

REPRINTED

4-1-97 Ways & Means  
FILED APR 1 1997

SENATE FILE 530

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 363  
(SUCCESSOR TO SF 469)  
(SUCCESSOR TO SSB 230)

Passed Senate, Date 4/23/97 (p.1383) Passed House, Date 4-1-98  
Vote: Ayes 31 Nays 17 Vote: Ayes 82 Nays 16

Approved April 16, 1998  
*Passed 4-1-98  
Vote 47-0*

A BILL FOR

1 An Act relating to the establishment of an E911 surcharge,  
2 providing for the distribution of the surcharge, and providing  
3 a pooling mechanism for the purchase of equipment necessary  
4 for an E911 system.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

S.F. 530

1 Section 1. Section 16.161, Code 1997, is amended by adding  
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. The authority shall provide a  
4 mechanism for the pooling of funds of two or more joint E911  
5 service boards to be used for the joint purchasing of  
6 necessary equipment to be used in providing E911 service.

7 Sec. 2. Section 34A.15, Code 1997, is amended by adding  
8 the following new subsections:

9 NEW SUBSECTION. 2A. a. Notwithstanding section 34A.6,  
10 the council, in consultation with the utilities board within  
11 the utilities division of the department of commerce, shall  
12 impose a monthly surcharge of one dollar on each wireless  
13 communications service account provided in this state.  
14 b. The surcharge shall be collected as part of the  
15 wireless communications service provider's periodic billing to  
16 a subscriber. In compensation for the costs of billing and  
17 collection, the provider may retain one percent of the gross  
18 surcharges collected. The surcharges shall be remitted  
19 quarterly by the provider to the E911 communications council  
20 for deposit into the fund established in subsection 2B. A  
21 provider is not liable for an uncollected surcharge for which  
22 the provider has billed a subscriber but not been paid. The  
23 surcharge shall appear as a single line item on a subscriber's  
24 periodic billing entitled, "E911 emergency telephone service  
25 surcharge". The E911 service surcharge is not subject to  
26 sales or use tax.

27 NEW SUBSECTION. 2B. Moneys collected pursuant to  
28 subsection 2A shall be deposited in a separate fund within the  
29 state treasury under the control of the council to be expended  
30 and distributed annually as follows:

31 a. Ten percent of the total surcharges collected or two  
32 hundred thousand dollars, whichever is less, half of which  
33 shall be retained by the council for implementation, support,  
34 and maintenance of the functions of the council, and half of  
35 which shall be remitted to the Iowa law enforcement academy

1 for implementation, maintenance, and support of  
2 telecommunicator training.

3 b. (1) The remainder of the surcharge collected shall be  
4 remitted to the E911 communications council for distribution  
5 to the joint E911 service boards and the Iowa department of  
6 public safety to be used for the purposes authorized under  
7 this chapter for telecommunicator training, and for  
8 implementation of enhanced wireless communications  
9 capabilities.

10 The E911 communications council shall adopt rules governing  
11 the distribution of the surcharge collected and distributed  
12 pursuant to this lettered paragraph. The rules shall include  
13 provisions that all joint E911 service boards and the Iowa  
14 department of public safety which answer or service E911 calls  
15 shall receive an equitable portion of the receipts.

16 (2) If a county does not have a joint E911 service board,  
17 that county's share of the surcharge shall be held in trust in  
18 a separate account in the state treasury until such time as  
19 the county establishes the board. If the county does not  
20 create a joint E911 service board by July 1, 2002, the council  
21 shall distribute the funds held in trust for that county  
22 equally to all remaining joint E911 service boards.

23 NEW SUBSECTION. 2C. For purposes of this section,  
24 "wireless communications service" means a radio-link telephone  
25 service providing dial tone access to a portable, mobile, or  
26 fixed location for which a charge is levied. "Wireless  
27 communications service" includes, but is not limited to, radio  
28 repeater stations operated in the specialized mobile radio  
29 service where the telephone service is secondary to the radio  
30 repeater use, and cellular communications services.

31 EXPLANATION

32 This bill amends provisions relating to the statewide E911  
33 system.

34 The bill directs the Iowa finance authority to establish a  
35 mechanism for pooling funds of two or more joint E911 service

1 boards for the joint purchase of necessary equipment to be  
2 used in providing E911 service.

3     The bill requires the E911 communications council, in  
4 consultation with the utilities board within the utilities  
5 division of the department of commerce, to impose a monthly  
6 surcharge of one dollar on each wireless communications  
7 service account provided in this state. The surcharge is to  
8 be collected by the wireless communications service provider  
9 and remitted to the council. Such provider is authorized to  
10 retain one percent of the amount collected for administration.  
11 The council is to distribute the surcharge collected with 10  
12 percent or \$200,000, whichever is less, with one-half to be  
13 retained by the council for implementation, support, and  
14 maintenance of the functions of the council, and one-half to  
15 be remitted to the Iowa law enforcement academy for  
16 telecommunicator training. The remainder is to be remitted to  
17 the E911 communications council for distribution to the joint  
18 E911 service boards and the Iowa department of public safety  
19 pursuant to rules adopted by the council. The moneys  
20 distributed are to be used for telecommunicator training and  
21 the implementation of enhanced wireless communications  
22 capabilities. If a county does not have a joint E911 service  
23 board, that county's share of the surcharge shall be held in  
24 trust in a separate account in the state treasury until such  
25 time as the county establishes a board. If the county does  
26 not create a joint E911 service board by July 1, 2002, the  
27 council shall distribute the funds held in trust for that  
28 county equally to all remaining joint E911 service boards.

29  
30  
31  
32  
33  
34  
35

**SENATE FILE 530  
FISCAL NOTE**

A fiscal note for Senate File 530 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 530 directs the Iowa Finance Authority to establish a mechanism for pooling funds of two or more Joint E911 Service Boards to purchase necessary equipment. The Bill also provides that the E911 Communications Council is to impose a monthly surcharge of \$1 on each wireless communications service account provided in the State. The service provider collects the surcharge, retains 1.0% of the revenues, and transmits the remainder to the Council. The Council retains 5.0% or \$100,000, whichever is less, remits 5.0% or \$100,000, whichever is less, to the Iowa Law Enforcement Academy for telecommunicator training, and distributes the remainder equally among the Joint E911 Service Boards in each county and the Highway Patrol.

**ASSUMPTIONS**

1. There is an estimated 491,000 wireless telephone subscribers in Iowa.
2. The surcharge will be set at \$1 per month.
3. Surcharge revenues for E911 Service Boards for wire communications will decline with the increase in wireless communication. The amount of decrease cannot be determined.

**FISCAL IMPACT**

The Surcharge established by this Bill is projected to generate \$5.9 million annually. The funds will be distributed as follows:

Telephone Company Service Providers	\$ 59,000
E911 Council Administration	100,000
ILEA Telecommunication Training	100,000
County E911 Service Boards	5,575,000
Highway Patrol, Department of Public Safety	59,000

The changes made by the Bill do not significantly impact the Iowa Finance Authority.

**SOURCE**

Emergency Management Division, Department of Public Defense  
Iowa Finance Authority

(LSB 2481SZ, MDF)

FILED APRIL 14, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR



## SENATE FILE 530

S-3565

1 Amend Senate File 530 as follows:

2 1. Page 1, line 6, by striking the words "to be  
3 used in providing" and inserting the following: "and  
4 reimbursement of wireless service providers' costs for  
5 upgrades necessary to provide".

6 2. Page 1, by inserting after line 6 the  
7 following:

8 "Sec. \_\_\_\_\_. Section 34A.2, subsections 2 and 3,  
9 Code 1997, are amended by striking the subsections and  
10 inserting in lieu thereof the following:

11 2. "Council" means the E911 communications council  
12 established in section 34A.15.

13 Sec. \_\_\_\_\_. Section 34A.3, subsections 1 and 2, Code  
14 1997, are amended to read as follows:

15 1. JOINT 911 SERVICE BOARDS TO SUBMIT PLANS. The  
16 board of supervisors of each county shall establish a  
17 joint 911 service board not later than January 1,  
18 1989. Each political subdivision of the state having  
19 a public safety agency serving territory within the  
20 county is entitled to voting membership on the joint  
21 911 service board. Each private safety agency  
22 operating within the area is entitled to nonvoting  
23 membership on the board. A township which does not  
24 operate its own public safety agency, but contracts  
25 for the provision of public safety services, is not  
26 entitled to membership on the joint 911 service board,  
27 but its contractor is entitled to membership according  
28 to the contractor's status as a public or private  
29 safety agency. The joint 911 service board shall  
30 develop an enhanced 911 service plan encompassing at  
31 minimum the entire county, unless an exemption is  
32 granted by the administrator council permitting a  
33 smaller E911 service area. The administrator council  
34 may grant a discretionary exemption from the single  
35 county minimum service area requirement based upon an  
36 E911 joint service board's or other E911 service plan  
37 operating authority's presentation of evidence which  
38 supports the requested exemption if the administrator  
39 council finds that local conditions make adherence to  
40 the minimum standard unreasonable or technically  
41 infeasible, and that the purposes of this chapter  
42 would be furthered by granting an exemption. The  
43 minimum size requirement is intended to prevent  
44 unnecessary duplication of public safety answering  
45 points and minimize other administrative, personnel,  
46 and equipment expenses. An E911 service area must  
47 encompass a geographically contiguous area. No  
48 exemption shall be granted from the contiguous area  
49 requirement. The administrator council may order the  
50 inclusion of a specific territory in an adjoining E911

S-3565

-1-

S-3565

Page 2

1 service plan area to avoid the creation by exclusion  
2 of a territory smaller than a single county not  
3 serviced by surrounding E911 service plan areas upon  
4 request of the joint 911 service board representing  
5 the territory. The E911 service plan operating  
6 authority shall submit the plan on or before January  
7 1, 1994, to all of the following:

8 a. The division council.

9 b. Public and private safety agencies in the  
10 enhanced 911 service area.

11 c. Providers affected by the enhanced 911 service  
12 plan.

13 An E911 joint service board that has a state-  
14 approved service plan in place prior to July 1, 1993,  
15 is exempt from the provisions of this section. The  
16 division council shall establish, by July 1, 1994,  
17 E911 service plans for those E911 joint service boards  
18 which do not have a state-approved service plan in  
19 place on or before January 1, 1994.

20 The division council shall prepare a summary of the  
21 plans submitted and present the summary to the  
22 legislature on or before August 1, 1994.

23 2. COMPLIANCE WAIVERS AVAILABLE IN LIMITED  
24 CIRCUMSTANCES. The administrator council may extend,  
25 in whole or in part, the time for implementation of an  
26 enhanced 911 service plan beyond the scheduled plan of  
27 implementation, by issuance of a compliance waiver.  
28 The waiver shall be based upon a joint 911 service  
29 board's presentation of evidence which supports an  
30 extension if the administrator council finds that  
31 local conditions make implementation financially  
32 unreasonable or technically infeasible by the  
33 originally scheduled plan of implementation. The  
34 compliance waiver shall be for a set period of time,  
35 and subject to review and renewal or denial of renewal  
36 upon its expiration. The waiver may cover all or a  
37 portion of a 911 service plan's enhanced 911 service  
38 area to facilitate phased implementation when  
39 possible. The granting of a compliance waiver does  
40 not create a presumption that the identical or similar  
41 waiver will be extended in the future. Consideration  
42 of compliance waivers shall be on a case-by-case  
43 basis.

44 Sec. \_\_\_\_\_. Section 34A.6, subsections 1 and 3, Code  
45 1997, are amended to read as follows:

46 1. Before a joint E911 service board may request  
47 imposition of the surcharge by the administrator  
48 council, the board shall submit the following question  
49 to voters, as provided in subsection 2, in the  
50 proposed E911 service area, and the question shall

S-3565

-2-



S-3565

Page 3

1 receive a favorable vote from a simple majority of  
2 persons submitting valid ballots on the following  
3 question within the proposed E911 service area:

4 Shall the following public YES  
5 measure be adopted? NO

6 Enhanced 911 emergency telephone service shall be  
7 funded, in whole or in part, by a monthly surcharge of  
8 (an amount determined by the local joint E911 service  
9 board of up to one dollar) on each telephone access  
10 line collected as part of each telephone subscriber's  
11 monthly phone bill if provided within (description of  
12 the proposed E911 service area).

