

SB0193S01 compared with SB0193

~~deleted text~~ shows text that was in SB0193 but was deleted in SB0193S01.

inserted text shows text that was not in SB0193 but was inserted into SB0193S01.

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Senator Wayne A. Harper proposes the following substitute bill:

UTAH COMMUNICATIONS AUTHORITY ACT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the Utah Communications Authority.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Utah Communications Authority Board to create a comprehensive strategic plan that includes a plan for the authority's activities and duties in each of the authority's divisions;
- ▶ requires each division of the Utah Communications Authority to contribute to the comprehensive strategic plan;
- ▶ extends a restriction on the allocation of funds from the Unified Statewide 911 Emergency Service Account;

SB0193S01 compared with SB0193

- ▶ extends a due date for a performance audit and study; and
- ▶ requires a county, city, or town that levies and receives money from a monthly 911 charge to remit the money directly to a public safety answering point ~~{, without requiring the public safety answering point to negotiate for the distribution of the money}~~.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{ 26-8b-102, as last amended by Laws of Utah 2015, Chapter 411~~

~~‡ 63H-7a-103, as renumbered and amended by Laws of Utah 2015, Chapter 411~~

~~63H-7a-204, as renumbered and amended by Laws of Utah 2015, Chapter 411~~

~~63H-7a-206, as enacted by Laws of Utah 2015, Chapter 450 and last amended by
Coordination Clause, Laws of Utah 2015, Chapter 450~~

~~63H-7a-302, as renumbered and amended by Laws of Utah 2015, Chapter 411~~

~~63H-7a-402, as enacted by Laws of Utah 2015, Chapter 411~~

~~63H-7a-502, as enacted by Laws of Utah 2015, Chapter 411~~

~~69-2-2, as last amended by Laws of Utah 2014, Chapters 36 and 320~~

~~69-2-5, as last amended by Laws of Utah 2015, Chapters 352 and 411~~

~~69-2-5.5, as last amended by Laws of Utah 2015, Chapters 352 and 411~~

~~69-2-5.6, as last amended by Laws of Utah 2015, Chapters 352 and 411~~

~~69-2-5.7, as last amended by Laws of Utah 2015, Chapters 352 and 411~~

Be it enacted by the Legislature of the state of Utah:

Section 1. Section ~~{26-8b-102}~~63H-7a-103 is amended to read:

~~{ 26-8b-102. Definitions:~~

~~As used in this chapter:~~

~~(1) "Account" means the Automatic External Defibrillator Restricted Account, created in Section 26-8b-602.~~

SB0193S01 compared with SB0193

~~—— (2) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:~~

~~—— (a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to 21 U.S.C. Sec. 360(k);~~

~~—— (b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;~~

~~—— (c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and~~

~~—— (d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to a person's heart:~~

~~—— (3) "Bureau" means the Bureau of Emergency Medical Services, within the department.~~

~~—— (4) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.~~

~~—— (5) "Emergency medical dispatch center" means a [public safety answering point, as defined in Section 63H-7a-103,] dispatch center that is designated as an emergency medical dispatch center by the bureau.~~

~~—— (6) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.~~

~~—— Section 2. Section **63H-7a-103** is amended to read:~~

‡ **63H-7a-103. Definitions.**

As used in this chapter:

(1) "Authority" means the Utah Communications Authority, an independent state agency created in Section 63H-7a-201.

(2) "Board" means the Utah Communications Authority Board created in Section 63H-7a-203.

(3) "Bonds" means bonds, notes, certificates, debentures, contracts, lease purchase agreements, or other evidences of indebtedness or borrowing issued or incurred by the authority pursuant to this chapter.

(4) "FirstNet" means the First Responder Network Authority created by Congress in the Middle Class Tax Relief and Job Creation Act of 2012.

SB0193S01 compared with SB0193

(5) "Lease" means any lease, lease purchase, sublease, operating, management, or similar agreement.

(6) "Local entity" means a county, city, town, local district, special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act.

(7) "Member" means a public agency which:

(a) adopts a membership resolution to be included within the authority; and

(b) submits an originally executed copy of an authorizing resolution to the authority's office.

(8) "Member representative" means a person or that person's designee appointed by the governing body of each member.

(9) "Public agency" means any political subdivision of the state, including cities, towns, counties, school districts, local districts, and special service districts, dispatched by a public safety answering point.

(10) ~~{a}~~ "Public safety answering point" or "PSAP" means ~~[an organization, entity, or combination of entities that have joined together to form a central answering point for the receipt, management, and dissemination to the proper responding agency, of emergency and nonemergency communications, including 911 communications, police, fire, emergency medical, transportation, parks, wildlife, corrections, and any other governmental communications.]~~ an entity that:

~~{i}~~ a receives ~~{a}~~ direct emergency ~~{or}~~ and non-emergency ~~{communication}~~ communications requesting a public safety service;

~~{ii}~~ b has a facility with the equipment and staff necessary to receive the communication;

~~{iii}~~ c assesses, classifies, and prioritizes the communication; and

~~{iv}~~ d transfers the communication to the proper responding agency.

