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AN ACT

RELATING TO EMERGENCY SERVICES; CORRECTING SECTIONS OF THE
TAX ADMINISTRATION ACT; AMENDING SECTIONS OF THE ENHANCED 911
ACT; CREATING AN ENHANCED 911 ADVISORY BOARD TO PROVIDE
CONSULTATION TO THE DEPARTMENT OF INFORMATION TECHNOLOGY IN
THE ADMINISTRATION OF THE STATE'S ENHANCED 911 SYSTEM.

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

SECTION 1. Section 7-1-2 NMSA 1978 (being Laws 1965,
Chapter 248, Section 2, as amended) is amended to read:

"7-1-2. APPLICABILITY.--The Tax Administration Act
applies to and governs:

A. the administration and enforcement of the
following taxes or tax acts as they now exist or may
hereafter be amended:

- (1) Income Tax Act;
- (2) Withholding Tax Act;
- (3) Venture Capital Investment Act;
- (4) Gross Receipts and Compensating Tax Act
and any state gross receipts tax;
- (5) Liquor Excise Tax Act;
- (6) Local Liquor Excise Tax Act;
- (7) any municipal local option gross
receipts tax;
- (8) any county local option gross receipts

1 tax;

2 (9) Special Fuels Supplier Tax Act;

3 (10) Gasoline Tax Act;

4 (11) petroleum products loading fee, which
5 fee shall be considered a tax for the purpose of the Tax
6 Administration Act;

7 (12) Alternative Fuel Tax Act;

8 (13) Cigarette Tax Act;

9 (14) Estate Tax Act;

10 (15) Railroad Car Company Tax Act;

11 (16) Investment Credit Act, rural job tax
12 credit, Laboratory Partnership with Small Business Tax Credit
13 Act, Technology Jobs and Research and Development Tax Credit
14 Act, Film Production Tax Credit Act, Affordable Housing Tax
15 Credit Act and high-wage jobs tax credit;

16 (17) Corporate Income and Franchise Tax Act;

17 (18) Uniform Division of Income for Tax
18 Purposes Act;

19 (19) Multistate Tax Compact;

20 (20) Tobacco Products Tax Act; and

21 (21) the telecommunications relay service
22 surcharge imposed by Section 63-9F-11 NMSA 1978, which
23 surcharge shall be considered a tax for the purposes of the
24 Tax Administration Act;

25 B. the administration and enforcement of the

1 following taxes, surtaxes, advanced payments or tax acts as
2 they now exist or may hereafter be amended:

- 3 (1) Resources Excise Tax Act;
- 4 (2) Severance Tax Act;
- 5 (3) any severance surtax;
- 6 (4) Oil and Gas Severance Tax Act;
- 7 (5) Oil and Gas Conservation Tax Act;
- 8 (6) Oil and Gas Emergency School Tax Act;
- 9 (7) Oil and Gas Ad Valorem Production Tax
10 Act;
- 11 (8) Natural Gas Processors Tax Act;
- 12 (9) Oil and Gas Production Equipment Ad
13 Valorem Tax Act;
- 14 (10) Copper Production Ad Valorem Tax Act;
- 15 (11) any advance payment required to be made
16 by any act specified in this subsection, which advance
17 payment shall be considered a tax for the purposes of the Tax
18 Administration Act;
- 19 (12) Enhanced Oil Recovery Act;
- 20 (13) Natural Gas and Crude Oil Production
21 Incentive Act; and
- 22 (14) intergovernmental production tax credit
23 and intergovernmental production equipment tax credit;

24 C. the administration and enforcement of the
25 following taxes, surcharges, fees or acts as they now exist

1 or may hereafter be amended:

2 (1) Weight Distance Tax Act;

3 (2) the workers' compensation fee authorized
4 by Section 52-5-19 NMSA 1978, which fee shall be considered a
5 tax for purposes of the Tax Administration Act;

6 (3) Uniform Unclaimed Property Act (1995);

7 (4) 911 emergency surcharge and the prepaid
8 wireless enhanced 911 surcharge, which surcharges shall be
9 considered taxes for purposes of the Tax Administration Act;