13 3. The secretary of state, in consultation with  
14 the ~~administrator of the office of emergency~~  
15 ~~management of the department of public defense~~  
16 ~~council~~, shall adopt rules for the conduct of joint  
17 E911 service referendums as required by and consistent  
18 with subsections 1 and 2.

19 Sec. \_\_\_\_ . Section 34A.7, subsections 1, 4, and 6,  
20 Code 1997, are amended to read as follows:

21 1. LOCAL E911 SERVICE SURCHARGE IMPOSITION.

22 a. To encourage local implementation of E911  
23 service, one source of funding for E911 emergency  
24 telephone communication systems shall come from a  
25 surcharge per month, per access line on each access  
26 line subscriber, except as provided in subsection 5,  
27 equal to the lowest amount of the following:

28 One dollar.

29 An amount less than one dollar, which would fully  
30 pay both recurring and nonrecurring costs of the E911  
31 service system within five years from the date the  
32 maximum surcharge is imposed.

33 The maximum monetary limitation approved by  
34 referendum.

35 The surcharge shall be imposed by order of the  
36 administrator council as follows:

37 (1) The administrator council shall notify a  
38 provider scheduled to provide exchange access line  
39 service to an E911 service area, that implementation  
40 of an E911 service plan has been approved by the joint  
41 911 service board and by the service area referendum,  
42 and that collection of the surcharge is to begin  
43 within one hundred days.

44 (2) The notice shall be provided at least one  
45 hundred days before the surcharge must be billed for  
46 the first time.

47 b. The surcharge shall terminate at the end of  
48 twenty-four months, unless either, or both, of the  
49 following conditions is met:

50 (1) E911 service is initiated for all or a part of

S-3565

-3-

S-3565

Page 4

1 the E911 service area.

2 (2) An extension is granted by the administrator  
3 council for good cause.

4 c. The surcharge shall terminate at the end of  
5 twenty-four months if the joint E911 service plan has  
6 not been approved by the administrator council within  
7 eighteen months of the original notice to the provider  
8 to impose the surcharge, and shall not be reimposed  
9 until a service plan is approved by the administrator  
10 council and the administrator council gives providers  
11 notice as required by paragraph "a", subparagraphs (1)  
12 and (2).

13 4. E911 SERVICE FUND. Each joint E911 service  
14 board shall establish and maintain as a separate  
15 account an E911 service fund. Any funds remaining in  
16 the account at the end of each fiscal year shall not  
17 revert to the general funds of the member political  
18 subdivisions, except as provided in subsection 5, but  
19 shall remain in the E911 service fund. Moneys in an  
20 E911 service fund may only be used for nonrecurring  
21 and recurring costs of the E911 service plan as  
22 approved by the administrator council, as those terms  
23 are defined by section 34A.2.

24 6. LIMITATION OF ACTIONS -- PROVIDER NOT LIABLE ON  
25 CAUSE OF ACTION RELATED TO PROVISION OF 911 SERVICES.  
26 A claim or cause of action does not exist based upon  
27 or arising out of an act or omission in connection  
28 with a wireline or wireless provider's participation  
29 in an E911 service plan or provision of 911 or local  
30 exchange access service, unless the act or omission is  
31 determined to be willful and wanton negligence.

32 Sec. \_\_\_\_ . Section 34A.7, subsection 5, paragraph  
33 b, subparagraphs (2) and (3), Code 1997, are amended  
34 to read as follows:

35 (2) If money remains in the fund after fully  
36 paying for recurring costs incurred in the preceding  
37 year, the remainder may be spent to pay for  
38 nonrecurring costs, not to exceed actual nonrecurring  
39 costs as approved by the administrator council.

40 (3) If money remains in the fund after fully  
41 paying obligations under subparagraphs (1) and (2),  
42 the remainder may be accumulated in the fund as a  
43 carryover operating surplus. If the surplus is  
44 greater than twenty-five percent of the approved  
45 annual operating budget for the next year, the  
46 administrator council shall reduce the surcharge by an  
47 amount calculated to result in a surplus of no more  
48 than twenty-five percent of the planned annual  
49 operating budget. After nonrecurring costs have been  
50 paid, if the surcharge is less than the maximum

S-3565

-4-

S-3565

Page 5

1 allowed and the fund surplus is less than twenty-five  
2 percent of the approved annual operating budget, the  
3 administrator council shall, upon application of the  
4 joint E911 service board, increase the surcharge in an  
5 amount calculated to result in a surplus of twenty-  
6 five percent of the approved annual operating budget.  
7 The surcharge may only be adjusted once in a single  
8 year, upon one hundred days' prior notice to the  
9 provider.

10 Sec. \_\_\_\_\_. Section 34A.15, subsection 1, unnumbered  
11 paragraph 1, Code 1997, is amended to read as follows:

12 An E911 communications council is established. The  
13 council consists of the following ~~eleven~~ thirteen  
14 members:

15 Sec. \_\_\_\_\_. Section 34A.15, subsection 1, Code 1997,  
16 is amended by adding the following new paragraph:

17 NEW PARAGRAPH. k. Two persons appointed by the  
18 Iowa wireless industry. One appointee shall represent  
19 cellular companies and the other appointee shall  
20 represent personal communications services companies."

21 3. Page 1, line 12, by inserting after the word  
22 "of" the following: "up to".

23 4. Page 1, line 13, by inserting after the word  
24 "state." the following: "The surcharge shall not  
25 exceed the statewide average E911 surcharge applied to  
26 customers receiving landline telecommunications  
27 services. The surcharge shall be imposed uniformly on  
28 a statewide basis and simultaneously on all customers  
29 as provided by the council."

30 5. Page 1, line 16, by inserting after the word  
31 "subscriber" the following: "and shall be stated  
32 separately on each subscriber's bill".

33 6. Page 1, line 29, by striking the word "to" and  
34 inserting the following: ". In accordance with  
35 section 22.7, subsection 6, the amount collected from  
36 a wireless service provider and deposited in the fund  
37 is confidential. Moneys in the fund shall".

38 7. Page 2, by inserting after line 2 the  
39 following:

40 "\_\_\_\_\_. The department of public safety and the  
41 joint E911 service boards shall retain any additional  
42 funds necessary to reimburse wireless carriers for  
43 their costs to deliver E911 services. The department  
44 of public safety and the joint E911 service boards  
45 shall assure that wireless carriers recover all  
46 costs associated with the implementation and operation  
47 of E911 services, including but not limited to  
48 hardware, software, and transport costs."

49 8. Page 2, line 7, by striking the word "chapter"  
50 and inserting the following: "chapter,".

S-3565

-5-

S-3565

Page 6

1 9. Page 2, line 20, by inserting after the word  
2 "board" the following: "and begin implementation of  
3 an E911 service plan".

4 10. Page 2, line 30, by inserting after the word  
5 "use," the following: "personal communications  
6 services,".

7 11. Page 2, by inserting after line 30 the  
8 following:

9 "Sec. \_\_\_\_ . Section 34A.20, subsection 2, Code  
10 1997, is amended to read as follows:

11 2. The authority shall cooperate with the  
12 ~~department-of-public-defense council~~ in the creation,  
13 administration, and funding of the E911 program  
14 established in subchapter I.

15 Sec. \_\_\_\_ . STUDY OF E911 SYSTEM. The E911  
16 communications council shall conduct a study  
17 concerning the issues related to the provision of E911  
18 service in this state, the cost recovery mechanism  
19 provided in chapter 34A for wireline and wireless  
20 providers, and any other appropriate issue related to  
21 the E911 system. The council shall provide a written  
22 report to the general assembly concerning the  
23 council's progress in completing this study by no  
24 later than January 15, 1999. The report shall include  
25 any recommendations of the council concerning the E911  
26 system and the additional time necessary, if any, to  
27 complete the study."

28 12. By renumbering, relettering, and correcting  
29 internal references as necessary.

By RICHARD F. DRAKE  
NANCY BOETTGER

STEVE KING  
TOM FLYNN

S-3565 FILED APRIL 17, 1997

*Adopted 4/23/97 (p.1361)*

SENATE FILE 530

S-3726

1 Amend Senate File 530 as follows:

2 1. Page 2, line 15, by inserting after the word  
3 "receipts." the following: "The equitable  
4 distribution of the surcharge shall be based upon the  
5 utilization of the system for each E911 service area  
6 and the use of the system by the Iowa department of  
7 public safety, as measured by the number of calls for  
8 each jurisdiction."

By MICHAEL E. GRONSTAL

S-3726 FILED APRIL 23, 1997

LOST (p. 1382)

SENATE FILE 530

S-3730

1 Amend Senate File 530 as follows:

2 1. Page 2, by inserting after line 15 the  
3 following:

4 "In determining the equitable portion of the  
5 receipts to be received by a joint E911 service board  
6 or the Iowa department of public safety, the E911  
7 communications council shall consider factors  
8 including, but not limited to, all of the following:

- 9 (a) Demonstrated need.
- 10 (b) Documented volume of wireless E911 calls.
- 11 (c) The public safety of the citizens of this  
12 state.

13 The E911 communications council shall submit an  
14 annual report by January 15 of each year advising the  
15 general assembly or the status of enhanced 911  
16 implementation and operations, including both wireline  
17 and wireless services, and the distribution of  
18 surcharge receipts."

By RICHARD F. DRAKE  
NANCY BOETTGER  
STEVE KING

S-3730 FILED APRIL 23, 1997

ADOPTED (p. 1382)

SENATE FILE 530

S-3659

1 Amend the amendment, S-3565, to Senate File 530, as  
2 follows:  
3 1. Page 5, by inserting after line 48 the  
4 following:  
5 "\_\_\_\_. Page 2, line 5, by inserting after the word  
6 "boards" the following: ", on a per capita basis,"."  
7 2. Page 5, by inserting after line 50 the  
8 following:  
9 "\_\_\_\_. Page 2, line 15, by inserting after the  
10 word "receipts" the following: "consistent with this  
11 subparagraph".

By MICHAEL E. GRONSTAL  
MATT McCOY  
STEVEN D. HANSEN

S-3659 FILED APRIL 21, 1997

*Leet 4/23/97 (p. 1361)*

SENATE FILE 530

S-3658

1 Amend Senate File 530 as follows:  
2 1. Page 2, line 5, by inserting after the word  
3 "boards" the following: ", on a per capita basis,"."  
4 2. Page 2, line 15, by inserting after the word  
5 "receipts" the following: "consistent with this  
6 subparagraph".

By MICHAEL E. GRONSTAL  
MATT McCOY  
STEVEN D. HANSEN

S-3658 FILED APRIL 21, 1997

*Ruled 4/23/97 (p. 1361)*

SENATE FILE 530

S-3364

1 Amend Senate File 530 as follows:  
2 1. Page 1, by inserting before line 1 the  
3 following:  
4 "Sec. \_\_\_\_ . Section 16.161, Code 1997, is amended  
5 to read as follows:  
6 16.161 AUTHORITY TO ISSUE E911 PROGRAM BONDS AND  
7 NOTES.  
8 The authority shall assist the ~~department of public~~  
9 ~~defense~~ E911 communications council as provided in  
10 chapter 34A, subchapter II and the authority shall  
11 have all of the powers delegated to it by a joint E911  
12 service board or the department of public defense in a  
13 chapter 28E agreement with respect to the issuance and  
14 securing of bonds or notes and the carrying out of the  
15 purposes of chapter 34A."  
16 2. Page 1, line 6, by inserting after the word  
17 "service." the following: "When two or more joint  
18 E911 service boards have agreed to pool funds for the  
19 purpose of purchasing necessary equipment to be used  
20 in providing E911 service, the authority shall issue  
21 bonds and notes as provided in sections 34A.20 through  
22 34A.22."  
23 3. By renumbering as necessary.