~~{b} "Public safety answering point" or "PSAP" does not include an entity that receives an emergency or non-emergency communication from a public safety answering point.~~

~~{~~ (11) "Public safety communications network" means:

(a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and

SB0193S01 compared with SB0193

(b) 911 emergency services, including radio communications, [~~microwave~~] connectivity, [~~FirstNet coordination,~~] and computer aided dispatch [~~system~~] systems.

(12) "State" means the state of Utah.

(13) "State representative" means the six appointees of the governor or their designees and the Utah State Treasurer or his designee.

Section ~~33~~2. Section **63H-7a-204** is amended to read:

63H-7a-204. Board -- Powers and duties.

The board shall:

- (1) manage the affairs and business of the authority consistent with this chapter including adopting bylaws by a majority vote of its members;
- (2) appoint an executive director to administer the authority;
- (3) receive and act upon reports covering the operations of the public safety communications network and funds administered by the authority;
- (4) ensure that the public safety communications network and funds are administered according to law;
- (5) examine and approve an annual operating budget for the authority;
- (6) receive and act upon recommendations of the chair;
- (7) recommend to the governor and Legislature any necessary or desirable changes in the statutes governing the public safety communications network;
- (8) develop broad policies for the long-term operation of the authority for the performance of its functions;
- (9) make and execute contracts and other instruments on behalf of the authority, including agreements with members and other entities;
- (10) authorize the borrowing of money, the incurring of indebtedness, and the issuance of bonds as provided in this chapter;
- (11) adopt rules consistent with this chapter and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the management of the public safety communications network in order to carry out the purposes of this chapter, and perform all other acts necessary for the administration of the public safety communications network;
- (12) exercise the powers and perform the duties conferred on it by this chapter;
- (13) provide for audits of the authority;

SB0193S01 compared with SB0193

(14) establish the following divisions within the authority:

- (a) 911 Division;
- (b) Radio Network Division;
- (c) Interoperability Division; and
- (d) Administrative Services Division;

(15) establish a 911 advisory committee to the 911 Division in accordance with Section 63H-7a-307;

(16) establish one or more advisory committees to the Radio Network Division in accordance with Section 63H-7a-405; ~~[and]~~

(17) establish one or more advisory committees to the Interoperability Division in accordance with Section 63H-7a-504~~[-];~~ and

(18) create and maintain a statewide, comprehensive strategic plan that:

(a) coordinates the authority's activities and duties in the:

- (i) 911 Division;
- (ii) Radio Network Division;
- (iii) Interoperability Division; and
- (iv) Administrative Services Division; and

(b) the board updates before July 1 of each year.

Section ~~{4}~~3. Section **63H-7a-206** is amended to read:

63H-7a-206. Functional consolidation of PSAPs study.

(1) As used in this section:

(a) "Exigent circumstance" means an unexpected or unforeseen circumstance that, if not addressed, will result in imminent injury or loss.

~~[(a)]~~ (b) "Functional consolidation" means the process of ensuring that disparate public safety answering points and public safety dispatching centers work together in an efficient and effective way.

~~[(b)]~~ (c) "PSAP operator":

(i) means a public agency that operates a PSAP; and

(ii) does not include an institution of higher education, a school district, or an airport authority that operates a PSAP.

(2) Beginning on or after July 1, 2015, the board shall commission and oversee a

SB0193S01 compared with SB0193

performance audit and study of the state's 911 emergency response system and related elements of the public safety communications network, which shall include:

(a) a review of statutory provisions and efforts of the authority, executive director, Utah 911 Division, and Interoperability Division regarding the assessment, planning, rules, technology review, and standardization of the state's 911 emergency response system and related elements of the public safety communications network;

(b) working with state and local stakeholders to determine potential cost savings and increases in quality and efficiency that may be achieved by the functional consolidation ~~for physical consolidation~~ of PSAPs and dispatch centers throughout the state, including recommendations regarding:

(i) an efficient and effective public safety communications management structure to ensure that high quality 911 emergency services are available to the state's citizens;

(ii) common standard operating procedures that ensure the least amount of call processing time;

(iii) efficient methods to transfer calls between PSAPs and from a PSAP to a first responder, regardless of jurisdiction;

(iv) uniformity of equipment and software protocols to accomplish seamless functionality between computer aided dispatch systems;

(v) interoperable telephonic and radio systems to ensure coordination between jurisdictions; and

(vi) how unnecessary duplication of services may be reduced or eliminated;

(c) making recommendations for inclusion in the strategic plan for the state's 911 emergency response system and related elements of the public safety communications network, which recommendations may include:

(i) how PSAPs may benefit from functional consolidation ~~for physical consolidation~~;

(ii) how PSAPs within designated regions may accept calls and provide emergency communication services for first responders using interoperable equipment, software, protocols, and standard operating procedures; ~~and~~

(iii) how PSAPs, regardless of physical location, may operate on interoperable, shared, or hosted technology platforms and with common policies to reduce the need to transfer calls between PSAPs;

SB0193S01 compared with SB0193

(iv) whether a PSAP should be required to meet minimum operational, technical, ~~or financial~~, ~~or geographical~~ standards;

(v) whether PSAP staff should be required to meet minimum training standards; and

(vi) how PSAPs can better use the available communications spectrum to reduce the number of devices that first responders are required to use;

(d) describing and recommending potential solutions to the biggest impediments to functional consolidation of PSAPs; and

(e) making recommendations regarding necessary personnel and associated job duties within the authority.

(3) On or before [~~July 1, 2016,~~] September 30, 2016, the board shall complete and submit the performance audit and study described in Subsection (2) [~~shall be completed and submitted by the board~~], in writing, to the Law Enforcement and Criminal Justice Interim Committee and the Retirement and Independent Entities Interim Committee.

(4) (a) Money from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304 may not be used to fund a new local PSAP, call taking, or dispatching [~~project before the completion of the performance audit and study described in Subsection (2)] entity before June 30, 2017, unless the board determines that an exigent circumstance requires the allocation of funds.~~

(b) Money from the Unified Statewide 911 Emergency Service Account may be used to fund ongoing maintenance of existing equipment and projects approved before July 1, 2015.

(5) After July 1, [~~2016~~] 2017, money spent from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304 for projects, including state and local PSAP and dispatching projects, shall be made after consideration of the:

(a) recommendations of the performance audit and study described in Subsection (2); and

(b) strategic plan for the state's network 911 emergency response system and related elements of the public safety communications network described in Subsection (2)(c).

Section ~~(5)~~4. Section **63H-7a-302** is amended to read:

63H-7a-302. 911 Division duties and powers.

(1) The 911 Division shall:

(a) review and make recommendations to the executive director:

SB0193S01 compared with SB0193

(i) regarding:

(A) technical, administrative, fiscal, network, and operational standards for the implementation of unified statewide 911 emergency services;

(B) emerging technology; and

(C) expenditures from the restricted accounts created in Section 69-2-5.6 by the 911 Division on behalf of local public safety answering points in the state, with an emphasis on efficiencies and coordination in a regional manner;

(ii) to assure implementation of a unified statewide 911 emergency services network;

(iii) to establish standards of operation throughout the state; and

(iv) regarding mapping systems and technology necessary to implement the unified statewide 911 emergency services;

(b) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the 911 Division; ~~and~~

(ii) an annual plan for the programs funded by the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 and the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304; and

(iii) information required by the director to contribute to the comprehensive strategic plan described in Subsection 63H-7-204(18);

(c) assist local Utah public safety answering points with the implementation and coordination of the 911 Division responsibilities as approved by the executive director and the board;

(d) reimburse the state's Automated Geographic Reference Center in the Division of Integrated Technology of the Department of Technology Services, an amount equal to 1 cent per month levied on telecommunications service under Section 69-2-5.6 to enhance and upgrade digital mapping standards for unified statewide 911 emergency service as required by the division; and

(e) fulfill all other duties imposed on the 911 Division by this chapter.

(2) The 911 Division may recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to funds expended from the restricted account created in Sections 69-2-5.5 and 69-2-5.6, the proceeds from which shall return to the respective restricted

SB0193S01 compared with SB0193

accounts.

(3) The 911 Division may make recommendations to the executive director to own, operate, or enter into contracts for the use of the funds expended from the restricted account created in Section 69-2-5.5.

(4) (a) The 911 Division shall review information regarding:

(i) in aggregate, the number of service subscribers by service type in a political subdivision;

(ii) network costs;

(iii) public safety answering point costs;

(iv) system engineering information; and

(v) a computer aided dispatch system.

(b) In accordance with Subsection (4)(a) the 911 Division may request:

(i) information as described in Subsection (4)(a)(i) from the Utah State Tax Commission; and

(ii) information from public safety answering points related to the computer aided dispatch system.

(c) The information requested by and provided to the 911 Division under Subsection (4) is a protected record in accordance with Section 63G-2-305.

(5) The 911 Division shall recommend to the executive director, for approval by the board, rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) administer the program funded by the Unified Statewide 911 Emergency Service restricted account created in Section 63H-7a-304, including rules that establish the criteria, standards, technology, and equipment that a public safety answering point in Utah must adopt in order to qualify for goods or services that are funded from the restricted account; and

(b) administer the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303, including rules that establish the criteria, standards, technology, and equipment that a public safety answering point must adopt in order to qualify as a recipient of goods or services that are funded from the restricted account.