10 (5) the solid waste assessment fee
11 authorized by the Solid Waste Act, which fee shall be
12 considered a tax for purposes of the Tax Administration Act;

13 (6) the water conservation fee imposed by
14 Section 74-1-13 NMSA 1978, which fee shall be considered a
15 tax for the purposes of the Tax Administration Act; and

16 (7) the gaming tax imposed pursuant to the
17 Gaming Control Act; and

18 D. the administration and enforcement of all other
19 laws, with respect to which the department is charged with
20 responsibilities pursuant to the Tax Administration Act, but
21 only to the extent that the other laws do not conflict with
22 the Tax Administration Act."

23 SECTION 2. Section 7-1-6.31 NMSA 1978 (being Laws 1990,
24 Chapter 86, Section 5, as amended) is amended to read:

25 "7-1-6.31. DISTRIBUTIONS--ENHANCED 911 FUND.--

1 A. Pursuant to Section 7-1-6.1 NMSA 1978, a
2 distribution shall be made to the enhanced 911 fund in an
3 amount equal to the net receipts attributable to the 911
4 emergency surcharge.

5 B. A distribution pursuant to Section 7-1-6.1
6 NMSA 1978 shall be made to the enhanced 911 fund of the net
7 receipts attributable to the prepaid wireless enhanced 911
8 surcharge imposed pursuant to the Enhanced 911 Act."

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

11 "63-9D-3. DEFINITIONS.--As used in the Enhanced 911
12 Act:

13 A. "911 call" means any real-time communication,
14 message, signal or transmission between a person needing
15 assistance and a public safety answering point call-taker by
16 dialing 9-1-1 or its equivalent;

17 B. "911 service area" means the area designated by
18 the fiscal agent, local governing body or the department to
19 receive enhanced 911 service;

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

25 D. "advisory board" means the enhanced 911

1 advisory board created pursuant to Section 9 of this 2019
2 act;

3 E. "commercial mobile radio service" means service
4 provided by a wireless real-time two-way voice communication
5 device, including:

6 (1) radio-telephone communications used in
7 cellular telephone service;

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

11 (3) a personal communications service; or

12 (4) a network radio access line;

13 F. "commercial mobile radio service provider"
14 means a person who provides commercial mobile radio services,
15 including a person who purchases commercial mobile radio
16 service from a provider and resells that service;

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

18 (1) is capable of and required by law to
19 access, connect with or interface with the enhanced 911
20 system by directly dialing, initializing or otherwise
21 activating the enhanced 911 system regardless of the
22 transmission medium or technology employed; and

23 (2) provides or enables real-time or
24 interactive communication;

25 H. "communications service provider" means any

1 entity that provides communication services;

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

7 J. "department" means the department of
8 information technology;

9 K. "enhanced 911 surcharge" means the monthly
10 uniform charge assessed on each access line in the state, on
11 each active number for a commercial mobile radio service
12 subscriber and on the number of VoIP lines for which the VoIP
13 service provider enables the capacity for simultaneous calls,
14 regardless of actual usage, to be connected to the public
15 switched telephone network during the period for which the
16 fixed charge is imposed for a VoIP service subscriber in
17 New Mexico and the charge assessed on any other consumer
18 purchase of communication service provided by a
19 communications service provider that enables communication
20 between a person needing assistance and a public safety
21 answering point call-taker by dialing 9-1-1 or its
22 equivalent; provided that an enhanced 911 surcharge shall not
23 be assessed on the provision of broadband internet access
24 service;

25 L. "enhanced 911 system" means, regardless of the

1 technology used, a landline, wireless, NG-911 or ESInet
2 system consisting of network switching equipment, database,
3 mapping and on-premises equipment, or the functional
4 equivalent thereof, that uses the single three-digit number
5 911 for reporting police, fire, medical or other emergency
6 situations, thereby enabling a caller to reach a public
7 safety answering point to report emergencies by dialing 911,
8 and includes the capability to:

9 (1) selectively route incoming 911 calls to
10 the appropriate public safety answering point operating in a
11 911 service area;