By MIKE CONNOLLY

S-3364 FILED APRIL 7, 1997

*Adopted 4/21/97 (p. 1301)*



1 Section 1. Section 16.161, Code 1997, is amended to read  
2 as follows:

3 16.161 AUTHORITY TO ISSUE E911 PROGRAM BONDS AND NOTES.

4 The authority shall assist the department-of-public-defense  
5 E911 communications council as provided in chapter 34A,  
6 subchapter II and the authority shall have all of the powers  
7 delegated to it by a joint E911 service board or the  
8 department of public defense in a chapter 28E agreement with  
9 respect to the issuance and securing of bonds or notes and the  
10 carrying out of the purposes of chapter 34A.

11 Sec. 2. Section 16.161, Code 1997, is amended by adding  
12 the following new unnumbered paragraph:

13 NEW UNNUMBERED PARAGRAPH. The authority shall provide a  
14 mechanism for the pooling of funds of two or more joint E911  
15 service boards to be used for the joint purchasing of  
16 necessary equipment and reimbursement of wireless service  
17 providers' costs for upgrades necessary to provide E911  
18 service. When two or more joint E911 service boards have  
19 agreed to pool funds for the purpose of purchasing necessary  
20 equipment to be used in providing E911 service, the authority  
21 shall issue bonds and notes as provided in sections 34A.20  
22 through 34A.22.

23 Sec. 3. Section 34A.2, subsections 2 and 3, Code 1997, are  
24 amended by striking the subsections and inserting in lieu  
25 thereof the following:

26 2. "Council" means the E911 communications council  
27 established in section 34A.15.

28 Sec. 4. Section 34A.3, subsections 1 and 2, Code 1997, are  
29 amended to read as follows:

30 1. JOINT 911 SERVICE BOARDS TO SUBMIT PLANS. The board of  
31 supervisors of each county shall establish a joint 911 service  
32 board not later than January 1, 1989. Each political  
33 subdivision of the state having a public safety agency serving  
34 territory within the county is entitled to voting membership  
35 on the joint 911 service board. Each private safety agency



1 operating within the area is entitled to nonvoting membership  
2 on the board. A township which does not operate its own  
3 public safety agency, but contracts for the provision of  
4 public safety services, is not entitled to membership on the  
5 joint 911 service board, but its contractor is entitled to  
6 membership according to the contractor's status as a public or  
7 private safety agency. The joint 911 service board shall  
8 develop an enhanced 911 service plan encompassing at minimum  
9 the entire county, unless an exemption is granted by the  
10 administrator council permitting a smaller E911 service area.  
11 The administrator council may grant a discretionary exemption  
12 from the single county minimum service area requirement based  
13 upon an E911 joint service board's or other E911 service plan  
14 operating authority's presentation of evidence which supports  
15 the requested exemption if the administrator council finds  
16 that local conditions make adherence to the minimum standard  
17 unreasonable or technically infeasible, and that the purposes  
18 of this chapter would be furthered by granting an exemption.  
19 The minimum size requirement is intended to prevent  
20 unnecessary duplication of public safety answering points and  
21 minimize other administrative, personnel, and equipment  
22 expenses. An E911 service area must encompass a  
23 geographically contiguous area. No exemption shall be granted  
24 from the contiguous area requirement. The administrator  
25 council may order the inclusion of a specific territory in an  
26 adjoining E911 service plan area to avoid the creation by  
27 exclusion of a territory smaller than a single county not  
28 serviced by surrounding E911 service plan areas upon request  
29 of the joint 911 service board representing the territory.  
30 The E911 service plan operating authority shall submit the  
31 plan on or before January 1, 1994, to all of the following:  
32 a. The division council.  
33 b. Public and private safety agencies in the enhanced 911  
34 service area.  
35 c. Providers affected by the enhanced 911 service plan.

1 An E911 joint service board that has a state-approved  
2 service plan in place prior to July 1, 1993, is exempt from  
3 the provisions of this section. The division council shall  
4 establish, by July 1, 1994, E911 service plans for those E911  
5 joint service boards which do not have a state-approved  
6 service plan in place on or before January 1, 1994.

7 The division council shall prepare a summary of the plans  
8 submitted and present the summary to the legislature on or  
9 before August 1, 1994.

10 2. COMPLIANCE WAIVERS AVAILABLE IN LIMITED CIRCUMSTANCES.

11 The administrator council may extend, in whole or in part, the  
12 time for implementation of an enhanced 911 service plan beyond  
13 the scheduled plan of implementation, by issuance of a  
14 compliance waiver. The waiver shall be based upon a joint 911  
15 service board's presentation of evidence which supports an  
16 extension if the administrator council finds that local  
17 conditions make implementation financially unreasonable or  
18 technically infeasible by the originally scheduled plan of  
19 implementation. The compliance waiver shall be for a set  
20 period of time, and subject to review and renewal or denial of  
21 renewal upon its expiration. The waiver may cover all or a  
22 portion of a 911 service plan's enhanced 911 service area to  
23 facilitate phased implementation when possible. The granting  
24 of a compliance waiver does not create a presumption that the  
25 identical or similar waiver will be extended in the future.  
26 Consideration of compliance waivers shall be on a case-by-case  
27 basis.

28 Sec. 5. Section 34A.6, subsections 1 and 3, Code 1997, are  
29 amended to read as follows:

30 1. Before a joint E911 service board may request  
31 imposition of the surcharge by the administrator council, the  
32 board shall submit the following question to voters, as  
33 provided in subsection 2, in the proposed E911 service area,  
34 and the question shall receive a favorable vote from a simple  
35 majority of persons submitting valid ballots on the following

1 question within the proposed E911 service area:

2 Shall the following public YES

3 measure be adopted? NO

4 Enhanced 911 emergency telephone service shall be funded,  
5 in whole or in part, by a monthly surcharge of (an amount  
6 determined by the local joint E911 service board of up to one  
7 dollar) on each telephone access line collected as part of  
8 each telephone subscriber's monthly phone bill if provided  
9 within (description of the proposed E911 service area).

10 3. The secretary of state, in consultation with the  
11 administrator-of-the-office-of-emergency-management-of-the  
12 department-of-public-defense council, shall adopt rules for  
13 the conduct of joint E911 service referendums as required by  
14 and consistent with subsections 1 and 2.

15 Sec. 6. Section 34A.7, subsections 1, 4, and 6, Code 1997,  
16 are amended to read as follows:

17 1. LOCAL E911 SERVICE SURCHARGE IMPOSITION.

18 a. To encourage local implementation of E911 service, one  
19 source of funding for E911 emergency telephone communication  
20 systems shall come from a surcharge per month, per access line  
21 on each access line subscriber, except as provided in  
22 subsection 5, equal to the lowest amount of the following:

23 One dollar.

24 An amount less than one dollar, which would fully pay both  
25 recurring and nonrecurring costs of the E911 service system  
26 within five years from the date the maximum surcharge is  
27 imposed.

28 The maximum monetary limitation approved by referendum.

29 The surcharge shall be imposed by order of the  
30 administrator council as follows:

31 (1) The administrator council shall notify a provider  
32 scheduled to provide exchange access line service to an E911  
33 service area, that implementation of an E911 service plan has  
34 been approved by the joint 911 service board and by the  
35 service area referendum, and that collection of the surcharge

1 is to begin within one hundred days.

2 (2) The notice shall be provided at least one hundred days  
3 before the surcharge must be billed for the first time.

4 b. The surcharge shall terminate at the end of twenty-four  
5 months, unless either, or both, of the following conditions is  
6 met:

7 (1) E911 service is initiated for all or a part of the  
8 E911 service area.

9 (2) An extension is granted by the administrator council  
10 for good cause.

11 c. The surcharge shall terminate at the end of twenty-four  
12 months if the joint E911 service plan has not been approved by  
13 the administrator council within eighteen months of the  
14 original notice to the provider to impose the surcharge, and  
15 shall not be reimposed until a service plan is approved by the  
16 administrator council and the administrator council gives  
17 providers notice as required by paragraph "a", subparagraphs  
18 (1) and (2).

19 4. E911 SERVICE FUND. Each joint E911 service board shall  
20 establish and maintain as a separate account an E911 service  
21 fund. Any funds remaining in the account at the end of each  
22 fiscal year shall not revert to the general funds of the  
23 member political subdivisions, except as provided in  
24 subsection 5, but shall remain in the E911 service fund.  
25 Moneys in an E911 service fund may only be used for  
26 nonrecurring and recurring costs of the E911 service plan as  
27 approved by the administrator council, as those terms are  
28 defined by section 34A.2.

29 6. LIMITATION OF ACTIONS -- PROVIDER NOT LIABLE ON CAUSE  
30 OF ACTION RELATED TO PROVISION OF 911 SERVICES. A claim or  
31 cause of action does not exist based upon or arising out of an  
32 act or omission in connection with a wireline or wireless  
33 provider's participation in an E911 service plan or provision  
34 of 911 or local exchange access service, unless the act or  
35 omission is determined to be willful and wanton negligence.

1 Sec. 7. Section 34A.7, subsection 5, paragraph b,  
2 subparagraphs (2) and (3), Code 1997, are amended to read as  
3 follows:

4 (2) If money remains in the fund after fully paying for,  
5 recurring costs incurred in the preceding year, the remainder  
6 may be spent to pay for nonrecurring costs, not to exceed  
7 actual nonrecurring costs as approved by the administrator  
8 council.

9 (3) If money remains in the fund after fully paying  
10 obligations under subparagraphs (1) and (2), the remainder may  
11 be accumulated in the fund as a carryover operating surplus.  
12 If the surplus is greater than twenty-five percent of the  
13 approved annual operating budget for the next year, the  
14 administrator council shall reduce the surcharge by an amount  
15 calculated to result in a surplus of no more than twenty-five  
16 percent of the planned annual operating budget. After  
17 nonrecurring costs have been paid, if the surcharge is less  
18 than the maximum allowed and the fund surplus is less than  
19 twenty-five percent of the approved annual operating budget,  
20 the administrator council shall, upon application of the joint  
21 E911 service board, increase the surcharge in an amount  
22 calculated to result in a surplus of twenty-five percent of  
23 the approved annual operating budget. The surcharge may only  
24 be adjusted once in a single year, upon one hundred days'  
25 prior notice to the provider.

26 Sec. 8. Section 34A.15, subsection 1, unnumbered paragraph  
27 1, Code 1997, is amended to read as follows:

28 An E911 communications council is established. The council  
29 consists of the following ~~eleven~~ thirteen members:

30 Sec. 9. Section 34A.15, subsection 1, Code 1997, is  
31 amended by adding the following new paragraph:

32 NEW PARAGRAPH. k. Two persons appointed by the Iowa  
33 wireless industry. One appointee shall represent cellular  
34 companies and the other appointee shall represent personal  
35 communications services companies.

1 Sec. 10. Section 34A.15, Code 1997, is amended by adding  
2 the following new subsections:

3 NEW SUBSECTION. 2A. a. Notwithstanding section 34A.6,  
4 the council, in consultation with the utilities board within  
5 the utilities division of the department of commerce, shall  
6 impose a monthly surcharge of up to one dollar on each  
7 wireless communications service account provided in this  
8 state. The surcharge shall not exceed the statewide average  
9 E911 surcharge applied to customers receiving landline  
10 telecommunications services. The surcharge shall be imposed  
11 uniformly on a statewide basis and simultaneously on all  
12 customers as provided by the council.

13 b. The surcharge shall be collected as part of the  
14 wireless communications service provider's periodic billing to  
15 a subscriber and shall be stated separately on each  
16 subscriber's bill. In compensation for the costs of billing  
17 and collection, the provider may retain one percent of the  
18 gross surcharges collected. The surcharges shall be remitted  
19 quarterly by the provider to the E911 communications council  
20 for deposit into the fund established in subsection 2B. A  
21 provider is not liable for an uncollected surcharge for which  
22 the provider has billed a subscriber but not been paid. The  
23 surcharge shall appear as a single line item on a subscriber's  
24 periodic billing entitled, "E911 emergency telephone service  
25 surcharge". The E911 service surcharge is not subject to  
26 sales or use tax.

