a
17 telecommunications company or commercial mobile radio service
18 provider, a local governing body may, by ordinance or
19 resolution, recover from the fund an amount necessary to
20 recover the costs of providing the enhanced 911 system in its
21 designated 911 service area. The division, on behalf of local
22 governing bodies, shall directly pay or reimburse commercial
23 mobile radio service providers and telecommunications companies
24 for their costs of providing enhanced 911 service. If a
25 commercial mobile radio service provider or telecommunications

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1 company does not receive payment or reimbursement for the costs
2 of providing enhanced 911 service, the provider is not
3 obligated to provide that service.

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

9 Section 6. 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 reasonable rules
13 necessary to carry out the provisions of the Enhanced 911 Act.

14 B. The division may fund [~~basic~~] enhanced 911
15 systems pursuant to the provisions of the Enhanced 911 Act.

16 C. Division powers are limited and do not include
17 power to intervene between two vendors or restrict marketing
18 efforts of vendors.

19 [E-] D. The division and the local governing body
20 may establish 911 service areas.

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

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

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

16 Section 7. Section 63-9D-10 NMSA 1978 (being Laws 1989,
17 Chapter 25, Section 10, as amended) is amended to read:

18 "63-9D-10. IMMUNITY. -- Enhanced 911 systems are within the
19 governmental powers and authorities of the local governing body
20 or state agency in the provision of services for the public
21 health, welfare and safety. In contracting for such services
22 or the provisioning of ~~[a]~~ an enhanced 911 system, except for
23 willful or wanton negligence or intentional acts, the local
24 governing body, public agency, equipment supplier,
25 telecommunications company, commercial mobile radio service

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1 provider and their employees and agents are not liable for
2 damages resulting from installing, maintaining or providing
3 enhanced 911 systems or transmitting 911 calls. "

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

6 "63-9D-11. PRIVATE LISTING SUBSCRIBERS AND 911 SERVICE. --

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

13 B. Information regarding the identity of private
14 listing subscribers, including names, addresses, telephone
15 numbers or other identifying information, is not a public
16 record and is not available for inspection.

17 C. Proprietary information provided by a commercial
18 mobile radio service provider or telecommunications company is
19 not public information and may not be released to any person
20 without the express permission of the submitting provider,
21 except that information may be released or published as
22 aggregated data that does not identify the number of
23 subscribers or identify enhanced 911 system costs attributable
24 to an individual commercial mobile radio service provider or
25 telecommunications company. "

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

3 "63-9D-13. DEFINITIONS. -- As used in the Enhanced 911 Bond
4 Act:

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

6 B. "division" means the local government division
7 of the department of finance and administration;

8 C. "enhanced 911 bonds" means the bonds authorized
9 in the Enhanced 911 Bond Act;

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

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

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

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

24 Section 10. Section 63-9D-14 NMSA 1978 (being Laws 1990,
25 Chapter 61, Section 3, as amended) is amended to read:

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1 "63-9D-14. ENHANCED 911 BONDS--AUTHORITY TO ISSUE--PLEDGE
2 OF REVENUES--LIMITATION ON ISSUANCE.--

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

7 B. Enhanced 911 bonds may be issued for:

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

13 (2) reimbursing a commercial mobile radio
14 service provider or telecommunications company for its
15 reasonable costs of providing enhanced [~~wireless~~] 911 service,
16 the payment of which shall be secured by [~~wireless~~] enhanced
17 911 revenues; or

18 (3) reimbursing a local governing body or its
19 fiscal agent for its reasonable costs of providing the enhanced
20 [~~wireless~~] 911 [~~service~~] system, the payment of which shall be
21 secured by [~~wireless~~] enhanced 911 revenues.