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

15 (3) provide one or more access paths for
16 communications between users at different geographic
17 locations through a network system that may be designed for
18 voice, text or data, or any combination of these, and may
19 feature limited or open access and may employ appropriate
20 analog, digital switching or transmission technologies;

21 (4) relay to a designated public safety
22 answering point a 911 caller's number and base station or
23 cell site location and the latitude and longitude of the 911
24 caller's location in relation to the designated public safety
25 answering point; and

1 (5) manage or administer the functions
2 listed in Paragraphs (1) through (4) of this subsection;

3 M. "enhanced 911 equipment" means the public
4 safety answering point equipment directly related to the
5 operation of an enhanced 911 system, including automatic
6 number identification or automatic location identification
7 controllers and display units, printers, logging recorders
8 and software associated with call detail recording, call
9 center work stations, training, latitude and longitude base
10 station or cell site location data and GIS equipment
11 necessary to obtain and process locational map and emergency
12 service zone data for landline and wireless callers;

13 N. "equipment supplier" means a person who
14 provides or offers to provide communications equipment
15 necessary for the establishment of enhanced 911 services;

16 O. "ESInet" means emergency services internet
17 protocol network, an internet-protocol-based, multipurpose
18 inter-network supporting local, regional, state and national
19 public safety communications services in addition to 911;

20 P. "fiscal agent" means the local governing body
21 that administers grants from the fund for a given locality or
22 region by agreement;

23 Q. "fund" means the enhanced 911 fund;

24 R. "local governing body" means the board of
25 county commissioners of a county or the governing body of a

1 municipality as defined in the Municipal Code;

2 S. "NG-911" means a next generation 911 system
3 consisting of network, hardware, software, data and
4 operational policies and procedures that:

5 (1) provides standardized interfaces from
6 call and message services;

7 (2) processes all types of emergency calls,
8 including non-voice multimedia messages;

9 (3) acquires and integrates additional data
10 useful to call routing and handling;

11 (4) delivers the calls, messages and data to
12 appropriate public safety answering points and other
13 appropriate emergency entities;

14 (5) supports data and communications needs
15 for coordinated incident response and management; and

16 (6) provides a secure environment for
17 emergency communications;

18 T. "proprietary information" means customer lists,
19 customer counts, technology descriptions or trade secrets,
20 including the actual or development costs of individual
21 components of an enhanced 911 system; provided that such
22 information is designated as proprietary by the
23 communications service provider; and provided further that
24 "proprietary information" does not include individual
25 payments made by the department or any list of names and

1 identifying information of subscribers who have not paid the
2 surcharge;

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

8 V. "secretary" means the secretary of information
9 technology;

10 W. "subscriber" means a person who purchases
11 communication services at retail from a communications
12 service provider that are capable of originating a 911
13 communication;

14 X. "surcharge" means the 911 emergency surcharge;

15 Y. "surcharge collected" means the amount of
16 enhanced 911 surcharge billed or received or deemed to have
17 been received by the seller or provider, consistent with the
18 seller's or provider's method of accounting, including
19 accrual or cash;

20 Z. "telecommunications company" means a person who
21 provides wire telecommunications services that are capable of
22 originating a 911 communication;

23 AA. "vendor" means a person that provides 911
24 equipment, service or network support;

25 BB. "VoIP" means "interconnected voice-over-

1 internet protocol service" as defined in the Code of Federal
2 Regulations, Title 47, Part 9, Section 9.3, as amended; and

3 CC. "VoIP service provider" or "interconnected
4 voice-over-internet protocol service provider" means an
5 entity that provides interconnected voice-over-internet
6 protocol service to end users."

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

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

10 A. There is imposed a 911 emergency surcharge in
11 the amount of fifty-one cents (\$.51) to be billed to each
12 subscriber access line by a communications service provider,
13 on each active number for a commercial mobile radio service
14 subscriber and on the number of VoIP lines for which the VoIP
15 service provider enables the capacity for simultaneous calls,
16 regardless of actual usage, to be connected to the public
17 switched telephone network during the period for which the
18 fixed charge is imposed. The surcharge is imposed on all
19 subscribers whose place of primary use, as defined in the
20 federal Mobile Telecommunications Sourcing Act, is in
21 New Mexico; provided, however, that the surcharge shall not
22 be imposed upon subscribers receiving reduced rates pursuant
23 to the Low Income Telephone Service Assistance Act; and
24 provided further that the surcharge shall not apply to
25 prepaid wireless communication service; and provided further

1 that a 911 emergency surcharge shall not be assessed on the
2 provision of broadband internet access service.