27 NEW SUBSECTION. 2B. Moneys collected pursuant to  
28 subsection 2A shall be deposited in a separate fund within the  
29 state treasury under the control of the council. In  
30 accordance with section 22.7, subsection 6, the amount  
31 collected from a wireless service provider and deposited in  
32 the fund is confidential. Moneys in the fund shall be  
33 expended and distributed annually as follows:

34 a. Ten percent of the total surcharges collected or two  
35 hundred thousand dollars, whichever is less, half of which

1 shall be retained by the council for implementation, support,  
2 and maintenance of the functions of the council, and half of  
3 which shall be remitted to the Iowa law enforcement academy  
4 for implementation, maintenance, and support of  
5 telecommunicator training.

6 b. The department of public safety and the joint E911  
7 service boards shall retain any additional funds necessary to  
8 reimburse wireless carriers for their costs to deliver E911  
9 services. The department of public safety and the joint E911  
10 service boards shall assure that wireless carriers recover all  
11 costs associated with the implementation and operation of E911  
12 services, including but not limited to hardware, software, and  
13 transport costs.

14 c. (1) The remainder of the surcharge collected shall be  
15 remitted to the E911 communications council for distribution  
16 to the joint E911 service boards and the Iowa department of  
17 public safety to be used for the purposes authorized under  
18 this chapter, for telecommunicator training, and for  
19 implementation of enhanced wireless communications  
20 capabilities.

21 The E911 communications council shall adopt rules governing  
22 the distribution of the surcharge collected and distributed  
23 pursuant to this lettered paragraph. The rules shall include  
24 provisions that all joint E911 service boards and the Iowa  
25 department of public safety which answer or service E911 calls  
26 shall receive an equitable portion of the receipts.

27 In determining the equitable portion of the receipts to be  
28 received by a joint E911 service board or the Iowa department  
29 of public safety, the E911 communications council shall  
30 consider factors including, but not limited to, all of the  
31 following:

- 32 (a) Demonstrated need.  
33 (b) Documented volume of wireless E911 calls.  
34 (c) The public safety of the citizens of this state.  
35 The E911 communications council shall submit an annual

1 report by January 15 of each year advising the general  
2 assembly of the status of enhanced 911 implementation and  
3 operations, including both wireline and wireless services, and  
4 the distribution of surcharge receipts.

5 (2) If a county does not have a joint E911 service board,  
6 that county's share of the surcharge shall be held in trust in  
7 a separate account in the state treasury until such time as  
8 the county establishes the board. If the county does not  
9 create a joint E911 service board and begin implementation of  
10 an E911 service plan by July 1, 2002, the council shall  
11 distribute the funds held in trust for that county equally to  
12 all remaining joint E911 service boards.

13 NEW SUBSECTION. 2C. For purposes of this section,  
14 "wireless communications service" means a radio-link telephone  
15 service providing dial tone access to a portable, mobile, or  
16 fixed location for which a charge is levied. "Wireless  
17 communications service" includes, but is not limited to, radio  
18 repeater stations operated in the specialized mobile radio  
19 service where the telephone service is secondary to the radio  
20 repeater use, personal communications services, and cellular  
21 communications services.

22 Sec. 11. Section 34A.20, subsection 2, Code 1997, is  
23 amended to read as follows:

24 2. The authority shall cooperate with the department-of  
25 public-defense council in the creation, administration, and  
26 funding of the E911 program established in subchapter I.

27 Sec. 12. STUDY OF E911 SYSTEM. The E911 communications  
28 council shall conduct a study concerning the issues related to  
29 the provision of E911 service in this state, the cost recovery  
30 mechanism provided in chapter 34A for wireline and wireless  
31 providers, and any other appropriate issue related to the E911  
32 system. The council shall provide a written report to the  
33 general assembly concerning the council's progress in  
34 completing this study by no later than January 15, 1999. The  
35 report shall include any recommendations of the council



1 concerning the E911 system and the additional time necessary,  
2 if any, to complete the study.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35



## SENATE FILE 530

H-8492

1 Amend Senate File 530, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. Section 16.161, Code 1997, is amended  
6 to read as follows:

7 16.161 AUTHORITY TO ISSUE E911 PROGRAM BONDS AND  
8 NOTES.

9 The authority shall assist the ~~department of public~~  
10 ~~defense~~ administrator appointed pursuant to section  
11 34A.2A or as provided in chapter 34A, subchapter II  
12 and the authority shall have all of the powers  
13 delegated to it by a joint E911 service board or the  
14 department of public defense in a chapter 28E  
15 agreement with respect to the issuance and securing of  
16 bonds or notes and the carrying out of the purposes of  
17 chapter 34A.

18 Sec. 2. Section 16.161, Code 1997, is amended by  
19 adding the following new unnumbered paragraph:

20 NEW UNNUMBERED PARAGRAPH. The authority shall  
21 provide a mechanism for the pooling of funds of two or  
22 more joint E911 service boards to be used for the  
23 joint purchasing of necessary equipment and  
24 reimbursement of land-line and wireless service  
25 providers' costs for upgrades necessary to provide  
26 E911 service. When two or more joint E911 service  
27 boards have agreed to pool funds for the purpose of  
28 purchasing necessary equipment to be used in providing  
29 E911 service, the authority shall issue bonds and  
30 notes as provided in sections 34A.20 through 34A.22.

31 Sec. 3. Section 34A.2, subsection 2, Code 1997, is  
32 amended to read as follows:

33 2. "Administrator" means the E911 administrator of  
34 ~~the division of emergency management of the department~~  
35 ~~of public defense~~ appointed pursuant to section  
36 34A.2A.

37 Sec. 4. Section 34A.2, subsection 3, Code 1997, is  
38 amended by striking the subsection.

39 Sec. 5. NEW SECTION. 34A.2A ADMINISTRATOR --  
40 APPOINTMENT -- DUTIES.

41 The administrator of the division of emergency  
42 management of the department of public defense shall  
43 appoint an E911 administrator to administer this  
44 chapter. The E911 administrator shall act under the  
45 supervisory control of the administrator of the  
46 division of emergency management of the department of  
47 public defense, and in consultation with the E911  
48 communications council, and perform the duties  
49 specifically set forth in this chapter.

50 Sec. 6. Section 34A.3, subsection 1, Code 1997, is

H-8492

H-8492

Page 2

1 amended to read as follows:

2 1. JOINT 911 SERVICE BOARDS TO SUBMIT PLANS. The  
3 board of supervisors of each county shall establish a  
4 joint 911 service board not later than January 1,  
5 1989. Each political subdivision of the state having  
6 a public safety agency serving territory within the  
7 county is entitled to voting membership on the joint  
8 911 service board. Each private safety agency  
9 operating within the area is entitled to nonvoting  
10 membership on the board. A township which does not  
11 operate its own public safety agency, but contracts  
12 for the provision of public safety services, is not  
13 entitled to membership on the joint 911 service board,  
14 but its contractor is entitled to membership according  
15 to the contractor's status as a public or private  
16 safety agency. The joint 911 service board shall  
17 develop an enhanced 911 service plan encompassing at  
18 minimum the entire county, unless an exemption is  
19 granted by the administrator permitting a smaller E911  
20 service area. The administrator may grant a  
21 discretionary exemption from the single county minimum  
22 service area requirement based upon an E911 joint  
23 service board's or other E911 service plan operating  
24 authority's presentation of evidence which supports  
25 the requested exemption if the administrator finds  
26 that local conditions make adherence to the minimum  
27 standard unreasonable or technically infeasible, and  
28 that the purposes of this chapter would be furthered  
29 by granting an exemption. The minimum size  
30 requirement is intended to prevent unnecessary  
31 duplication of public safety answering points and  
32 minimize other administrative, personnel, and  
33 equipment expenses. An E911 service area must  
34 encompass a geographically contiguous area. No  
35 exemption shall be granted from the contiguous area  
36 requirement. The administrator may order the  
37 inclusion of a specific territory in an adjoining E911  
38 service plan area to avoid the creation by exclusion  
39 of a territory smaller than a single county not  
40 serviced by surrounding E911 service plan areas upon  
41 request of the joint 911 service board representing  
42 the territory. The E911 service plan operating  
43 authority shall submit the plan on or before January  
44 1, 1994, to all of the following:

- 45 a. The ~~division~~ administrator.
- 46 b. Public and private safety agencies in the
- 47 enhanced 911 service area.
- 48 c. Providers affected by the enhanced 911 service
- 49 plan.

50 An E911 joint service board that has a state-

H-8492

H-8492

Page 3

1 approved service plan in place prior to July 1, 1993,  
2 is exempt from the provisions of this section. The  
3 division administrator shall establish, by July 1,  
4 1994, E911 service plans for those E911 joint service  
5 boards which do not have a state-approved service plan  
6 in place on or before January 1, 1994.

7 The division administrator shall prepare a summary  
8 of the plans submitted and present the summary to the  
9 legislature on or before August 1, 1994.

10 Sec. 7. Section 34A.6, subsection 3, Code 1997, is  
11 amended to read as follows:

12 3. The secretary of state, in consultation with  
13 the administrator ~~of-the-office-of-emergency~~  
14 ~~management-of-the-department-of-public-defense~~, shall  
15 adopt rules for the conduct of joint E911 service  
16 referendums as required by and consistent with  
17 subsections 1 and 2.

18 Sec. 8. Section 34A.7, subsection 6, Code 1997, is  
19 amended to read as follows:

20 6. LIMITATION OF ACTIONS -- PROVIDER NOT LIABLE ON  
21 CAUSE OF ACTION RELATED TO PROVISION OF 911 SERVICES.  
22 A claim or cause of action does not exist based upon  
23 or arising out of an act or omission in connection  
24 with a land-line or wireless provider's participation  
25 in an E911 service plan or provision of 911 or local  
26 exchange access service, unless the act or omission is  
27 determined to be willful and wanton negligence.

28 Sec. 9. NEW SECTION. 34A.7A WIRELESS  
29 COMMUNICATIONS SURCHARGE -- FUND ESTABLISHED --  
30 DISTRIBUTION AND PERMISSIBLE EXPENDITURES.

31 1. a. Notwithstanding section 34A.6, the  
32 administrator shall adopt by rule a monthly surcharge  
33 of up to fifty cents to be imposed on each wireless  
34 communications service number provided in this state.  
35 The surcharge shall be imposed uniformly on a  
36 statewide basis and simultaneously on all wireless  
37 communications service numbers as provided by rule of  
38 the administrator.

39 b. The administrator shall provide no less than  
40 one hundred days' notice of the surcharge to be  
41 imposed to each wireless communications service  
42 provider. The administrator, subject to the fifty  
43 cent limit in paragraph "a", may adjust the amount of  
44 the surcharge as necessary, but no more than once in  
45 any calendar year.

46 c. The surcharge shall be collected as part of the  
47 wireless communications service provider's periodic  
48 billing to a subscriber. In compensation for the  
49 costs of billing and collection, the provider may  
50 retain one percent of the gross surcharges collected.

H-8492

-3-

H-8492

Page 4

1 The surcharges shall be remitted quarterly by the  
2 provider to the administrator for deposit into the  
3 fund established in subsection 2. A provider is not  
4 liable for an uncollected surcharge for which the  
5 provider has billed a subscriber but which has not  
6 been paid. The surcharge shall appear as a single  
7 line item on a subscriber's periodic billing  
8 indicating that the surcharge is for E911 emergency  
9 telephone service. The E911 service surcharge is not  
10 subject to sales or use tax.

11 2. Moneys collected pursuant to subsection 1 shall  
12 be deposited in a separate wireless E911 emergency  
13 communications fund within the state treasury under  
14 the control of the administrator. Section 8.33 shall  
15 not apply to moneys in the fund. Moneys earned as  
16 income, including as interest, from the fund shall  
17 remain in the fund until expended as provided in this  
18 section. Moneys in the fund shall be expended and  
19 distributed annually as follows:

20 a. An amount necessary to be retained by the  
21 administrator for implementation, support, and  
22 maintenance of the functions of the administrator.

