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*** Bill No. ***

Introduced By *****

By Request of the Department of Administration

A Bill for an Act entitled: "An Act revising 9-1-1 laws; providing for tribal government participation in the 9-1-1 advisory council, 9-1-1 planning activities, and 9-1-1 distributions; requiring the department of administration to establish allowable uses for certain distributions; clarifying distributions; providing the department with rulemaking authority; allowing grants to pay for administrative costs; allowing annual transfers to the next-generation 9-1-1 infrastructure, 9-1-1 GIS mapping, and statewide 9-1-1 planning accounts; making permanent the next-generation 9-1-1 infrastructure grant program, 9-1-1 GIS mapping program, and statewide 9-1-1 planning program; extending statewide 9-1-1 planning authority; amending sections 10-4-101, 10-4-105, 10-4-107, 10-4-108, 10-4-109, 10-4-304, 10-4-305, 10-4-306, and 10-4-309, MCA; amending section 32, chapter 367, laws of 2017; transferring funds; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

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Section 1. Section 10-4-101, MCA, is amended to read:

10-4-101. *(Effective July 1, 2018)* **Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "9-1-1 system" means telecommunications facilities, circuits, equipment, devices, software, and associated contracted services for the transmission of emergency communications. A 9-1-1 system includes the transmission of emergency communications:

(a) from persons requesting emergency services to a primary public safety answering point and communications systems for the direct dispatch, relay, and transfer of emergency communications; and

(b) to or from a public safety answering point to or from emergency service units.

(2) "Access line" means a voice service of a provider of exchange access services, a wireless provider, or a provider of interconnected voice over IP service that has enabled and activated service for its subscriber to contact a public safety answering point via a 9-1-1 system by entering or dialing the digits 9-1-1. When the service has the capacity, as enabled and activated by a provider, to

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make more than one simultaneous outbound 9-1-1 call, then each separate simultaneous outbound call, voice channel, or other capacity constitutes a separate access line.

(3) "Commercial mobile radio service" means:

(a) a mobile service that is:

(i) provided for profit with the intent of receiving compensation or monetary gain;

(ii) an interconnected service; and

(iii) available to the public or to classes of eligible users so as to be effectively available to a substantial portion of the public; or

(b) a mobile service that is the functional equivalent of a mobile service described in subsection (3)(a).

(4) "Department" means the department of administration provided for in Title 2, chapter 15, part 10.

(5) "Emergency communications" means any form of communication requesting any type of emergency services by contacting a public safety answering point through a 9-1-1 system, including voice, nonvoice, or video communications, as well as transmission of any text message or analog digital data.

(6) "Emergency services" means services provided by a public or private safety agency, including law enforcement,

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firefighting, ambulance or medical services, and civil defense services.

(7) "Exchange access services" means:

(a) telephone exchange access lines or channels that provide local access from the premises of a subscriber in this state to the local telecommunications network to effect the transfer of information; and

(b) unless a separate tariff rate is charged for the exchange access lines or channels, a facility or service provided in connection with the services described in subsection (7) (a).

(8) "Interconnected voice over IP service" means a service that:

(a) enables real-time, two-way voice communications;

(b) requires a broadband connection from a user's location;

(c) requires IP-compatible customer premises equipment; and

(d) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(9) "IP" means internet protocol, or the method by which data are sent on the internet, or a communications protocol

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for computers connected to a network, especially the internet.

(10) "Local government" has the meaning provided in 7-11-1002.

(11) "Next-generation 9-1-1" means a system composed of hardware, software, data, and operational policies and procedures that:

(a) provides standardized interfaces from call and message services;

(b) processes all types of emergency calls, including nonvoice or multimedia messages;

(c) acquires and integrates additional data useful to emergency communications;

(d) delivers the emergency communications or messages, or both, and data to the appropriate public safety answering point and other appropriate emergency entities;

(e) supports data and communications needs for coordinated incident response and management; and

(f) provides a secure environment for emergency communications.

(12) "Originating service provider" means an entity that provides capability for a retail customer to initiate emergency communications.

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(13) "Per capita basis" means a calculation made to allocate a monetary amount for each person residing within the jurisdictional boundary of a county according to the most recent decennial census compiled by the United States bureau of the census.

(14) "Private safety agency" means an entity, except a public safety agency, providing emergency fire, ambulance, or medical services.