(6) The board may authorize the 911 Division to employ an outside consultant to study and advise the division on matters related to the 911 Division duties regarding the public safety communications network.

SB0193S01 compared with SB0193

(7) This section does not expand the authority of the Utah State Tax Commission to request additional information from a telecommunication service provider.

Section ~~63~~5. Section **63H-7a-402** is amended to read:

63H-7a-402. Radio Network Division duties.

(1) The Radio Network Division shall:

(a) provide and maintain the public safety communications network for state and local government agencies within the authority network, including the existing VHF and 800 MHz networks, in a manner that:

(i) promotes high quality, cost effective service;

(ii) evaluates the benefits, cost, existing facilities, equipment, and services of public and private providers; and

(iii) where economically feasible, utilizes existing infrastructure to avoid duplication of facilities, equipment, and services of providers of communication services;

(b) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the Radio Network Division; ~~and~~

(ii) an annual plan for the program funded by the Utah Statewide Radio System

Restricted Account created in Section 63H-7a-403; and

(iii) information required by the director to contribute to the comprehensive strategic plan described in Subsection 63H-7-204(18);

(c) conduct bi-monthly meetings:

(i) including:

(A) if retained, a consultant assisting with the design and development of a public safety radio network;

(B) all private and public vendors; and

(C) all public safety radio users;

(ii) for the purpose of discussing public safety radio network emerging technologies;

and

(iii) for which minutes shall be made available to the public;

(d) recommend to the executive director administrative rules for approval by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program funded by the restricted account created in Section 63H-7a-403, including rules

SB0193S01 compared with SB0193

that establish the criteria, standards, technology, equipment, and services that will qualify for goods or services that are funded from the restricted accounts; and

(e) fulfill other duties assigned to the Radio Network Division under this chapter.

(2) The Radio Network Division may:

(a) recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to the public safety communications network;

(b) recommend to the executive director to own, operate, or enter into contracts for the public safety communications network;

(c) review information regarding:

(i) in aggregate, the number of radio service subscribers by service type in a political subdivision; and

(ii) matters related to the public safety communications network;

(d) in accordance with Subsection (2)(c), request information from:

(i) local and state entities; and

(ii) public safety agencies; and

(e) employ outside consultants to study and advise the division on issues related to:

(i) the public safety communications network;

(ii) radio technologies and services;

(iii) microwave connectivity;

(iv) fiber connectivity; and

(v) public safety communication network connectivity and usage.

(3) The information requested by and provided to the Radio Network Division under Subsections (2)(c) and (d) is a protected record in accordance with Section 63G-2-305.

(4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Section ~~7~~6. Section **63H-7a-502** is amended to read:

63H-7a-502. Interoperability Division duties.

(1) The Interoperability Division shall:

(a) review and make recommendations to the executive director, for approval by the board, regarding:

SB0193S01 compared with SB0193

- (i) statewide interoperability coordination and FirstNet standards;
 - (ii) technical, administrative, fiscal, technological, network, and operational issues for the implementation of statewide interoperability, coordination, and FirstNet;
 - (iii) assisting local agencies with the implementation and coordination of the Interoperability Division responsibilities; and
 - (iv) training for the public safety communications network and unified statewide 911 emergency services;
- (b) review information and records regarding:
 - (i) aggregate information of the number of service subscribers by service type in a political subdivision;
 - (ii) matters related to statewide interoperability coordination;
 - (iii) matters related to FirstNet including advising the governor regarding FirstNet; and
 - (iv) training needs;
 - (c) prepare and submit to the executive director for approval by the board:
 - (i) an annual plan for the Interoperability Division; and
 - (ii) information required by the director to contribute to the comprehensive strategic plan described in Subsection 63H-7-204(18); and
 - (d) fulfill all other duties imposed on the Interoperability Division by this chapter.
- (2) The Interoperability Division may:
- (a) recommend to the executive director to own, operate, or enter into contracts related to statewide interoperability, FirstNet, and training;
 - (b) request information needed under Subsection (1)(b)(i) from:
 - (i) the State Tax Commission; and
 - (ii) public safety agencies;
 - (c) employ an outside consultant to study and advise the Interoperability Division on:
 - (i) issues of statewide interoperability;
 - (ii) FirstNet; and
 - (iii) training; and
 - (d) request the board to appoint an advisory committee in accordance with Section 63H-7a-504.
- (3) The information requested by and provided to the Interoperability Division under

SB0193S01 compared with SB0193

Subsection (1)(b)(i) is a protected record in accordance with Section 63G-2-305.

(4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Section ~~68~~7. Section **69-2-2** is amended to read:

69-2-2. Definitions.