3 B. All communications service providers shall be
4 required to bill and collect the surcharge from their
5 subscribers whose places of primary use, as defined in the
6 federal Mobile Telecommunications Sourcing Act, are in
7 New Mexico. The surcharge required to be collected by the
8 communications service provider shall be added to and stated
9 clearly and separately in the billings to the subscriber.
10 The surcharge collected by the communications service
11 provider shall not be considered revenue of the
12 communications service provider.

13 C. A billed subscriber is liable for payment of
14 the 911 emergency surcharge until it has been paid to the
15 communications service provider.

16 D. A communications service provider has no
17 obligation to take legal action to enforce the collection of
18 the surcharge; an action may be brought by or on behalf of
19 the taxation and revenue department. A communications
20 service provider, upon request and not more than once a year,
21 shall provide to that department a list of the surcharge
22 amounts uncollected, along with the names and addresses of
23 subscribers who carry a balance that can be determined by the
24 communications service provider to be nonpayment of the
25 surcharge. The communications service provider shall not be

1 held liable for uncollected surcharge amounts."

2 SECTION 5. Section 63-9D-5.1 NMSA 1978 (being Laws
3 2017, Chapter 122, Section 10) is amended to read:

4 "63-9D-5.1. PREPAID WIRELESS ENHANCED 911 SURCHARGE--
5 COLLECTION AND ADMINISTRATION OF SURCHARGE--LIABILITY OF
6 SELLERS--EXCLUSIVITY OF SURCHARGE.--

7 A. As used in this section:

8 (1) "consumer" means a person who purchases
9 prepaid wireless communication service in a retail
10 transaction;

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

17 (3) "prepaid wireless enhanced 911
18 surcharge" means the charge that is required to be collected
19 by a seller from a consumer in the amount established under
20 Subsection B of this section;

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

24 (5) "retail transaction" means the purchase
25 of prepaid wireless communication service from a seller for

1 any purpose other than resale;

2 (6) "seller" means a person who sells
3 prepaid wireless communication service to another person; and

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

7 B. A prepaid wireless enhanced 911 surcharge of
8 one and thirty-eight hundredths percent is imposed on the
9 gross value of each retail transaction. The prepaid wireless
10 enhanced 911 surcharge shall be collected by the seller from
11 the consumer with respect to each retail transaction
12 occurring in this state. The amount of the prepaid wireless
13 enhanced 911 surcharge shall be either separately stated on
14 an invoice, receipt or other similar document that is
15 provided to the consumer by the seller, or otherwise
16 disclosed to the consumer.

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

25 D. The prepaid wireless enhanced 911 surcharge is

1 the liability of the consumer and not of the seller or of any
2 provider, except that the seller shall be liable to remit all
3 prepaid wireless enhanced 911 surcharges that the seller
4 collects from consumers as provided in this section,
5 including all such surcharges that the seller is deemed to
6 collect where the amount of the surcharge has not been
7 separately stated on an invoice, receipt or other similar
8 document provided to the consumer by the seller.

9 E. The amount of the prepaid wireless enhanced 911
10 surcharge that is collected by a seller from a consumer, if
11 such amount is separately stated on an invoice, receipt or
12 other similar document provided to the consumer by the
13 seller, shall not be included in the base for measuring any
14 tax, fee, surcharge or other charge that is imposed by this
15 state, any political subdivision of this state or any
16 intergovernmental agency.