(15) "Provider" means a public utility, a cooperative telephone company, a wireless provider, a provider of interconnected voice over IP service, a provider of exchange access services, or any other entity that provides access lines.

(16) "Public safety agency" means a functional division of a local government or the state that dispatches or provides law enforcement firefighting, or emergency medical services or other emergency services.

(17) "Public safety answering point" means a communications facility operated on a 24-hour basis that first receives emergency communications from persons requesting emergency services and that may, as appropriate, directly dispatch emergency services or transfer or relay

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the emergency communications to appropriate public safety agencies.

(18) "Relay" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, notes the pertinent information from the caller and relays the information to the appropriate public safety agency, other agencies, or other providers of emergency services for dispatch of an emergency unit.

(19) "Subscriber" means an end user who has an access line or who contracts with a wireless provider for commercial mobile radio services.

(20) "Transfer" means a service in which a public safety answering point, upon receipt of a telephone request for emergency services, directly transfers the request to an appropriate public safety agency or other emergency services provider.

(21) "Tribal government" has the meaning provided in 2-15-141.

~~(21)~~(22) "Wireless provider" means an entity, as defined in 35-1-113, that is authorized by the federal communications commission to provide facilities-based commercial mobile radio service within this state."

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{Internal References to 10-4-101:
2-17-506x 7-31-201x 7-31-203x 53-19-306x}

Section 2. Section 10-4-105, MCA, is amended to read:

"10-4-105. 9-1-1 advisory council. (1) There is a 9-1-1 advisory council.

(2) The council consists of ~~17~~ 18 members appointed by the governor as follows:

(a) the director of the department or the director's designee, who serves as presiding officer of the council;

(b) a representative of the department of justice, Montana highway patrol;

(c) a representative of the Montana emergency medical services association;

(d) three representatives of Montana telecommunications providers, including at least one wireless provider;

(e) a representative of the Montana association of public safety communications officials;

(f) two public safety answering point managers, one serving a population of less than 30,000 and one serving a population of greater than 30,000;

(g) a representative of the department of military affairs, disaster and emergency services division;

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(h) a representative of the Montana association of chiefs of police;

(i) a representative of the Montana sheriffs and peace officers association;

(j) a representative of the Montana state fire chiefs' association;

(k) a representative of the Montana state volunteer firefighters association;

(l) a representative of the Montana association of counties;

(m) a representative of the Montana league of cities and towns; and

(n) the state librarian or the state librarian's designee; and

(o) the state director of Indian affairs.

(3) The council is attached to the department for administrative purposes only, as provided in 2-15-121.

(4) The council shall, within its authorized budget, hold quarterly meetings.

(5) Council members shall serve without additional salary but are entitled to reimbursement for travel expenses incurred while engaged in council activities as provided for in 2-18-501 through 2-18-503."

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{Internal References to 10-4-105:

10-4-107a 10-4-108a 10-4-306a 10-4-309a 10-4-315x}

Section 3. Section 10-4-107, MCA, is amended to read:

"10-4-107. Department duties and powers -- 9-1-1

planning. (1) There is a 9-1-1 program administered by the department.

(2) The department shall:

(a) allocate and distribute 9-1-1 fees;

(b) update the allocation and distribution of 9-1-1 fees in accordance with 10-4-305 and rules adopted pursuant to 10-4-108;

(c) provide grants in accordance with 10-4-306. In awarding the grants, the department shall review and approve requests for funding in accordance with 10-4-306.

(d) monitor the expenditure of program funds for:

(i) 9-1-1 purposes by local and tribal governments that host public safety answering points; and

(ii) allowable uses of grant funds by entities;

(e) plan for, establish, and maintain a statewide 9-1-1 plan in accordance with subsection (3) ~~and planning completed in accordance with 10-4-315;~~

(f) staff and fund the administrative costs of the 9-1-1 advisory council established in 10-4-105; ~~and~~

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(g) accept federal funds granted by congress or by executive order and gifts, grants, and donations for the purposes of administering this chapter~~;~~ and

(h) establish allowable uses of funds by local and tribal governments that host public safety answering points that receive distributions pursuant to 10-4-305 and ensure that funds are expended only for these allowable uses.