As used in this chapter:

(1) "911 emergency service" means a unified statewide communication system which provides citizens with rapid direct access to public safety answering points by accessing "911" with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

(2) "Local exchange service" means the provision of public telecommunications services by a wireline common carrier to customers within a geographic area encompassing one or more local communities as described in the carrier's service territory maps, tariffs, price lists, or rate schedules filed with and approved by the Public Service Commission.

(3) "Local exchange service switched access line" means the transmission facility and local switching equipment used by a wireline common carrier to connect a customer location to a carrier's local exchange switching network for providing two-way interactive voice, or voice capable, services.

(4) "Mobile telecommunications service" is as defined in Section 54-8b-2.

(5) "Public agency" means any county, city, town, special service district, or public authority located within the state which provides or has authority to provide fire fighting, law enforcement, ambulance, medical, or other emergency services.

(6) "Public safety agency" means a functional division of a public agency which provides fire fighting, law enforcement, medical, or other emergency services.

(7) "Public safety answering point" means ~~[a facility that:]~~ the same as that term is defined in Section 63H-7a-203.

~~[(a) is equipped and staffed under the authority of a political subdivision; and]~~

~~[(b) receives 911 communications, other calls for emergency services, and asynchronous event notifications for a defined geographic area.]~~

(8) "Public switched telecommunications network" means the network of equipment, lines, and controls assembled to establish communication paths between calling and called

SB0193S01 compared with SB0193

parties in North America.

~~[(8)]~~ (9) "Radio communications access line" means the radio equipment and assigned customer identification number used to connect a mobile or fixed radio customer in Utah to a radio communication service provider's network for two-way interactive voice, or voice capable, services.

~~[(9)]~~ (10) "Radio communications service" means a public telecommunications service providing the capability of two-way interactive telecommunications between mobile and fixed radio customers, and between mobile or fixed radio customers and the local exchange service network customers of a wireline common carrier. Radio communications service providers include corporations, persons or entities offering cellular telephone service, enhanced specialized mobile radio service, rural radio service, radio common carrier services, personal communications services, and any equivalent wireless public telecommunications service, as defined in 47 CFR, parts 20, 22, 24, and 90.

~~[(10)]~~ (11) "Voice over Internet protocol service" is as defined in Section 54-19-102.

~~[(11)]~~ (12) "Wireline common carrier" means a public telecommunications service provider that primarily uses metallic or nonmetallic cables and wires for connecting customers to its local exchange service networks.

Section ~~[(9)]~~8. Section **69-2-5** is amended to read:

69-2-5. Funding for 911 emergency service -- Administrative charge.

(1) In providing funding of 911 emergency service, any public agency establishing a 911 emergency service may:

(a) seek assistance from the federal or state government, to the extent constitutionally permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or indirectly;

(b) seek funds appropriated by local governmental taxing authorities for the funding of public safety agencies; and

(c) seek gifts, donations, or grants from individuals, corporations, or other private entities.

(2) For purposes of providing funding of 911 emergency service, special service districts may raise funds as provided in Section 17D-1-105 and may borrow money and incur indebtedness as provided in Section 17D-1-103.

SB0193S01 compared with SB0193

(3) (a) (i) Except as provided in Subsection (3)(b) and subject to the other provisions of this Subsection (3), a county, city, town, or metro township within which 911 emergency service is provided may levy a monthly 911 emergency services charge on:

(A) each local exchange service switched access line within the boundaries of the county, city, town, or metro township;

(B) each revenue producing radio communications access line with a billing address within the boundaries of the county, city, town, or metro township; and

(C) any other service, including voice over Internet protocol, provided to a user within the boundaries of the county, city, town, or metro township that allows the user to make calls to and receive calls from the public switched telecommunications network, including commercial mobile radio service networks.

(ii) If a subscriber of a service subject to a levy described in Subsection (3)(a)(i) is not required to pay for the service, the provider of the service shall collect the levy from the person that is required to pay for the service.

~~[(iii)]~~ (iii) If a metro township levies a charge under this chapter, the metro township is subject to the same requirements a city is required to meet under this chapter.

~~[(iii)]~~ (iv) Except as provided in Subsection (3)(a)~~[(iv)]~~(v) and notwithstanding any other provision of this chapter, if a metro township levies a charge described in Subsection (3)(a)(i) under this chapter, the State Tax Commission shall distribute the revenue collected from the charge to the metro township.

~~[(iv)]~~ (v) The State Tax Commission shall transfer the revenues collected within a metro township under this chapter to a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act, if the metro township:

(A) provides written notice to the State Tax Commission requesting the transfer; and

(B) designates the municipal services district to which the metro township requests the State Tax Commission to transfer the revenues.

(b) Notwithstanding Subsection (3)(a), an access line provided for public coin telecommunications service is exempt from 911 emergency service charges.