23 b. (1) The administrator shall retain funds  
24 necessary to reimburse wireless carriers for their  
25 costs to deliver E911 services. The administrator  
26 shall assure that wireless carriers recover all  
27 eligible costs associated with the implementation and  
28 operation of E911 services, including but not limited  
29 to hardware, software, and transport costs. The  
30 administrator shall adopt rules defining eligible  
31 costs which are consistent with federal law,  
32 regulations, and any order of a federal agency.

33 (2) The administrator shall provide for the  
34 reimbursement of wireless carriers on a quarterly  
35 basis. If the total amount of moneys available in the  
36 fund for the reimbursement of wireless carriers  
37 pursuant to subparagraph (1) is insufficient to  
38 reimburse all wireless carriers for such carriers'  
39 eligible expenses, the administrator shall remit an  
40 amount to each wireless carrier equal to the  
41 percentage of such carrier's eligible expenses as  
42 compared to the total of all eligible expenses for all  
43 wireless carriers for the calendar quarter during  
44 which such expenses were submitted.

45 c. (1) The remainder of the surcharge collected  
46 shall be remitted to the administrator for  
47 distribution to the joint E911 service boards and the  
48 department of public safety pursuant to subparagraph  
49 (2) to be used for the implementation of enhanced  
50 wireless communications capabilities.

H-8492

-4-

H-8492

Page 5

1 (2) The administrator, in consultation with the  
2 E911 communications council, shall adopt rules  
3 pursuant to chapter 17A governing the distribution of  
4 the surcharge collected and distributed pursuant to  
5 this lettered paragraph. The rules shall include  
6 provisions that all joint E911 service boards and the  
7 department of public safety which answer or service  
8 wireless E911 calls are eligible to receive an  
9 equitable portion of the receipts.

10 A joint E911 service board or the department of  
11 public safety, to receive funds from the E911  
12 emergency communications fund, must submit a written  
13 request for such funds to the administrator in a form  
14 as approved by the administrator. A request shall be  
15 for funding under an approved E911 service plan for  
16 equipment which is directly related to the reception  
17 and disposition of incoming wireless E911 calls. The  
18 administrator may approve the distribution of funds  
19 pursuant to such request if the administrator finds  
20 that the requested funding is for equipment necessary  
21 for the reception and disposition of such calls and  
22 that sufficient funds are available for such  
23 distribution.

24 If insufficient funds are available to fund all  
25 requests, the administrator shall fund requests in an  
26 order deemed appropriate by the administrator after  
27 considering factors including, but not limited to, all  
28 of the following:

29 (a) Documented volume of wireless E911 calls  
30 received by each public safety answering point.

31 (b) The population served by each public safety  
32 answering point.

33 (c) The number of wireless telephones in the  
34 public safety answering point jurisdiction.

35 (d) The public safety of the citizens of this  
36 state.

37 (e) Any other factor deemed appropriate by the  
38 administrator, in consultation with the E911  
39 communications council, and adopted by rule.

40 (3) The administrator shall submit an annual  
41 report by January 15 of each year advising the general  
42 assembly of the status of E911 implementation and  
43 operations, including both land-line and wireless  
44 services, and the distribution of surcharge receipts.

45 3. The amount collected from a wireless service  
46 provider and deposited in the fund, pursuant to  
47 section 22.7, subsection 6, information provided by a  
48 wireless service provider to the administrator  
49 consisting of trade secrets, pursuant to section 22.7,  
50 subsection 3, and other financial or commercial

H-8492

-5-

H-8492

Page 6

1 operations information provided by a wireless service  
2 provider to the administrator, shall be kept  
3 confidential as provided under section 22.7. This  
4 subsection does not prohibit the inclusion of  
5 information in any report providing aggregate amounts  
6 and information which does not identify numbers of  
7 accounts or customers, revenues, or expenses  
8 attributable to an individual wireless communications  
9 service provider.

10 4. For purposes of this section, "wireless  
11 communications service" means commercial mobile radio  
12 service, as defined under sections 3(27) and 332(d) of  
13 the federal Telecommunications Act of 1996, 47 U.S.C.  
14 § 151 et seq.; federal communications commission  
15 rules, and the Omnibus Budget Reconciliation Act of  
16 1993. "Wireless communications service" includes any  
17 wireless two-way communications used in cellular  
18 telephone service, personal communications service, or  
19 the functional or competitive equivalent of a radio-  
20 telephone communications line used in cellular  
21 telephone service, a personal communications service,  
22 or a network access line. "Wireless communications  
23 service" does not include services whose customers do  
24 not have access to 911 or a 911-like service, a  
25 communications channel utilized only for data  
26 transmission, or a private telecommunications system.

27 Sec. 10. Section 34A.15, subsection 1, unnumbered  
28 paragraph 1, Code 1997, is amended to read as follows:

29 An E911 communications council is established. The  
30 council consists of the following ~~eleven~~ thirteen  
31 members:

32 Sec. 11. Section 34A.15, subsection 1, Code 1997,  
33 is amended by adding the following new paragraph:

34 NEW PARAGRAPH. k. Two persons appointed by the  
35 Iowa wireless industry. One appointee shall represent  
36 cellular companies and the other appointee shall  
37 represent personal communications services companies.

38 Sec. 12. Section 34A.15, Code 1997, is amended by  
39 adding the following new subsections:

40 NEW SUBSECTION. 2A. A member of the council shall  
41 be reimbursed for actual and necessary expenses  
42 incurred in the performance of the member's duties, if  
43 such member is not otherwise reimbursed for such  
44 expenses.

45 Sec. 13. Section 34A.20, subsection 2, Code 1997,  
46 is amended to read as follows:

47 2. The authority shall cooperate with the  
48 department-of-public-defense administrator in the  
49 creation, administration, and funding of the E911  
50 program established in subchapter I.

H-8492

-6-



H-8492

Page 7

1 Sec. 14. TRANSITION PROVISIONS.

2 1. The E911 administrator appointed pursuant to  
3 section 34A.2A, as enacted in this Act, shall be  
4 appointed by no later than July 1, 1998. The E911  
5 administrator shall determine and implement an initial  
6 surcharge as soon as possible, but at a minimum such  
7 surcharge shall be determined and implemented by no  
8 later than January 1, 1999.

9 2. Notwithstanding the distribution formula in  
10 section 34A.7A, as enacted in this Act, and prior to  
11 any such distribution, of the initial surcharge moneys  
12 received by the E911 administrator and deposited into  
13 the wireless E911 emergency communications fund, for  
14 the fiscal year beginning July 1, 1998, and ending  
15 June 30, 1999, an amount shall be transferred to the  
16 division of emergency management of the department of  
17 public defense as necessary to reimburse the division  
18 for amounts expended for the implementation, support,  
19 and maintenance of the E911 administrator, including  
20 the E911 administrator's salary.

21 3. a. Notwithstanding the distribution formula in  
22 section 34A.7A, as enacted in this Act, and after the  
23 distribution provided for in subsection 2 of this  
24 section and prior to any other distribution pursuant  
25 to section 34A.7A, of the surcharge moneys received by  
26 the E911 administrator and deposited into the wireless  
27 E911 emergency communications fund, for the fiscal  
28 year beginning July 1, 1998, and ending June 30, 1999,  
29 an amount not to exceed eighty thousand dollars shall  
30 be transferred to the Iowa law enforcement academy to  
31 be used for implementation, maintenance, and support  
32 of telecommunicator training. For purposes of this  
33 paragraph, the total amount transferred includes any  
34 amounts transferred to the Iowa law enforcement  
35 academy under paragraph "b".

36 b. The Iowa law enforcement academy shall begin as  
37 soon as practicable the telecommunicator training as  
38 provided in this subsection. If the academy expends  
39 funds on or after July 1, 1998, for telecommunicator  
40 training and prior to the imposition of the surcharge  
41 under section 34A.7A, the E911 administrator, subject  
42 to the limit of eighty thousand dollars in paragraph  
43 "a", shall transfer from the wireless E911 emergency  
44 communications fund to the Iowa law enforcement  
45 academy an amount necessary to reimburse the academy  
46 for such amounts expended by the academy. The E911  
47 administrator and the Iowa law enforcement academy  
48 shall provide a written report to the fiscal committee  
49 of the legislative council and to the legislative  
50 fiscal bureau regarding amounts expended by the

H-8492

-7-

H-8492

Page 8

1 academy and reimbursed by the E911 administrator  
 2 pursuant to this section.  
 3 c. The Iowa law enforcement academy, for  
 4 telecommunicator training for fiscal years beginning  
 5 on and after July 1, 1999, shall submit requests for  
 6 funding through the general assembly's appropriation  
 7 process in the same manner as the academy submits  
 8 requests for other general fund appropriations.  
 9 4. a. The department of public defense is  
 10 authorized two additional full-time equivalent  
 11 positions for the purpose of implementing the  
 12 amendments to chapter 34A in this Act. Included in  
 13 these two full-time equivalent positions is the E911  
 14 administrator appointed pursuant to section 34A.2A, as  
 15 enacted in this Act.  
 16 b. The Iowa law enforcement academy is authorized  
 17 one and one-half additional full-time equivalent  
 18 positions for the purpose of implementing  
 19 telecommunicator training as provided for in this Act.  
 20 Sec. 15. EFFECTIVE DATE. This Act, being deemed  
 21 of immediate importance, takes effect upon enactment."  
 22 2. Title page, line 4, by inserting after the  
 23 word "system" the following: ", and providing an  
 24 effective date".

By COMMITTEE ON COMMERCE AND REGULATION  
METCALF of Polk, Chairperson

H-8492 FILED MARCH 18, 1998

*Adopted 4-1-98 (P. 1149)*

SENATE FILE 530

H-8579

1 Amend the amendment, H-8492, to Senate File 530, as  
 2 amended, passed, and reprinted by the Senate, as  
 3 follows:  
 4 1. Page 6, by inserting after line 37 the  
 5 following:  
 6 "Sec. \_\_\_\_ . Section 34A.15, subsection 2, Code  
 7 1997, is amended by striking the subsection and  
 8 inserting in lieu thereof the following:  
 9 2. The council shall advise and make  
 10 recommendations to the administrator regarding the  
 11 implementation of this chapter. Such advice and  
 12 recommendations shall be provided on issues at the  
 13 request of the administrator or as deemed necessary by  
 14 the council."  
 15 2. By renumbering as necessary.

By METCALF of Polk

H-8579 FILED MARCH 23, 1998

*Adopted  
4-1-98  
(P. 1149)*

H-8792

1 Amend the Committee amendment, H-8492, to Senate  
2 File 530, as amended, passed, and reprinted by the  
3 Senate, as follows:

4 1. Page 4, by striking line 20 and inserting the  
5 following:

6 "a. An amount as appropriated by the general  
7 assembly to the".

8 2. Page 7, by striking line 9 and inserting the  
9 following:

10 "2. a. There is appropriated from surcharge  
11 moneys received by the E911 administrator and  
12 deposited into the wireless E911 emergency  
13 communications fund, for the fiscal year beginning  
14 July 1, 1998, and ending June 30, 1999, an amount not  
15 to exceed two hundred thousand dollars to be used for  
16 the implementation, support, and maintenance of the  
17 functions of the E911 administrator. The amount  
18 appropriated in this paragraph includes any amounts  
19 necessary to reimburse the division of emergency  
20 management of the department of public defense  
21 pursuant to paragraph "b".

22 b. Notwithstanding the distribution formula in".

23 3. By renumbering as necessary.

By METCALF of Polk  
LARSON of Linn

H-8792 FILED MARCH 30, 1998

*Adapted 4-1-98*  
*(P.1148)*



HOUSE AMENDMENT TO  
SENATE FILE 530

S-5479

1 Amend Senate File 530, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. Section 16.161, Code 1997, is amended  
6 to read as follows:

7 16.161 AUTHORITY TO ISSUE E911 PROGRAM BONDS AND  
8 NOTES.