17 F. When prepaid wireless communication service is
18 sold with one or more other products or services for a
19 single, non-itemized price, the percentage specified in
20 Subsection B of this section shall apply to the entire
21 non-itemized price unless the seller elects to apply such
22 percentage to:

23 (1) if the amount of the prepaid wireless
24 communication service is disclosed to the consumer as a
25 dollar amount, such dollar amount; or

1 (2) if the seller can identify the portion
2 of the price that is attributable to the prepaid wireless
3 communication service by reasonable and verifiable standards
4 from its books and records that are kept in the regular
5 course of business for other purposes, including non-tax
6 purposes, such portion.

7 G. However, if a minimal amount of prepaid
8 wireless communication service is sold with a prepaid
9 wireless device for a single, non-itemized price, the seller
10 may elect not to apply the percentage specified in Subsection
11 B of this section to such transaction. For purposes of this
12 subsection, an amount of service denominated as ten minutes
13 or less, or five dollars (\$5.00) or less, is minimal.

14 H. Prepaid wireless enhanced 911 surcharges
15 collected by sellers shall be remitted to the taxation and
16 revenue department at the times and in the manner provided
17 with respect to the Gross Receipts and Compensating Tax Act.
18 The taxation and revenue department shall establish
19 registration and payment procedures that substantially
20 coincide with the registration and payment procedures that
21 apply to the Gross Receipts and Compensating Tax Act. A
22 seller shall be permitted to deduct and retain three percent
23 of prepaid wireless enhanced 911 surcharges that are
24 collected by the seller from the consumer.

25 I. The audit and appeal procedures applicable to

1 the Gross Receipts and Compensating Tax Act shall apply to
2 prepaid wireless enhanced 911 surcharges.

3 J. The taxation and revenue department shall
4 establish procedures by which a seller of prepaid wireless
5 communication services may document that a sale is not a
6 retail transaction, which procedures shall substantially
7 coincide with the procedures for documenting sale for resale
8 transactions for the Gross Receipts and Compensating Tax Act.

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

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

25 M. In addition to the protection from liability

1 provided by Subsections K and L of this section, each
2 provider and seller shall be entitled to the further
3 protection from liability as provided pursuant to Section
4 63-9D-10 NMSA 1978.

5 N. The prepaid wireless enhanced 911 surcharge
6 applies to retail transactions occurring on or after July 1,
7 2017."

8 SECTION 6. 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 A. The surcharge collected shall be remitted
12 monthly to the taxation and revenue department, which shall
13 administer and enforce collection of the surcharge in
14 accordance with the Tax Administration Act. The surcharge
15 shall be remitted to the taxation and revenue department no
16 later than the twenty-fifth day of the month following the
17 month in which the surcharge was imposed. At that time, a
18 return for the preceding month shall be filed with the
19 taxation and revenue department in such form as that
20 department and communications service provider shall agree
21 upon. A communications service provider required to file a
22 return shall deliver the return together with a remittance of
23 the amount of the surcharge payable to the taxation and
24 revenue department. The communications service provider
25 shall maintain a record of the amount of each surcharge

1 collected pursuant to the Enhanced 911 Act. The record shall
2 be maintained for a period of three years after the time the
3 surcharges were collected.

4 B. From a remittance to the taxation and revenue
5 department made on or before the date it becomes due, a
6 telecommunications company or commercial mobile radio service
7 provider required to make a remittance shall be entitled to
8 deduct and retain one percent of the collected amount or
9 fifty dollars (\$50.00), whichever is greater, as the
10 administrative cost for collecting the surcharge."

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

13 "63-9D-8. ENHANCED 911 FUND--CREATION--ADMINISTRATION--
14 DISBURSEMENT--REPORTS TO LEGISLATURE.--

15 A. There is created in the state treasury a fund
16 that shall be known as the "enhanced 911 fund". The fund
17 shall be administered by the department, in consultation with
18 the advisory board.

19 B. All surcharges collected and remitted to the
20 taxation and revenue department shall be deposited in the
21 fund.

22 C. Money deposited in the fund and income earned
23 by investment of the fund are appropriated for expenditure in
24 accordance with the Enhanced 911 Act and shall not revert to
25 the general fund.