(c) The amount of the charge levied under this section may not exceed:

(i) 61 cents per month for each local exchange service switched access line;

(ii) 61 cents per month for each radio communications access line; and

SB0193S01 compared with SB0193

(iii) 61 cents per month for each service under Subsection (3)(a)[~~(iii)~~](i)(C).

(d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as provided in Section 59-12-102 or 59-12-215:

(A) "mobile telecommunications service";

(B) "place of primary use";

(C) "service address"; and

(D) "telecommunications service."

(ii) An access line described in Subsection (3)(a) is considered to be within the boundaries of a county, city, or town if the telecommunications services provided over the access line are located within the county, city, or town:

(A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(B) determined in accordance with Section 59-12-215.

(iii) The rate imposed on an access line under this section shall be determined in accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county, city, or town in which is located:

(A) for a telecommunications service, the purchaser's service address; or

(B) for mobile telecommunications service, the purchaser's place of primary use.

(iv) The rate imposed on an access line under this section shall be the lower of:

(A) the rate imposed by the county, city, or town in which the access line is located under Subsection (3)(d)(ii); or

(B) the rate imposed by the county, city, or town in which it is located:

(I) for telecommunications service, the purchaser's service address; or

(II) for mobile telecommunications service, the purchaser's place of primary use.

(e) (i) A county, city, or town shall notify the Public Service Commission of the intent to levy the charge under this Subsection (3) at least 30 days before the effective date of the charge being levied.

(ii) For purposes of this Subsection (3)(e):

(A) "Annexation" means an annexation to:

(I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

SB0193S01 compared with SB0193

(II) a county under Title 17, Chapter 2, County Consolidations and Annexations.

(B) "Annexing area" means an area that is annexed into a county, city, or town.

(iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if a county, city, or town enacts or repeals a charge or changes the amount of the charge under this section, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.

(B) The notice described in Subsection (3)(e)(iii)(A) shall state:

(I) that the county, city, or town will enact or repeal a charge or change the amount of the charge under this section;

(II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);

(III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if the annexation will result in the enactment, repeal, or a change in the amount of a charge imposed under this section for an annexing area, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

SB0193S01 compared with SB0193

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that annexes the annexing area.

(B) The notice described in Subsection (3)(e)(iv)(A) shall state:

(I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an enactment, repeal, or a change in the charge being imposed under this section for the annexing area;

(II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);

(III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(f) Subject to Subsection (3)(g), a 911 emergency services charge levied under this section shall:

(i) be billed and collected by the person that provides the:

(A) local exchange service switched access line services; or

(B) radio communications access line services; and

(ii) except for costs retained under Subsection (3)(h), remitted to the State Tax Commission.

(g) A 911 emergency services charge on a mobile telecommunications service may be

SB0193S01 compared with SB0193

levied, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(h) The person that bills and collects the charges levied under Subsection (3)(f) may:

(i) bill the charge imposed by this section in combination with the charge levied under Section 69-2-5.6 as one line item charge; and

(ii) retain an amount not to exceed 1.5% of the levy collected under this section as reimbursement for the cost of billing, collecting, and remitting the levy.

(i) The State Tax Commission shall collect, enforce, and administer the charge imposed under this Subsection (3) using the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(A) Section 59-12-104;

(B) Section 59-12-104.1;

(C) Section 59-12-104.2;

(D) Section 59-12-104.6;

(E) Section 59-12-107.1; and

(F) Section 59-12-123.

(j) (i) The State Tax Commission shall transmit money collected under this Subsection (3) monthly by electronic funds transfer to the county, city, or town that imposes the charge.

(ii) A county, city, or town that receives money under Subsection (3)(j)(i):

(A) shall remit the money directly to a public safety answering point; ~~and~~

(B) may not disburse the money to a local dispatch center that is not a public safety answering point; ~~and~~;

~~(C) may not require a public safety answering point to negotiate for the distribution of the money to the public safety answering point.~~

~~†~~ (k) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission

SB0193S01 compared with SB0193

monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(l) A charge a person pays under this section shall be paid using a form prescribed by the State Tax Commission.

(m) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

(n) A charge under this section is subject to Section 69-2-5.8.

(4) (a) Any money received by a public agency for the provision of 911 emergency service shall be deposited in a special emergency telecommunications service fund.

(b) (i) Except as provided in Subsection (5)(b), the money in the 911 emergency service fund shall be expended by the public agency to pay the costs of:

(A) establishing, installing, maintaining, and operating a 911 emergency service system;

(B) receiving and processing emergency communications from the 911 system or other communications or requests for emergency services;

(C) integrating a 911 emergency service system into an established public safety dispatch center, including contracting with the providers of local exchange service, radio communications service, and vendors of appropriate terminal equipment as necessary to implement the 911 emergency services; or

(D) indirect costs associated with the maintaining and operating of a 911 emergency services system.