(3) A statewide 9-1-1 plan must include:

(a) to the maximum extent feasible the use of existing commercial communications infrastructure; ~~and~~

(b) 9-1-1 system standards and support efforts to migrate legacy technologies to next-generation 9-1-1 technologies when appropriate and to provide for the implementation of future 9-1-1 technologies. Any standards adopted by the department for legacy 9-1-1 technologies or principles adopted for baseline next-generation 9-1-1 technologies must be:

(i) flexible and graduated, while ensuring minimum service levels; and

(ii) based on industry standards~~;~~ i

(c) priorities for 9-1-1 systems in Montana and plans for next-generation 9-1-1 technology deployment; and

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(d) steps to promote collaboration among local and tribal governments and greater incentives for cooperation among local and tribal governments and public safety answering points to improve efficiency by developing interconnectivity of 9-1-1 systems through partnerships for enhancement, operation, and maintenance of the network.

(4) The department, in fulfilling its duties pursuant to subsection (2), may request necessary information from local and tribal governments. If a local or tribal government does not comply with the request, the department may withhold funding distributions as provided for in 10-4-109."

{*Internal References to 10-4-107:*
*10-4-105a **}

Section 4. Section 10-4-108, MCA, is amended to read:

"10-4-108. Rulemaking authority. (1) ~~Before July 1, 2018,~~
~~the~~ The department shall adopt rules to implement the provisions of this chapter. The rules must include but are not limited to:

(a) distribution procedures for funding authorized in 10-4-305(1);

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(b) procedures for grant funding authorized in 10-4-306.

The rules for grant funding must include but are not limited to:

(i) eligibility requirements for entities applying for grants;

(ii) criteria for awarding grants; and

(iii) reporting procedures for grant recipients;

(c) postdisbursement activities by the department to monitor the use of funding by entities, including:

(i) reporting requirements; and

(ii) procedures for repayment of funds expended on activities determined not to meet eligibility requirements.

(2) ~~Before January 1, 2019, the~~ The department shall adopt rules including but not limited to:

(a) technology standards, based on industry standards and a statewide 9-1-1 plan ~~pursuant to 10-4-315~~ established in accordance with 10-4-107(3), to ensure that public safety answering points meet minimum 9-1-1 services levels; and

(b) baseline next-generation 9-1-1 principles to facilitate the appropriate deployment of baseline next-generation 9-1-1.

(3) (a) ~~Before January 1, 2022, the~~ The department shall adopt rules for the quarterly allocation and distribution

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of funds in the account provided for in 10-4-304(2) (a) in accordance with 10-4-305(2) ~~and (3)~~ to local and tribal government entities that host public safety answering points.

(b) The rules adopted for allocation must be based on the official final decennial census figures and must ensure that each local and tribal government entity that hosts a public safety answering point receives funding. The allocation must account for:

(i) historic allocations provided to a local or tribal government entity that hosts a public safety answering point;

(ii) the population of counties, cities, Indian reservations, or other government entities served by the public safety answering point;

(iii) population trends; and

(iv) other factors determined by the department, in consultation with the 9-1-1 advisory council provided for in 10-4-105, critical to the funding allocation.

(c) The department's allocation may not distribute funds in a manner that discourages public safety answering points from consolidating or combining.

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(4) The department shall adopt rules in accordance with the Montana Administrative Procedure Act provided for in Title 2, chapter 4, to implement the provisions of this section."

{Internal References to 10-4-108:

10-4-106x 10-4-107a 10-4-109a 10-4-304a 10-4-305a
10-4-306a}

Section 5. Section 10-4-109, MCA, is amended to read:

"10-4-109. Local and tribal government entities and funding -- department delegation. (1) After the department determines baseline next-generation 9-1-1 principles in accordance with rules adopted pursuant to 10-4-108(2) and a statewide 9-1-1 plan, the department shall delegate implementation to local and tribal government entities that host public safety answering points.

(2) If the department determines through its monitoring process that a local or tribal government entity that hosts a public safety answering point is not using funds in the manner prescribed in this chapter or has failed to provide information required by the department, the department may, after notice and hearing, suspend payment to the local or tribal government entity. The local or tribal government entity is not eligible to receive funds until the department determines that the local or tribal government

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is complying with department requirements or has provided the requested information."

{Internal References to 10-4-109:
10-4-107a}

Section 6. Section 10-4-304, MCA, is amended to read:

"10-4-304. Establishment of 9-1-1 accounts. (1) Beginning July 1, 2018, there is established in the state special revenue fund an account for fees collected for 9-1-1 services pursuant to 10-4-201.