9 The authority shall assist the ~~department of public~~  
10 ~~defense~~ administrator appointed pursuant to section  
11 34A.2A or as provided in chapter 34A, subchapter II  
12 and the authority shall have all of the powers  
13 delegated to it by a joint E911 service board or the  
14 department of public defense in a chapter 28E  
15 agreement with respect to the issuance and securing of  
16 bonds or notes and the carrying out of the purposes of  
17 chapter 34A.

18 Sec. 2. Section 16.161, Code 1997, is amended by  
19 adding the following new unnumbered paragraph:

20 NEW UNNUMBERED PARAGRAPH. The authority shall  
21 provide a mechanism for the pooling of funds of two or  
22 more joint E911 service boards to be used for the  
23 joint purchasing of necessary equipment and  
24 reimbursement of land-line and wireless service  
25 providers' costs for upgrades necessary to provide  
26 E911 service. When two or more joint E911 service  
27 boards have agreed to pool funds for the purpose of  
28 purchasing necessary equipment to be used in providing  
29 E911 service, the authority shall issue bonds and  
30 notes as provided in sections 34A.20 through 34A.22.

31 Sec. 3. Section 34A.2, subsection 2, Code 1997, is  
32 amended to read as follows:

33 2. "Administrator" means the E911 administrator of  
34 the division of emergency management of the department  
35 of public defense appointed pursuant to section  
36 34A.2A.

37 Sec. 4. Section 34A.2, subsection 3, Code 1997, is  
38 amended by striking the subsection.

39 Sec. 5. NEW SECTION. 34A.2A ADMINISTRATOR --  
40 APPOINTMENT -- DUTIES.

41 The administrator of the division of emergency  
42 management of the department of public defense shall  
43 appoint an E911 administrator to administer this  
44 chapter. The E911 administrator shall act under the  
45 supervisory control of the administrator of the  
46 division of emergency management of the department of  
47 public defense, and in consultation with the E911  
48 communications council, and perform the duties  
49 specifically set forth in this chapter.

50 Sec. 6. Section 34A.3, subsection 1, Code 1997, is

S-5479

S-5479

Page 2

1 amended to read as follows:

2 1. JOINT 911 SERVICE BOARDS TO SUBMIT PLANS. The  
3 board of supervisors of each county shall establish a  
4 joint 911 service board not later than January 1,  
5 1989. Each political subdivision of the state having  
6 a public safety agency serving territory within the  
7 county is entitled to voting membership on the joint  
8 911 service board. Each private safety agency  
9 operating within the area is entitled to nonvoting  
10 membership on the board. A township which does not  
11 operate its own public safety agency, but contracts  
12 for the provision of public safety services, is not  
13 entitled to membership on the joint 911 service board,  
14 but its contractor is entitled to membership according  
15 to the contractor's status as a public or private  
16 safety agency. The joint 911 service board shall  
17 develop an enhanced 911 service plan encompassing at  
18 minimum the entire county, unless an exemption is  
19 granted by the administrator permitting a smaller E911  
20 service area. The administrator may grant a  
21 discretionary exemption from the single county minimum  
22 service area requirement based upon an E911 joint  
23 service board's or other E911 service plan operating  
24 authority's presentation of evidence which supports  
25 the requested exemption if the administrator finds  
26 that local conditions make adherence to the minimum  
27 standard unreasonable or technically infeasible, and  
28 that the purposes of this chapter would be furthered  
29 by granting an exemption. The minimum size  
30 requirement is intended to prevent unnecessary  
31 duplication of public safety answering points and  
32 minimize other administrative, personnel, and  
33 equipment expenses. An E911 service area must  
34 encompass a geographically contiguous area. No  
35 exemption shall be granted from the contiguous area  
36 requirement. The administrator may order the  
37 inclusion of a specific territory in an adjoining E911  
38 service plan area to avoid the creation by exclusion  
39 of a territory smaller than a single county not  
40 serviced by surrounding E911 service plan areas upon  
41 request of the joint 911 service board representing  
42 the territory. The E911 service plan operating  
43 authority shall submit the plan on or before January  
44 1, 1994, to all of the following:

- 45 a. The division administrator.
- 46 b. Public and private safety agencies in the
- 47 enhanced 911 service area.
- 48 c. Providers affected by the enhanced 911 service
- 49 plan.

50 An E911 joint service board that has a state-

S-5479

-2-

S-5479

Page 3

1 approved service plan in place prior to July 1, 1993,  
2 is exempt from the provisions of this section. The  
3 division administrator shall establish, by July 1,  
4 1994, E911 service plans for those E911 joint service  
5 boards which do not have a state-approved service plan  
6 in place on or before January 1, 1994.

7 The division administrator shall prepare a summary  
8 of the plans submitted and present the summary to the  
9 legislature on or before August 1, 1994.

10 Sec. 7. Section 34A.6, subsection 3, Code 1997, is  
11 amended to read as follows:

12 3. The secretary of state, in consultation with  
13 the ~~administrator of the office of emergency~~  
14 ~~management of the department of public defense~~, shall  
15 adopt rules for the conduct of joint E911 service  
16 referendums as required by and consistent with  
17 subsections 1 and 2.

18 Sec. 8. Section 34A.7, subsection 6, Code 1997, is  
19 amended to read as follows:

20 6. LIMITATION OF ACTIONS -- PROVIDER NOT LIABLE ON  
21 CAUSE OF ACTION RELATED TO PROVISION OF 911 SERVICES.  
22 A claim or cause of action does not exist based upon  
23 or arising out of an act or omission in connection  
24 with a land-line or wireless provider's participation  
25 in an E911 service plan or provision of 911 or local  
26 exchange access service, unless the act or omission is  
27 determined to be willful and wanton negligence.

28 Sec. 9. NEW SECTION. 34A.7A WIRELESS  
29 COMMUNICATIONS SURCHARGE -- FUND ESTABLISHED --  
30 DISTRIBUTION AND PERMISSIBLE EXPENDITURES.

31 1. a. Notwithstanding section 34A.6, the  
32 administrator shall adopt by rule a monthly surcharge  
33 of up to fifty cents to be imposed on each wireless  
34 communications service number provided in this state.  
35 The surcharge shall be imposed uniformly on a  
36 statewide basis and simultaneously on all wireless  
37 communications service numbers as provided by rule of  
38 the administrator.

39 b. The administrator shall provide no less than  
40 one hundred days' notice of the surcharge to be  
41 imposed to each wireless communications service  
42 provider. The administrator, subject to the fifty  
43 cent limit in paragraph "a", may adjust the amount of  
44 the surcharge as necessary, but no more than once in  
45 any calendar year.

46 c. The surcharge shall be collected as part of the  
47 wireless communications service provider's periodic  
48 billing to a subscriber. In compensation for the  
49 costs of billing and collection, the provider may  
50 retain one percent of the gross surcharges collected.

S-5479

-3-

1 The surcharges shall be remitted quarterly by the  
2 provider to the administrator for deposit into the  
3 fund established in subsection 2. A provider is not  
4 liable for an uncollected surcharge for which the  
5 provider has billed a subscriber but which has not  
6 been paid. The surcharge shall appear as a single  
7 line item on a subscriber's periodic billing  
8 indicating that the surcharge is for E911 emergency  
9 telephone service. The E911 service surcharge is not  
10 subject to sales or use tax.

11 2. Moneys collected pursuant to subsection 1 shall  
12 be deposited in a separate wireless E911 emergency  
13 communications fund within the state treasury under  
14 the control of the administrator. Section 8.33 shall  
15 not apply to moneys in the fund. Moneys earned as  
16 income, including as interest, from the fund shall  
17 remain in the fund until expended as provided in this  
18 section. Moneys in the fund shall be expended and  
19 distributed annually as follows:

20 a. An amount as appropriated by the general  
21 assembly to the administrator for implementation,  
22 support, and maintenance of the functions of the  
23 administrator.

24 b. (1) The administrator shall retain funds  
25 necessary to reimburse wireless carriers for their  
26 costs to deliver E911 services. The administrator  
27 shall assure that wireless carriers recover all  
28 eligible costs associated with the implementation and  
29 operation of E911 services, including but not limited  
30 to hardware, software, and transport costs. The  
31 administrator shall adopt rules defining eligible  
32 costs which are consistent with federal law,  
33 regulations, and any order of a federal agency.

34 (2) The administrator shall provide for the  
35 reimbursement of wireless carriers on a quarterly  
36 basis. If the total amount of moneys available in the  
37 fund for the reimbursement of wireless carriers  
38 pursuant to subparagraph (1) is insufficient to  
39 reimburse all wireless carriers for such carriers'  
40 eligible expenses, the administrator shall remit an  
41 amount to each wireless carrier equal to the  
42 percentage of such carrier's eligible expenses as  
43 compared to the total of all eligible expenses for all  
44 wireless carriers for the calendar quarter during  
45 which such expenses were submitted.

46 c. (1) The remainder of the surcharge collected  
47 shall be remitted to the administrator for  
48 distribution to the joint E911 service boards and the  
49 department of public safety pursuant to subparagraph  
50 (2) to be used for the implementation of enhanced



S-5479

Page 5

1 wireless communications capabilities.  
2 (2) The administrator, in consultation with the  
3 E911 communications council, shall adopt rules  
4 pursuant to chapter 17A governing the distribution of  
5 the surcharge collected and distributed pursuant to  
6 this lettered paragraph. The rules shall include  
7 provisions that all joint E911 service boards and the  
8 department of public safety which answer or service  
9 wireless E911 calls are eligible to receive an  
10 equitable portion of the receipts.

11 A joint E911 service board or the department of  
12 public safety, to receive funds from the E911  
13 emergency communications fund, must submit a written  
14 request for such funds to the administrator in a form  
15 as approved by the administrator. A request shall be  
16 for funding under an approved E911 service plan for  
17 equipment which is directly related to the reception  
18 and disposition of incoming wireless E911 calls. The  
19 administrator may approve the distribution of funds  
20 pursuant to such request if the administrator finds  
21 that the requested funding is for equipment necessary  
22 for the reception and disposition of such calls and  
23 that sufficient funds are available for such  
24 distribution.

25 If insufficient funds are available to fund all  
26 requests, the administrator shall fund requests in an  
27 order deemed appropriate by the administrator after  
28 considering factors including, but not limited to, all  
29 of the following:

30 (a) Documented volume of wireless E911 calls  
31 received by each public safety answering point.

32 (b) The population served by each public safety  
33 answering point.

34 (c) The number of wireless telephones in the  
35 public safety answering point jurisdiction.

36 (d) The public safety of the citizens of this  
37 state.

38 (e) Any other factor deemed appropriate by the  
39 administrator, in consultation with the E911  
40 communications council, and adopted by rule.

41 (3) The administrator shall submit an annual  
42 report by January 15 of each year advising the general  
43 assembly of the status of E911 implementation and  
44 operations, including both land-line and wireless  
45 services, and the distribution of surcharge receipts.

46 3. The amount collected from a wireless service  
47 provider and deposited in the fund, pursuant to  
48 section 22.7, subsection 6, information provided by a  
49 wireless service provider to the administrator  
50 consisting of trade secrets, pursuant to section 22.7,

S-5479

-5-

S-5479

Page 6

1 subsection 3, and other financial or commercial  
2 operations information provided by a wireless service  
3 provider to the administrator, shall be kept  
4 confidential as provided under section 22.7. This  
5 subsection does not prohibit the inclusion of  
6 information in any report providing aggregate amounts  
7 and information which does not identify numbers of  
8 accounts or customers, revenues, or expenses  
9 attributable to an individual wireless communications  
10 service provider.

11 4. For purposes of this section, "wireless  
12 communications service" means commercial mobile radio  
13 service, as defined under sections 3(27) and 332(d) of  
14 the federal Telecommunications Act of 1996, 47 U.S.C.  
15 § 151 et seq.; federal communications commission  
16 rules, and the Omnibus Budget Reconciliation Act of  
17 1993. "Wireless communications service" includes any  
18 wireless two-way communications used in cellular  
19 telephone service, personal communications service, or  
20 the functional or competitive equivalent of a radio-  
21 telephone communications line used in cellular  
22 telephone service, a personal communications service,  
23 or a network access line. "Wireless communications  
24 service" does not include services whose customers do  
25 not have access to 911 or a 911-like service, a  
26 communications channel utilized only for data  
27 transmission, or a private telecommunications system.