(ii) Revenues derived for the funding of 911 emergency service may be used by the public agency for personnel costs associated with receiving and processing communications and deploying emergency response resources when the system is integrated with any public safety dispatch system.

(c) Any unexpended money in the 911 emergency service fund at the end of a fiscal

SB0193S01 compared with SB0193

year does not lapse, and must be carried forward to be used for the purposes described in this section.

(5) (a) Revenue received by a local entity from an increase in the levy imposed under Subsection (3) after the 2004 Annual General Session:

(i) may be used by the public safety answering point for the purposes under Subsection (4)(b); and

(ii) shall be deposited into the special 911 emergency service fund described in Subsection (4)(a).

(b) Revenue received by a local entity from disbursements from the 911 Division under Section 63H-7a-602:

(i) shall be deposited into the special 911 emergency service fund under Subsection (4)(a); and

(ii) shall only be used for that portion of the costs related to the development and operation of wireless and land-based enhanced 911 emergency telecommunications service and the implementation of 911 services as provided in Subsection (5)(c).

(c) The costs allowed under Subsection (5)(b)(ii) include the public safety answering point's costs for:

(i) acquisition, upgrade, modification, maintenance, and operation of public service answering point equipment capable of receiving 911 information;

(ii) database development, operation, and maintenance; and

(iii) personnel costs associated with establishing, installing, maintaining, and operating wireless 911 services, including training emergency service personnel regarding receipt and use of 911 wireless service information and educating consumers regarding the appropriate and responsible use of 911 wireless service.

(6) A local entity that increases the levy it imposes under Subsection (3)(c) after the 2004 Annual General Session shall increase the levy to the maximum amount permitted by Subsection (3)(c).

Section ~~10~~9. Section **69-2-5.5** is amended to read:

69-2-5.5. Emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account -- Administrative charge.

(1) Subject to Subsection (6), there is imposed an emergency services

SB0193S01 compared with SB0193

telecommunications charge of 6 cents per month on a service that is subject to an emergency services telecommunications charge levied by a county, city, town, or metro township under Section 69-2-5, including:

(a) each local exchange service switched access line ~~[and];~~

(b) each revenue producing radio communications access line ~~[that is subject to an emergency services telecommunications charge levied by a county, city, town, or metro township under Section 69-2-5];~~ and

(c) each other service line, including voice over Internet protocol, used to make calls to and receive calls from the public switched telecommunications network, including a commercial mobile radio service network.

(2) (a) Subject to Subsection (6), an emergency services telecommunications charge imposed under this section shall be billed and collected by the person that provides:

(i) local exchange service switched access line services; ~~[or]~~

(ii) radio communications access line services~~[-];~~ or

(iii) any other service, including voice over Internet protocol, that allows a user to make calls to and receive calls from the public switched telecommunications network, including a commercial mobile radio service network.

(b) A person that pays an emergency services telecommunications charge under this section shall pay the emergency services telecommunications charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) If a subscriber of a service subject to a charge described in Subsection (3)(a) is not required to pay for the service, the provider of the service shall collect the charge from the person that is required to pay for the service.

SB0193S01 compared with SB0193

~~[(e)]~~ (d) An emergency services telecommunications charge imposed under this section shall be deposited into the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(3) Emergency services telecommunications charges remitted to the State Tax Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by the State Tax Commission.

(4) (a) The State Tax Commission shall administer, collect, and enforce the charge imposed under Subsection (1) according to the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

- (i) Title 59, Chapter 1, General Taxation Policies; and
- (ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:
 - (A) Section 59-12-104;
 - (B) Section 59-12-104.1;
 - (C) Section 59-12-104.2;
 - (D) Section 59-12-104.6;
 - (E) Section 59-12-107.1; and
 - (F) Section 59-12-123.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission may make rules to administer, collect, and enforce the emergency services telecommunications charges imposed under this section.

(c) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from an emergency services telecommunications charge under this section.

(d) A charge under this section is subject to Section 69-2-5.8.

(5) A provider of local exchange service switched access line services or radio communications access line services who fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) An emergency services telecommunications charge under this section on a mobile telecommunications service may be imposed, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section ~~{11}~~10. Section **69-2-5.6** is amended to read:

SB0193S01 compared with SB0193

69-2-5.6. 911 services charge to fund unified statewide 911 emergency service -- Administrative charge.

(1) Subject to Subsection 69-2-5(3)(g), there is imposed a unified statewide 911 emergency service charge of 9 cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to a 911 emergency services charge levied by a county, city, town, or metro township under Section 69-2-5.

(2) (a) A 911 emergency services charge imposed under this section shall be:

(i) subject to Subsection 69-2-5(3)(g); and

(ii) billed and collected by the person that provides:

(A) local exchange service switched access line services;

(B) radio communications access line services; or

(C) service described in Subsection 69-2-5(3)(a)(i)(C).