(2) Funds in the account are statutorily appropriated to the department, as provided in 17-7-502. Except as provided in subsection (3), beginning July 1, 2018, funds that are not used for the administration of this chapter by the department are allocated as follows:

(a) 75% of the account must be deposited in an account for distribution to local and tribal government entities that host public safety answering points in accordance with 10-4-305 and with rules adopted by the department in accordance with 10-4-108; and

(b) 25% of the account must be deposited in an account for distribution in the form of grants ~~to private telecommunications providers, local government entities that host public safety answering points, or both~~ provided

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in accordance with 10-4-306 and with rules adopted by the department in accordance with 10-4-108.

(3) Beginning July 1, 2018, all money received by the department of revenue pursuant to 10-4-201 must be paid to the state treasurer for deposit in the appropriate account.

(4) There is an account in the state special revenue fund known as the next-generation 9-1-1 infrastructure account to be used only by the department to provide grants for next-generation 9-1-1 infrastructure as provided in 10-4-309 to a local or tribal government entity working with a private telecommunications provider for distribution in the form of grants to local and tribal government entities that host public safety answering points, in accordance with 10-4-309. Funds in the account are statutorily appropriated to the department, as provided in 17-7-502.

(5) There is an account in the state special revenue fund known as the 9-1-1 GIS mapping account. The account may be used only by the state library provided for in 22-1-201 in carrying out its land information and management duties to award contracts in accordance with the Montana Procurement Act to assess the status of GIS adoption and operations in Montana as they pertain to next-generation 9-1-1. Funds in

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the account are statutorily appropriated to the department,
as provided in 17-7-502.

(6) There is an account in the state special revenue fund
known as the statewide 9-1-1 planning account. The account
may be used only by the department to plan for, establish,
and maintain a statewide 9-1-1 plan provided for in 10-4-
107(3). Funds in the account are statutorily appropriated
to the department, as provided in 17-7-502.

~~(4)~~ (7) The accounts established in ~~subsections (1) and~~
~~(2)~~ this section retain interest earned from the investment
of money in the accounts.

(8) The department, in consultation with the 9-1-1
advisory council provided for in 10-4-105, is authorized to
transfer from the account provided for in (2) (b) a total
sum not to exceed \$250,000 in each state fiscal year to any
or all of the accounts provided for in subsections (4)
through (6)."

{Internal References to 10-4-304:
10-4-108a 10-4-305a 10-4-305a 10-4-306a 10-4-308x
10-4-314x 10-4-315x 17-7-502x}

Section 7. Section 10-4-305, MCA, is amended to read:

**"10-4-305. Distribution of 9-1-1 systems account by
department.** (1) Beginning July 1, 2018, and for each
quarter after that until ~~the first quarter of the 2023~~

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~~fiscal year~~ rules are adopted in accordance with 10-4-108(3), the department shall distribute the total quarterly balance of the account provided for in 10-4-304(2) (a) as follows:

(a) each local and tribal government entity that hosts a public safety answering point must receive an allocation of the total quarterly balance of the account equal in proportion to the quarterly share received by the local or tribal government entity that hosts the public safety answering point during the 2017 fiscal year;

(b) each local and tribal government entity that hosts a public safety answering point must receive an allocation in accordance with subsection (1) (a). The allocation may vary from the amount distributed during the 2017 fiscal year based on the amount collected by the department of revenue in accordance with 10-4-201(1) (a).

(2) ~~Beginning July 1, 2022, and in accordance with subsection (3), the~~ The department shall allocate and distribute the total quarterly balance of the account provided for in 10-4-304(2) (a) based on rules adopted by the department in accordance with 10-4-108(3).

~~(3) Within 1 year after the official final decennial census figures are available, the department shall update~~

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~~the rules establishing the quarterly allocation and distribution provided for in subsection (2) and allocate and distribute the quarterly balance for each quarter after that until the next update."~~

{Internal References to 10-4-305:

10-4-106x 10-4-107a 10-4-108a 10-4-108a 10-4-201x 10-4-304a}

Section 8. Section 10-4-306, MCA, is amended to read:

"10-4-306. 9-1-1 grants. (1) The department shall, in consultation with the 9-1-1 advisory council created pursuant to 10-4-105, award competitive grants annually using the account established pursuant to 10-4-304(2) (b) for private telecommunications providers and for local and tribal government entities that host public safety answering points. ~~Beginning July 1, 2018, grants~~ Grants must be awarded ~~to private telecommunications providers, local government entities that host public safety answering points, or both~~ in accordance with this section and with rules adopted by the department in accordance with 10-4-108.