1 D. Payments shall be made from the fund to, or on
2 behalf of, participating local governing bodies or their
3 fiscal agents upon vouchers signed by the secretary or the
4 secretary's designee solely for the purpose of reimbursing
5 local governing bodies or their fiscal agents and
6 communications service providers for their costs of providing
7 enhanced 911 service. A person that purchases communication
8 services from a communications service provider for the
9 purpose of reselling that service is not eligible for
10 reimbursement from the fund. Money in the fund may be used
11 for the payment of bonds issued pursuant to the Enhanced 911
12 Bond Act.

13 E. Annually, the department may expend no more
14 than seven percent of all money deposited annually in the
15 fund for administering and coordinating activities associated
16 with implementation of the Enhanced 911 Act.

17 F. Money in the fund may be awarded as grant
18 assistance to provide enhanced 911 service and equipment upon
19 application of local governing bodies or their fiscal agents
20 to the department and upon approval by the state board of
21 finance. If it is anticipated that the funds available to
22 pay all requests for grants will be insufficient, the state
23 board of finance may reduce the percentage of assistance to
24 be awarded. In the event of such reduction, the state board
25 of finance may award supplemental grants to local governing

1 bodies that demonstrate financial hardship.

2 G. After requesting enhanced 911 service from a
3 communications service provider, a local governing body may,
4 by ordinance or resolution, recover from the fund an amount
5 necessary to recover the costs of providing the enhanced 911
6 system in its designated 911 service area. The department,
7 on behalf of local governing bodies, shall directly pay or
8 reimburse communications service providers for their costs of
9 providing enhanced 911 service. If a communications service
10 provider does not receive payment or reimbursement for the
11 costs of providing enhanced 911 service, the provider is not
12 obligated to provide that service.

13 H. The department and the advisory board shall
14 report to the legislature each session the status of the fund
15 and whether the current level of the 911 emergency surcharge
16 is sufficient, excessive or insufficient to fund the
17 anticipated needs for the next year."

18 SECTION 8. Section 63-9D-8.1 NMSA 1978 (being Laws
19 1990, Chapter 87, Section 3, as amended) is amended to read:

20 "63-9D-8.1. DEPARTMENT POWERS.--

21 A. In consultation with the advisory board, the
22 department may adopt reasonable rules necessary to carry out
23 the provisions of the Enhanced 911 Act.

24 B. In consultation with the advisory board, the
25 department may fund enhanced 911 systems pursuant to the

1 provisions of the Enhanced 911 Act.

2 C. Department powers are limited and do not
3 include power to intervene between two vendors or restrict
4 marketing efforts of vendors.

5 D. In consultation with the advisory board, the
6 department and the local governing body may establish 911
7 service areas.

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

25 F. All rules shall be filed in accordance with the SRC/SB 472
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1 State Rules Act."

2 SECTION 9. A new section of the Enhanced 911 Act is
3 enacted to read:

4 "ENHANCED 911 ADVISORY BOARD--CREATION--MEMBERSHIP--
5 APPOINTMENTS--TERMS.--

6 A. The "enhanced 911 advisory board" is created as
7 an advisory body to the department. The advisory board shall
8 be composed of nine voting members as follows; provided that
9 no more than one member shall be from the same county and all
10 members of the board shall be local government
11 representatives:

12 (1) ex officio, the chair of an emergency
13 services affiliate of an entity that represents counties in
14 the state;

15 (2) ex officio, the president of an
16 emergency services affiliate of an entity that represents
17 municipalities in the state;

18 (3) one member, ex officio, who:
19 (a) shall be appointed by the governor;
20 (b) is a geospatial information systems
21 manager; and

22 (c) is a member of a geospatial
23 information systems entity affiliated with an entity that
24 represents counties in the state;

25 (4) two members, appointed by the governor

1 from a list of names provided by the president pro tempore of
2 the senate, as follows:

3 (a) one representative of a county or
4 municipal fire department; and

5 (b) ex officio, a director or manager
6 of a public safety answering point;

7 (5) two members, ex officio, appointed by
8 the governor, each of whom shall either be a current director
9 or manager of a public safety answering point;

10 (6) one member, ex officio, who is a
11 director or manager of a public safety answering point,
12 appointed by the governor from a list of names provided by
13 the speaker of the house of representatives; and

14 (7) one representative of county or
15 municipal law enforcement appointed by the speaker of the
16 house of representatives.