22 C. The board may pledge irrevocably enhanced 911
23 revenues [~~network and database surcharge revenues and wireless~~
24 ~~enhanced 911 revenues~~] in the manner set forth in Subsection B
25 of this section to the payment of the interest on and principal

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

6 Section 11. Section 63-9D-17 NMSA 1978 (being Laws 1990,
7 Chapter 61, Section 6, as amended) is amended to read:

8 "63-9D-17. BOND AUTHORIZATION. -- The board may issue and
9 sell enhanced 911 bonds in compliance with the Enhanced 911
10 Bond Act. The board shall schedule the issuance and sale of
11 the bonds in the most expeditious and economical manner upon a
12 finding by the board that the division has certified that the
13 need exists for the issuance of bonds and upon an action by the
14 board designating the enhanced 911 fund ~~[the network and~~
15 ~~database surcharge fund or the wireless enhanced 911 fund]~~ to
16 be the source of pledged revenues. "

17 Section 12. Section 63-9D-18 NMSA 1978 (being Laws 1990,
18 Chapter 61, Section 7, as amended) is amended to read:

19 "63-9D-18. AUTHORITY TO REFUND BONDS. -- ~~[A.]~~ The board may
20 issue and sell at public or private sale enhanced 911 bonds to
21 refund outstanding enhanced 911 bonds and other bonds payable
22 from the enhanced 911 fund by exchange, immediate or
23 prospective redemption, cancellation or escrow, including the
24 escrow of debt service funds accumulated for payment of
25 outstanding bonds, or any combination thereof, when, in its

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1 opinion, such action will be beneficial to the state.

2 [B. ~~No enhanced 911 bonds that are secured by~~
3 ~~enhanced 911 revenues or network and database surcharge~~
4 ~~revenues shall be refunded by enhanced 911 bonds that are~~
5 ~~secured by wireless enhanced 911 revenues. No enhanced 911~~
6 ~~bonds that are secured by wireless enhanced 911 revenues shall~~
7 ~~be refunded by enhanced 911 bonds that are secured by enhanced~~
8 ~~911 revenues or network and database surcharge revenues.-]~~"

9 Section 13. Section 63-9D-20 NMSA 1978 (being Laws 1992,
10 Chapter 102, Section 5, as amended) is amended to read:

11 "63-9D-20. AMOUNT OF [SURCHARGES] SURCHARGE-- SECURITY FOR
12 BONDS. --

13 A. The legislature shall provide for the continued
14 imposition, collection and deposit of the 911 emergency
15 surcharge [~~the network and database surcharge and the wireless~~
16 ~~enhanced 911 surcharge~~] into the enhanced 911 fund [~~the network~~
17 ~~and database surcharge fund and the wireless enhanced 911 fund,~~
18 ~~as applicable~~] in amounts that, together with other amounts
19 deposited into the [funds] fund, will be sufficient to produce
20 an amount necessary to meet annual debt service charges on all
21 respective outstanding enhanced 911 bonds.

22 B. The legislature shall not repeal, amend or
23 otherwise modify any law that affects the 911 emergency
24 surcharge [~~the network and database surcharge or the wireless~~
25 ~~enhanced 911 surcharge~~] in a manner that impairs any

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1 outstanding enhanced 911 bonds secured by a pledge of the 911
2 emergency surcharge [~~the network and database surcharge or the~~
3 ~~wireless enhanced 911 surcharge~~] unless:

4 (1) the outstanding enhanced 911 bonds to
5 which the revenues from [~~such surcharges~~] the surcharge are
6 pledged have been discharged in full; or

7 (2) provision has been made to discharge fully
8 the outstanding enhanced 911 bonds to which the revenues from
9 [~~such surcharges~~] the surcharge are pledged.

10 C. Nothing in this section shall require any
11 increase in the 911 emergency surcharge [~~the network and~~
12 ~~database surcharge or the wireless enhanced 911 surcharge~~]. "

13 Section 14. TEMPORARY PROVISION--TRANSFER OF FUNDS.--All
14 money in the wireless enhanced 911 fund and network and
15 database surcharge fund is transferred to the enhanced 911
16 fund.

17 Section 15. REPEAL.--Sections 63-9D-6, 63-9D-8.2 and
18 63-9D-9 through 63-9D-9.3 NMSA 1978 (being Laws 1989, Chapter
19 25, Section 6, Laws 1993, Chapter 48, Section 11, Laws 1989,
20 Chapter 25, Section 9 and Laws 2001, Chapter 110, Sections 12
21 through 14, as amended) are repealed.

22 Section 16. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2005.