28 Sec. 10. Section 34A.15, subsection 1, unnumbered  
29 paragraph 1, Code 1997, is amended to read as follows:  
30 An E911 communications council is established. The  
31 council consists of the following ~~eleven~~ thirteen  
32 members:

33 Sec. 11. Section 34A.15, subsection 1, Code 1997,  
34 is amended by adding the following new paragraph:  
35 NEW PARAGRAPH. k. Two persons appointed by the  
36 Iowa wireless industry. One appointee shall represent  
37 cellular companies and the other appointee shall  
38 represent personal communications services companies.

39 Sec. 12. Section 34A.15, subsection 2, Code 1997,  
40 is amended by striking the subsection and inserting in  
41 lieu thereof the following:

42 2. The council shall advise and make  
43 recommendations to the administrator regarding the  
44 implementation of this chapter. Such advice and  
45 recommendations shall be provided on issues at the  
46 request of the administrator or as deemed necessary by  
47 the council.

48 Sec. 13. Section 34A.15, Code 1997, is amended by  
49 adding the following new subsections:

50 NEW SUBSECTION. 2A. A member of the council shall

S-5479

-6-

7  
1 be reimbursed for actual and necessary expenses  
2 incurred in the performance of the member's duties, if  
3 such member is not otherwise reimbursed for such  
4 expenses.

5 Sec. 14. Section 34A.20, subsection 2, Code 1997,  
6 is amended to read as follows:

7 2. The authority shall cooperate with the  
8 ~~department-of-public-defense~~ administrator in the  
9 creation, administration, and funding of the E911  
10 program established in subchapter I.

11 Sec. 15. TRANSITION PROVISIONS.

12 1. The E911 administrator appointed pursuant to  
13 section 34A.2A, as enacted in this Act, shall be  
14 appointed by no later than July 1, 1998. The E911  
15 administrator shall determine and implement an initial  
16 surcharge as soon as possible, but at a minimum such  
17 surcharge shall be determined and implemented by no  
18 later than January 1, 1999.

19 2. a. There is appropriated from surcharge moneys  
20 received by the E911 administrator and deposited into  
21 the wireless E911 emergency communications fund, for  
22 the fiscal year beginning July 1, 1998, and ending  
23 June 30, 1999, an amount not to exceed two hundred  
24 thousand dollars to be used for the implementation,  
25 support, and maintenance of the functions of the E911  
26 administrator. The amount appropriated in this  
27 paragraph includes any amounts necessary to reimburse  
28 the division of emergency management of the department  
29 of public defense pursuant to paragraph "b".

30 b. Notwithstanding the distribution formula in  
31 section 34A.7A, as enacted in this Act, and prior to  
32 any such distribution, of the initial surcharge moneys  
33 received by the E911 administrator and deposited into  
34 the wireless E911 emergency communications fund, for  
35 the fiscal year beginning July 1, 1998, and ending  
36 June 30, 1999, an amount shall be transferred to the  
37 division of emergency management of the department of  
38 public defense as necessary to reimburse the division  
39 for amounts expended for the implementation, support,  
40 and maintenance of the E911 administrator, including  
41 the E911 administrator's salary.

42 3. a. Notwithstanding the distribution formula in  
43 section 34A.7A, as enacted in this Act, and after the  
44 distribution provided for in subsection 2 of this  
45 section and prior to any other distribution pursuant  
46 to section 34A.7A, of the surcharge moneys received by  
47 the E911 administrator and deposited into the wireless  
48 E911 emergency communications fund, for the fiscal  
49 year beginning July 1, 1998, and ending June 30, 1999,  
50 an amount not to exceed eighty thousand dollars shall

S-5479

Page 8

1 be transferred to the Iowa law enforcement academy to  
2 be used for implementation, maintenance, and support  
3 of telecommunicator training. For purposes of this  
4 paragraph, the total amount transferred includes any  
5 amounts transferred to the Iowa law enforcement  
6 academy under paragraph "b".

7 b. The Iowa law enforcement academy shall begin as  
8 soon as practicable the telecommunicator training as  
9 provided in this subsection. If the academy expends  
10 funds on or after July 1, 1998, for telecommunicator  
11 training and prior to the imposition of the surcharge  
12 under section 34A.7A, the E911 administrator, subject  
13 to the limit of eighty thousand dollars in paragraph  
14 "a", shall transfer from the wireless E911 emergency  
15 communications fund to the Iowa law enforcement  
16 academy an amount necessary to reimburse the academy  
17 for such amounts expended by the academy. The E911  
18 administrator and the Iowa law enforcement academy  
19 shall provide a written report to the fiscal committee  
20 of the legislative council and to the legislative  
21 fiscal bureau regarding amounts expended by the  
22 academy and reimbursed by the E911 administrator  
23 pursuant to this section.

24 c. The Iowa law enforcement academy, for  
25 telecommunicator training for fiscal years beginning  
26 on and after July 1, 1999, shall submit requests for  
27 funding through the general assembly's appropriation  
28 process in the same manner as the academy submits  
29 requests for other general fund appropriations.

30 4. a. The department of public defense is  
31 authorized two additional full-time equivalent  
32 positions for the purpose of implementing the  
33 amendments to chapter 34A in this Act. Included in  
34 these two full-time equivalent positions is the E911  
35 administrator appointed pursuant to section 34A.2A, as  
36 enacted in this Act.

37 b. The Iowa law enforcement academy is authorized  
38 one and one-half additional full-time equivalent  
39 positions for the purpose of implementing  
40 telecommunicator training as provided for in this Act.

41 Sec. 16. EFFECTIVE DATE. This Act, being deemed  
42 of immediate importance, takes effect upon enactment."

43 2. Title page, line 4, by inserting after the  
44 word "system" the following: ", and providing an  
45 effective date".

RECEIVED FROM THE HOUSE

S-5479 FILED APRIL 1, 1998

*Senate Concurred*  
*4-7-98*  
*(P. 1103)*

King, Chair  
Jensen  
Flynn

SSB-230

Commerce

Submitted By

SF/HF 530

SENATE FILE  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY  
CHAIRPERSON JENSEN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the establishment of an E911 commission and  
2 establishing a surcharge.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 34A.15, Code 1997, is amended by adding  
2 the following new subsections:

3 NEW SUBSECTION. 2A. a. Notwithstanding section 34A.6,  
4 the council, in consultation with the utilities board within  
5 the utilities division of the department of commerce, shall  
6 impose a monthly surcharge of up to one dollar on each  
7 wireless communications service account provided in this  
8 state.

9 b. The surcharge shall be collected as part of the  
10 wireless communications service provider's periodic billing to  
11 a subscriber. In compensation for the costs of billing and  
12 collection, the provider may retain one percent of the gross  
13 surcharges collected. The surcharges shall be remitted  
14 quarterly by the provider to the E911 communications council  
15 for deposit into the fund established in subsection 4. A  
16 provider is not liable for an uncollected surcharge for which  
17 the provider has billed a subscriber but not been paid. The  
18 surcharge shall appear as a single line item on a subscriber's  
19 periodic billing entitled, "E911 emergency telephone service  
20 surcharge". The E911 service surcharge is not subject to  
21 sales or use tax.

22 NEW SUBSECTION. 2B. Moneys collected pursuant to  
23 subsection 3 shall be deposited in a separate fund within the  
24 state treasury under the control of the council to be expended  
25 and distributed annually as follows:

26 a. Ten percent of the total surcharges collected or two  
27 hundred thousand dollars, whichever is greater, shall be  
28 retained by the council for implementation, support, and  
29 maintenance of the functions of the council.

30 b. (1) The remainder of the surcharge collected shall be  
31 divided into one hundred equal shares, with one share for each  
32 county, to be remitted to the joint E911 service board serving  
33 the county, with the remaining share to be remitted to the  
34 communications division of the Iowa highway safety patrol in  
35 the department of public safety, to be used for the

1 implementation of enhanced wireless communications  
2 capabilities.

3 (2) If a county does not have a joint E911 service board,  
4 that county's share of the surcharge shall be held in trust in  
5 a separate account in the state treasury until such time as  
6 the county establishes the board. If the county does not  
7 create a joint E911 service board by July 1, 2002, the council  
8 shall distribute the funds held in trust for that county  
9 equally to all remaining joint E911 service boards.

10 NEW SUBSECTION. 2C. For purposes of this section,  
11 "wireless communications service" means a radio-link telephone  
12 service providing dial tone access to a portable, mobile, or  
13 fixed location for which a charge is levied. "Wireless  
14 communications service" includes, but is not limited to, radio  
15 repeater stations operated in the specialized mobile radio  
16 service where the telephone service is secondary to the radio  
17 repeater use, and cellular communications services.

18 EXPLANATION

19 This bill provides that the E911 communications council, in  
20 consultation with the utilities board within the utilities  
21 division of the department of commerce, is to impose a monthly  
22 surcharge of up to one dollar on each wireless communications  
23 service account provided in this state. The surcharge is to  
24 be collected by the wireless communications service provider  
25 and remitted to the council. Such provider is authorized to  
26 retain one percent of the amount collected for administration.  
27 The council is to distribute the surcharge collected with 10  
28 percent or \$200,000, whichever is greater, to be retained by  
29 the council for implementation, support, and maintenance of  
30 the functions of the council, and the balance to be  
31 distributed in equal shares, with one share for the joint E911  
32 service board in each county and one share for the  
33 communications division of the Iowa highway safety patrol.  
34 Moneys distributed are to be used for the implementation of  
35 enhanced wireless communications capabilities. If a county

1 does not have a joint E911 service board, that county's share  
2 of the surcharge shall be held in trust in a separate account  
3 in the state treasury until such time as the county  
4 establishes a board. If the county does not create a joint  
5 E911 service board by July 1, 2002, the council shall  
6 distribute the funds held in trust for that county equally to  
7 all remaining joint E911 service boards.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35



SENATE FILE 530

AN ACT

RELATING TO THE ESTABLISHMENT OF AN E911 SURCHARGE, PROVIDING FOR THE DISTRIBUTION OF THE SURCHARGE, AND PROVIDING A POOLING MECHANISM FOR THE PURCHASE OF EQUIPMENT NECESSARY FOR AN E911 SYSTEM AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 16.161, Code 1997, is amended to read as follows:

16.161 AUTHORITY TO ISSUE E911 PROGRAM BONDS AND NOTES.

The authority shall assist the ~~department-of-public-defense administrator appointed pursuant to section 34A.2A~~ or as provided in chapter 34A, subchapter II and the authority shall have all of the powers delegated to it by a joint E911 service board or the department of public defense in a chapter 28E agreement with respect to the issuance and securing of bonds or notes and the carrying out of the purposes of chapter 34A.

Sec. 2. Section 16.161, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The authority shall provide a mechanism for the pooling of funds of two or more joint E911 service boards to be used for the joint purchasing of necessary equipment and reimbursement of land-line and wireless service providers' costs for upgrades necessary to provide E911 service. When two or more joint E911 service boards have agreed to pool funds for the purpose of purchasing necessary equipment to be used in providing E911 service, the authority shall issue bonds and notes as provided in sections 34A.20 through 34A.22.

Sec. 3. Section 34A.2, subsection 2, Code 1997, is amended to read as follows:

2. "Administrator" means the E911 administrator of the division of emergency management of the department of public defense appointed pursuant to section 34A.2A.

Sec. 4. Section 34A.2, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 5. NEW SECTION. 34A.2A ADMINISTRATOR -- APPOINTMENT -- DUTIES.

The administrator of the division of emergency management of the department of public defense shall appoint an E911 administrator to administer this chapter. The E911 administrator shall act under the supervisory control of the administrator of the division of emergency management of the department of public defense, and in consultation with the E911 communications council, and perform the duties specifically set forth in this chapter.