(b) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) A charge imposed under this section shall be deposited into the Unified Statewide 911 Emergency Service Account created by Section 63H-7a-304.

(d) If a subscriber of a service subject to a charge described in Subsection (1) is not required to pay for the service, the provider of the service shall collect the charge from the person that is required to pay for the service.

(3) The person that bills and collects the charges levied by this section pursuant to Subsections (2)(b) and (c) may:

SB0193S01 compared with SB0193

(a) bill the charge imposed by this section in combination with the charge levied under Section 69-2-5 as one line item charge; and

(b) retain an amount not to exceed 1.5% of the charges collected under this section as reimbursement for the cost of billing, collecting, and remitting the levy.

(4) The State Tax Commission shall collect, enforce, and administer the charges imposed under Subsection (1) using the same procedures used in the administration, collection, and enforcement of the emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account under Section 63H-7a-303.

(5) Notwithstanding Section 63H-7a-304, the State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

(6) A charge under this section is subject to Section 69-2-5.8.

(7) This section sunsets in accordance with Section 63I-1-269.

Section ~~{12}~~11. Section **69-2-5.7** is amended to read:

69-2-5.7. Prepaid wireless telecommunications charge to fund 911 service -- Administrative charge.

(1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a transaction.

(b) "Prepaid wireless 911 service charge" means the charge that is required to be collected by a seller from a consumer in the amount established under Subsection (2).

(c) (i) "Prepaid wireless telecommunications service" means a wireless telecommunications service that:

(A) is paid for in advance;

(B) is sold in predetermined units of time or dollars that decline with use in a known amount or provides unlimited use of the service for a fixed amount or time; and

(C) allows a caller to access 911 emergency service.

(ii) "Prepaid wireless telecommunications service" does not include a wireless telecommunications service that is billed:

(A) to a customer on a recurring basis; and

(B) in a manner that includes the emergency services telecommunications charges,

SB0193S01 compared with SB0193

described in Sections 69-2-5, 69-2-5.5, and 69-2-5.6, for each radio communication access line assigned to the customer.

(d) "Seller" means a person that sells prepaid wireless telecommunications service to a consumer.

(e) "Transaction" means each purchase of prepaid wireless telecommunications service from a seller.

(f) "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. Sec. 20.3, as amended.

(2) There is imposed a prepaid wireless 911 service charge of 1.9% of the sales price per transaction.

(3) (a) The prepaid wireless 911 service charge shall be collected by the seller from the consumer for each transaction occurring in this state.

(b) If a user of a service subject to a charge described in Subsection (2) is not the consumer, the seller shall collect the charge from the consumer for the service.

(4) The prepaid wireless 911 service charge shall be separately stated on an invoice, receipt, or similar document that is provided by the seller to the consumer.

(5) For purposes of Subsection (3), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(6) When prepaid wireless telecommunications service is sold with one or more other products or services for a single non-itemized price, then the percentage specified in Section (2) shall apply to the entire non-itemized price.

(7) A seller may retain 3% of prepaid wireless 911 service charges that are collected by the seller from consumers as reimbursement for the cost of billing, collecting, and remitting the charge.

(8) Prepaid wireless 911 service charges collected by a seller, except as retained under Subsection (7), shall be remitted to the State Tax Commission at the same time as the seller remits to the State Tax Commission money collected by the person under Title 59, Chapter 12, Sales and Use Tax Act.

(9) The State Tax Commission:

(a) shall collect, enforce, and administer the charge imposed under this section using the same procedures used in the administration, collection, and enforcement of the state sales

SB0193S01 compared with SB0193

and use taxes under:

- (i) Title 59, Chapter 1, General Taxation Policies; and
- (ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:
 - (A) Section 59-12-104;
 - (B) Section 59-12-104.1;
 - (C) Section 59-12-104.2;
 - (D) Section 59-12-107.1; and
 - (E) Section 59-12-123;
- (b) may retain up to 1.5% of the prepaid wireless 911 service charge revenue collected under Subsection (9)(a) as reimbursement for administering this section;
- (c) shall distribute the prepaid wireless 911 service charge revenue, except as retained under Subsection (9)(b), as follows:
 - (i) 80.3% of the revenue shall be distributed to each county, city, town, or metro township in the same percentages and in the same manner as the entities receive money to fund 911 emergency telecommunications services under Section 69-2-5;
 - (ii) 7.9% of the revenue shall be distributed to fund the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303;
 - (iii) 11.8% of the revenue shall be distributed to fund the unified statewide 911 emergency service as in Section 69-2-5.6; and
- (d) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer, collect, and enforce the charges imposed under this section.
- (10) A charge under this section is subject to Section 69-2-5.8.

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Legislative Review Note

Office of Legislative Research and General Counsel