(2) In accordance with subsection (3), grants may be awarded to private telecommunications providers and to local and tribal government entities that host public safety answering points for:

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- (a) emergency telecommunications systems plans;
- (b) project feasibility studies or project plans;
- (c) the implementation, operation, and maintenance of 9-1-1 systems, equipment, devices, and data; ~~and~~
- (d) the purchase of services that support 9-1-1 systems-; and
- (e) grant administration.

(3) In awarding grants, preference must be given to applications in the following order of priority:

(a) requests by private telecommunications providers or by local or tribal government entities that host public safety answering points by working with a private telecommunications provider; and

(b) requests by local or tribal government entities that host public safety answering points.

(4) Nothing in this section prevents a local or tribal government entity that hosts a public safety answering point in accordance with this section from:

(a) providing grant money received by the local or tribal government entity to a private telecommunications provider for 9-1-1 purposes; or

(b) collaborating with another local or tribal government entity on a joint grant application."

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{Internal References to 10-4-306:
10-4-106x 10-4-107a 10-4-107a 10-4-108a
10-4-201x 10-4-304a}

Section 9. Section 10-4-309, MCA, is amended to read:

"10-4-309. (Temporary) Next-generation 9-1-1

infrastructure grants -- criteria -- rulemaking. (1) The department shall, in consultation with the 9-1-1 advisory council created in 10-4-105, award competitive grants using the account established in 10-4-304(4) Money deposited in the next-generation 9-1-1 infrastructure account established in 10-4-308 may be expended by the department through a grant to a local or tribal government that hosts a public safety answering point for next-generation 9-1-1 working with a private telecommunications provider for next-generation 9-1-1 infrastructure.

(2) For the purposes of ~~10-4-308~~ and this section, the following definitions apply:

(a) "ESInet" means an emergency services IP network. It includes the IP infrastructure on which independent application platforms and core functional processes are deployed.

(b) "IP" means internet protocol, or the method by which data are sent on the internet, or a communications protocol

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for computers connected to a network, especially the internet.

(c) "Next-generation 9-1-1 infrastructure" means a statewide ESInet, upgrades and replacement of existing selective routers with IP routers, and upgrades to all non-IP-capable public safety answering points for IP capability.

(3) In making grant awards under this section, the department shall give preference to local and tribal governments working with private telecommunications providers that the local or tribal government determines can most effectively implement infrastructure improvements.

(4) The department shall consult with and consider recommendations by the 9-1-1 advisory council established in 10-4-105 for awards made under this section.

(5) The department may adopt rules to administer the provisions of ~~10-4-308~~ and this section. The rules must ensure that all local and tribal governments are treated equitably and must include but are not limited to provisions regarding:

- (a) applications;
- (b) timelines;
- (c) eligibility, including proof of eligibility;

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(d) the procedure for establishing the priority of grant awards;

(e) the appeal process for grant applications that are denied; and

(f) disbursement of grant money to providers.

~~(6) Before September 1, 2018, the department shall report to the energy and telecommunications interim committee provided for in 5-5-230 on efforts to distribute grants in accordance with 10-4-308 and this section.~~

~~(7)~~(6) Before September 1, 2019, the The department shall produce a report summarizing the grants provided, how the grant money was spent, and the program data and information reported by grant recipients. The department shall provide the report to the energy and telecommunications interim committee. *(Terminates October 1, 2019--sec. 32, Ch. 367, L. 2017.)*

{Internal References to 10-4-309:

10-4-307x 10-4-308x 10-4-308x 10-4-308x}

Section 10. Section 32, Chapter 367, Laws of 2017, is amended to read:

"Section 32. Termination. [Sections 9, 10, 12 and through 13] terminate October 1, 2019."

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Section 11. Transfer of funds. (1) When the account in 10-4-304(4) is created, any unexpended balance in the account provided for in 10-4-308 must be transferred to the account established by the department in accordance with 10-4-304(4).

(2) When the account in 10-4-304(5) is created, any unexpended balance in the account provided for in 10-4-314 must be transferred to the account established by the department in accordance with 10-4-304(5).

(3) When the account in 10-4-304(6) is created, any unexpended balance in the account provided for in 10-4-315 must be transferred to the account established by the department in accordance with 10-4-304(6).

Section 12. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government locates on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 13. {standard} Effective date. [This act] is effective on passage and approval.)

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