Sec. 6. Section 34A.3, subsection 1, Code 1997, is amended to read as follows:

1. JOINT 911 SERVICE BOARDS TO SUBMIT PLANS. The board of supervisors of each county shall establish a joint 911 service board not later than January 1, 1989. Each political subdivision of the state having a public safety agency serving territory within the county is entitled to voting membership on the joint 911 service board. Each private safety agency operating within the area is entitled to nonvoting membership on the board. A township which does not operate its own public safety agency, but contracts for the provision of public safety services, is not entitled to membership on the joint 911 service board, but its contractor is entitled to membership according to the contractor's status as a public or private safety agency. The joint 911 service board shall develop an enhanced 911 service plan encompassing at minimum the entire county, unless an exemption is granted by the administrator permitting a smaller E911 service area. The administrator may grant a discretionary exemption from the single county minimum service area requirement based upon an

E911 joint service board's or other E911 service plan operating authority's presentation of evidence which supports the requested exemption if the administrator finds that local conditions make adherence to the minimum standard unreasonable or technically infeasible, and that the purposes of this chapter would be furthered by granting an exemption. The minimum size requirement is intended to prevent unnecessary duplication of public safety answering points and minimize other administrative, personnel, and equipment expenses. An E911 service area must encompass a geographically contiguous area. No exemption shall be granted from the contiguous area requirement. The administrator may order the inclusion of a specific territory in an adjoining E911 service plan area to avoid the creation by exclusion of a territory smaller than a single county not serviced by surrounding E911 service plan areas upon request of the joint 911 service board representing the territory. The E911 service plan operating authority shall submit the plan on or before January 1, 1994, to all of the following:

- a. The division administrator.
- b. Public and private safety agencies in the enhanced 911 service area.
- c. Providers affected by the enhanced 911 service plan.

An E911 joint service board that has a state-approved service plan in place prior to July 1, 1993, is exempt from the provisions of this section. The division administrator shall establish, by July 1, 1994, E911 service plans for those E911 joint service boards which do not have a state-approved service plan in place on or before January 1, 1994.

The division administrator shall prepare a summary of the plans submitted and present the summary to the legislature on or before August 1, 1994.

Sec. 7. Section 34A.6, subsection 3, Code 1997, is amended to read as follows:

3. The secretary of state, in consultation with the administrator of the office of emergency management of the department of public defense, shall adopt rules for the conduct of joint E911 service referendums as required by and consistent with subsections 1 and 2.

Sec. 8. Section 34A.7, subsection 6, Code 1997, is amended to read as follows:

6. LIMITATION OF ACTIONS -- PROVIDER NOT LIABLE ON CAUSE OF ACTION RELATED TO PROVISION OF 911 SERVICES. A claim or cause of action does not exist based upon or arising out of an act or omission in connection with a land-line or wireless provider's participation in an E911 service plan or provision of 911 or local exchange access service, unless the act or omission is determined to be willful and wanton negligence.

Sec. 9. NEW SECTION. 34A.7A WIRELESS COMMUNICATIONS SURCHARGE -- FUND ESTABLISHED -- DISTRIBUTION AND PERMISSIBLE EXPENDITURES.

1. a. Notwithstanding section 34A.6, the administrator shall adopt by rule a monthly surcharge of up to fifty cents to be imposed on each wireless communications service number provided in this state. The surcharge shall be imposed uniformly on a statewide basis and simultaneously on all wireless communications service numbers as provided by rule of the administrator.

b. The administrator shall provide no less than one hundred days' notice of the surcharge to be imposed to each wireless communications service provider. The administrator, subject to the fifty cent limit in paragraph "a", may adjust the amount of the surcharge as necessary, but no more than once in any calendar year.

c. The surcharge shall be collected as part of the wireless communications service provider's periodic billing to a subscriber. In compensation for the costs of billing and collection, the provider may retain one percent of the gross surcharges collected. The surcharges shall be remitted

quarterly by the provider to the administrator for deposit into the fund established in subsection 2. A provider is not liable for an uncollected surcharge for which the provider has billed a subscriber but which has not been paid. The surcharge shall appear as a single line item on a subscriber's periodic billing indicating that the surcharge is for E911 emergency telephone service. The E911 service surcharge is not subject to sales or use tax.

2. Moneys collected pursuant to subsection 1 shall be deposited in a separate wireless E911 emergency communications fund within the state treasury under the control of the administrator. Section 8.33 shall not apply to moneys in the fund. Moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section. Moneys in the fund shall be expended and distributed annually as follows:

a. An amount as appropriated by the general assembly to the administrator for implementation, support, and maintenance of the functions of the administrator.

b. (1) The administrator shall retain funds necessary to reimburse wireless carriers for their costs to deliver E911 services. The administrator shall assure that wireless carriers recover all eligible costs associated with the implementation and operation of E911 services, including but not limited to hardware, software, and transport costs. The administrator shall adopt rules defining eligible costs which are consistent with federal law, regulations, and any order of a federal agency.

(2) The administrator shall provide for the reimbursement of wireless carriers on a quarterly basis. If the total amount of moneys available in the fund for the reimbursement of wireless carriers pursuant to subparagraph (1) is insufficient to reimburse all wireless carriers for such carriers' eligible expenses, the administrator shall remit an amount to each wireless carrier equal to the percentage of

such carrier's eligible expenses as compared to the total of all eligible expenses for all wireless carriers for the calendar quarter during which such expenses were submitted.

c. (1) The remainder of the surcharge collected shall be remitted to the administrator for distribution to the joint E911 service boards and the department of public safety pursuant to subparagraph (2) to be used for the implementation of enhanced wireless communications capabilities.

(2) The administrator, in consultation with the E911 communications council, shall adopt rules pursuant to chapter 17A governing the distribution of the surcharge collected and distributed pursuant to this lettered paragraph. The rules shall include provisions that all joint E911 service boards and the department of public safety which answer or service wireless E911 calls are eligible to receive an equitable portion of the receipts.

A joint E911 service board or the department of public safety, to receive funds from the E911 emergency communications fund, must submit a written request for such funds to the administrator in a form as approved by the administrator. A request shall be for funding under an approved E911 service plan for equipment which is directly related to the reception and disposition of incoming wireless E911 calls. The administrator may approve the distribution of funds pursuant to such request if the administrator finds that the requested funding is for equipment necessary for the reception and disposition of such calls and that sufficient funds are available for such distribution.

If insufficient funds are available to fund all requests, the administrator shall fund requests in an order deemed appropriate by the administrator after considering factors including, but not limited to, all of the following:

(a) Documented volume of wireless E911 calls received by each public safety answering point.

(b) The population served by each public safety answering point.

(c) The number of wireless telephones in the public safety answering point jurisdiction.

(d) The public safety of the citizens of this state.

(e) Any other factor deemed appropriate by the administrator, in consultation with the E911 communications council, and adopted by rule.

(3) The administrator shall submit an annual report by January 15 of each year advising the general assembly of the status of E911 implementation and operations, including both land-line and wireless services, and the distribution of surcharge receipts.

3. The amount collected from a wireless service provider and deposited in the fund, pursuant to section 22.7, subsection 6, information provided by a wireless service provider to the administrator consisting of trade secrets, pursuant to section 22.7, subsection 3, and other financial or commercial operations information provided by a wireless service provider to the administrator, shall be kept confidential as provided under section 22.7. This subsection does not prohibit the inclusion of information in any report providing aggregate amounts and information which does not identify numbers of accounts or customers, revenues, or expenses attributable to an individual wireless communications service provider.

4. For purposes of this section, "wireless communications service" means commercial mobile radio service, as defined under sections 3(27) and 332(d) of the federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq.; federal communications commission rules, and the Omnibus Budget Reconciliation Act of 1993. "Wireless communications service" includes any wireless two-way communications used in cellular telephone service, personal communications service, or the functional or competitive equivalent of a radio-

telephone communications line used in cellular telephone service, a personal communications service, or a network access line. "Wireless communications service" does not include services whose customers do not have access to 911 or a 911-like service, a communications channel utilized only for data transmission, or a private telecommunications system.

Sec. 10. Section 34A.15, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

An E911 communications council is established. The council consists of the following ~~eleven~~ thirteen members:

Sec. 11. Section 34A.15, subsection 1, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Two persons appointed by the Iowa wireless industry. One appointee shall represent cellular companies and the other appointee shall represent personal communications services companies.

Sec. 12. Section 34A.15, subsection 2, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

2. The council shall advise and make recommendations to the administrator regarding the implementation of this chapter. Such advice and recommendations shall be provided on issues at the request of the administrator or as deemed necessary by the council.

Sec. 13. Section 34A.15, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A member of the council shall be reimbursed for actual and necessary expenses incurred in the performance of the member's duties, if such member is not otherwise reimbursed for such expenses.

Sec. 14. Section 34A.20, subsection 2, Code 1997, is amended to read as follows:

2. The authority shall cooperate with the ~~department of public-defense~~ administrator in the creation, administration, and funding of the E911 program established in subchapter I.

Sec. 15. TRANSITION PROVISIONS.

1. The E911 administrator appointed pursuant to section 34A.2A, as enacted in this Act, shall be appointed by no later than July 1, 1998. The E911 administrator shall determine and implement an initial surcharge as soon as possible, but at a minimum such surcharge shall be determined and implemented by no later than January 1, 1999.

2. a. There is appropriated from surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for the fiscal year beginning July 1, 1998, and ending June 30, 1999, an amount not to exceed two hundred thousand dollars to be used for the implementation, support, and maintenance of the functions of the E911 administrator. The amount appropriated in this paragraph includes any amounts necessary to reimburse the division of emergency management of the department of public defense pursuant to paragraph "b".

b. Notwithstanding the distribution formula in section 34A.7A, as enacted in this Act, and prior to any such distribution, of the initial surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for the fiscal year beginning July 1, 1998, and ending June 30, 1999, an amount shall be transferred to the division of emergency management of the department of public defense as necessary to reimburse the division for amounts expended for the implementation, support, and maintenance of the E911 administrator, including the E911 administrator's salary.

3. a. Notwithstanding the distribution formula in section 34A.7A, as enacted in this Act, and after the distribution provided for in subsection 2 of this section and prior to any other distribution pursuant to section 34A.7A, of the surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for the fiscal year beginning July 1, 1998, and ending June 30, 1999, an amount not to exceed eighty thousand dollars

shall be transferred to the Iowa law enforcement academy to be used for implementation, maintenance, and support of telecommunicator training. For purposes of this paragraph, the total amount transferred includes any amounts transferred to the Iowa law enforcement academy under paragraph "b".

b. The Iowa law enforcement academy shall begin as soon as practicable the telecommunicator training as provided in this subsection. If the academy expends funds on or after July 1, 1998, for telecommunicator training and prior to the imposition of the surcharge under section 34A.7A, the E911 administrator, subject to the limit of eighty thousand dollars in paragraph "a", shall transfer from the wireless E911 emergency communications fund to the Iowa law enforcement academy an amount necessary to reimburse the academy for such amounts expended by the academy. The E911 administrator and the Iowa law enforcement academy shall provide a written report to the fiscal committee of the legislative council and to the legislative fiscal bureau regarding amounts expended by the academy and reimbursed by the E911 administrator pursuant to this section.

c. The Iowa law enforcement academy, for telecommunicator training for fiscal years beginning on and after July 1, 1999, shall submit requests for funding through the general assembly's appropriation process in the same manner as the academy submits requests for other general fund appropriations.

4. a. The department of public defense is authorized two additional full-time equivalent positions for the purpose of implementing the amendments to chapter 34A in this Act. Included in these two full-time equivalent positions is the E911 administrator appointed pursuant to section 34A.2A, as enacted in this Act.

b. The Iowa law enforcement academy is authorized one and one-half additional full-time equivalent positions for the purpose of implementing telecommunicator training as provided for in this Act.

Sec. 16. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

---

MARY E. KRAMER  
President of the Senate

---

RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 530, Seventy-seventh General Assembly.

---

MARY PAT GUNDERSON  
Secretary of the Senate

Approved April 16, 1998

---

TERRY E. BRANSTAD  
Governor