17 B. Recommendations for advisory board appointments
18 shall be made to the governor by the association of
19 public-safety communications officials international,
20 New Mexico chapter; the national emergency number
21 association; an entity that represents counties in the state;
22 and an entity that represents municipalities in the state.

23 C. Appointing authorities shall strive to ensure
24 that the composition of the advisory board represents urban
25 and rural areas of the state.

1 D. Advisory board members shall serve for a term
2 of four years; provided that at the first meeting of the
3 advisory board, the initial members shall draw lots to
4 determine the length of their terms as follows:

5 (1) two members shall serve an initial term
6 of two years;

7 (2) three members shall serve an initial
8 term of three years; and

9 (3) four members shall serve an initial term
10 of four years.

11 E. Advisory board members shall serve until a
12 successor is duly appointed and confirmed.

13 F. An advisory board member shall not serve more
14 than two successive terms.

15 G. The secretary shall call the initial meeting of
16 the advisory board, at which time the advisory board shall
17 elect a chair, vice chair and any other officers it deems
18 necessary and appropriate to serve one-year terms in those
19 offices. After the initial meeting of the advisory board,
20 the chair shall call and preside over advisory board
21 meetings. The vice chair shall preside over advisory board
22 meetings and take necessary actions of the chair when the
23 chair is absent.

24 H. After the initial meeting of the advisory
25 board, the advisory board shall elect a chair and vice chair

1 yearly. After the expiration of the terms of the initial
2 advisory board chair and vice chair, nominees for chair and
3 vice chair shall have a minimum of one year of experience
4 serving on the advisory board.

5 I. The advisory board shall meet at least once per
6 calendar quarter.

7 J. For voting purposes, a quorum shall consist of
8 at least five advisory board members. Any official action of
9 the advisory board shall require a vote of a quorum of
10 advisory board members.

11 K. A member of the advisory board who fails to
12 attend at least one-half of the regularly scheduled meetings
13 of the advisory board within a twelve-month period shall
14 automatically be removed and the successor member shall be
15 appointed by the appointing authority to serve out the
16 remaining term of the member being replaced.

17 L. The advisory board shall devise bylaws for
18 operation of the advisory board.

19 M. Public members of the advisory board may
20 receive per diem and mileage in accordance with the
21 provisions of the Per Diem and Mileage Act and shall receive
22 no other compensation, perquisite or allowance for their
23 service on the advisory board."

24 SECTION 10. Section 63-9D-13 NMSA 1978 (being Laws
25 1990, Chapter 61, Section 2, as amended) is amended to read:

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. "department" means the department of
5 information technology;

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 enhanced 911 system; and

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

15 SECTION 11. Section 63-9D-17 NMSA 1978 (being Laws
16 1990, Chapter 61, Section 6, as amended) is amended to read:

17 "63-9D-17. BOND AUTHORIZATION.--The board may issue and
18 sell enhanced 911 bonds in compliance with the Enhanced 911
19 Bond Act. The board shall schedule the issuance and sale of
20 the bonds in the most expeditious and economical manner upon
21 a finding by the board that the department has certified that
22 the need exists for the issuance of bonds and upon an action
23 by the board designating the enhanced 911 fund to be the
24 source of pledged revenues."

25 SECTION 12. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, SRC/SB 472
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1 PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND
2 REFERENCES IN LAW.--

3 A. On July 1, 2019, all programs, functions,
4 personnel, appropriations, money, statutory funds, records,
5 furniture, equipment, supplies and other property belonging
6 to the local government division of the department of finance
7 and administration in relation to the administration of the
8 enhanced 911 program pursuant to the Enhanced 911 Act are
9 transferred to the department of information technology.

10 B. Beginning on July 1, 2019, all contractual
11 obligations of the local government division of the
12 department of finance and administration in relation to the
13 administration of the enhanced 911 program pursuant to the
14 Enhanced 911 Act are binding on the department of information
15 technology.

16 SECTION 13. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2019. _____

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