

Unofficial Draft Copy

As of: April 25, 2016 (8:13am)

LCET01

**** Bill No. ****

Introduced By *****

By Request of the Energy and Telecommunications Interim Committee

A Bill for an Act entitled: "An Act revising the allocation of 9-1-1 fees; requiring that fees collected for wireless enhanced 9-1-1 services be reallocated under certain circumstances; establishing a reallocation process; establishing a next generation 9-1-1 infrastructure account; creating a next generation 9-1-1 infrastructure grant program; providing criteria to the department of administration for awarding next generation 9-1-1 infrastructure grants; granting the department rulemaking authority; establishing a GIS mapping account; requiring the state library to award a contract for a GIS assessment; establishing a statewide 9-1-1 planning account; requiring the department to award a contract to develop a statewide 9-1-1 plan; amending sections 10-4-301, and 10-4-313, MCA; providing an immediate effective date; and providing a termination date."

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

NEW SECTION. Section 1. Next generation 9-1-1 infrastructure fund created -- source of funding -- use of fund.

(1) There is an account in the state special revenue fund established by 17-2-102 to be known as the next generation 9-1-1 infrastructure fund.

(2) There must be deposited in the account:

- (a) money received from legislative allocations;
 - (b) a transfer of money in accordance with 10-4-313(4)(a)(i) for the purposes of [section 2]; and
 - (c) a gift, donation, grant, legacy, bequest, or devise made for the purposes of [section 2].
- (3) Except as provided in subsection (4), the fund may be used only by the department to provide grants for next generation 9-1-1 infrastructure as provided in [section 2] to a local government working with a private telecommunications providers.
- (5) At the end of fiscal year 2019, any unexpended balance in the fund shall revert to the account established in 10-4-301(1)(c)(ii).

NEW SECTION. Section 2. Next generation 9-1-1 infrastructure grants -- criteria -- rulemaking. (1) Money deposited in the next-generation 9-1-1 infrastructure grant account established in [section 1] may be expended by the department through grants to local governments working with private telecommunications providers for next generation 9-1-1 infrastructure.

- (2) For the purposes of [section 1] and this section:
- (a) "ESInet" means an emergency services IP network. It includes the IP infrastructure upon 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 for computers connected to a network, especially the internet.

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(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 as defined in 10-4-101 for IP capability.

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

(4) The department shall consult with and consider recommendations by the advisory council established in 10-4-102(2) for awards made under this section.

(5) The department may adopt rules to administer the provisions of [section 1] and this section. The rules must ensure that all local governments are treated equitably and must include, but are not limited to, provisions regarding:

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

(7) Before September 1, 2018, the department shall update the energy and telecommunications interim committee provided for in 5-5-230 on efforts to distribute grants in accordance with

[section 1] and this section.

(8) Before September 1, 2019, 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 provided for in 5-5-230.

NEW SECTION. Section 3. 9-1-1 GIS mapping fund created -- source of funding -- use of fund. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the 9-1-1 GIS mapping fund.

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money by the department in accordance with 10-4-313(4)(a)(ii) for use in accordance with subsection (3); and

(c) a gift, donation, grant, legacy, bequest, or devise made for the purposes of subsection (3).

(3) The fund may be used only by the state library provided for in 22-1-102 in carrying out its land information and management duties to award a contract in accordance with 18-1-102 to assess the status of GIS adoption and operations in Montana as it pertains to next generation 9-1-1.

(4) Before September 1, 2018, the state library shall produce a report summarizing the status of GIS adoption and operations in Montana as it pertains to next generation 9-1-1, including policy and funding recommendations necessary to use GIS

to advance next generation 9-1-1. The state library shall provide the report to the energy and telecommunications interim committee provided for in 5-5-230.

(5) At the end of fiscal year 2019, any unexpended balance in the fund shall revert to the account established in 10-4-301(1)(c)(ii).

NEW SECTION. **Section 4. Statewide 9-1-1 planning fund created -- source of funding -- use of fund.** (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the statewide 9-1-1 planning fund.

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money in accordance with 10-4-313(4)(a)(iii) for use in accordance with subsections (3) through (5); and

(c) a gift, donation, grant, legacy, bequest, or devise made for the purposes of subsections (3) through (5).

(3) The fund may be used only by the department to award a contract in accordance with 18-1-102 and after consulting with the 9-1-1 advisory council established pursuant to 10-4-102(2) to develop a statewide 9-1-1 plan.

(4) A statewide 9-1-1 plan must include proposed:

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

(b) potential formulas and methods to distribute 9-1-1 money;

(c) uniform standards relating to technology, next generation 9-1-1 technology, and administration and operation of 9-1-1 systems in Montana;

(d) steps to promote collaboration among local governments and greater incentives for cooperation among local 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;

(e) eligible uses for money received by local governments in accordance with this chapter;

(f) audits or other steps necessary to ensure program compliance from entities receiving disbursements in accordance with this chapter; and

(g) additional changes needed to this chapter to migrate legacy 9-1-1 systems and to accommodate evolving, future 9-1-1 technologies.

(5) Before September 1, 2018, the 9-1-1 advisory council shall review the proposals and make its recommendations to the department on implementing the recommendations.

(6) At the end of fiscal year 2019, any unexpended balance in the fund shall revert to the account established in 10-4-301(1)(c)(ii).

Section 5. Section 10-4-301, MCA, is amended to read:

"10-4-301. Establishment of emergency telecommunications accounts. (1) There are established in the state special revenue

fund in the state treasury:

(a) an account for all fees collected for basic 9-1-1 services pursuant to 10-4-201(1) (a);

(b) an account for all fees collected for enhanced 9-1-1 services pursuant to 10-4-201(1) (b); and

(c) an account for all fees collected for wireless enhanced 9-1-1 services pursuant to 10-4-201(1) (c). The money is allocated as follows:

(i) 50% of the account must be deposited in an account for distribution to the 9-1-1 jurisdictions; and

(ii) 50% of the account must be deposited in an account for distribution to wireless providers or must be deposited in accordance with 10-4-313(4).

(2) 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. An amount equal to 2.74% of the money received pursuant to 10-4-201 must be deposited in an account in the state special revenue fund to be used for the administration of this chapter. Any remaining funds at the end of a fiscal year must be equally distributed to each of the four accounts provided for in subsection (1).

(3) The accounts established in subsection (1) retain interest earned from the investment of money in the accounts.

(4) After payment of refunds pursuant to 10-4-205, the balance of the respective accounts must be used for the purposes described in part 1 of this chapter.

(5) The distribution of funds in the 9-1-1 emergency

telecommunications accounts described in subsection (1), as required by 10-4-302, 10-4-311, and 10-4-313, is statutorily appropriated, as provided in 17-7-502, to the department.

(6) Expenditures for actual and necessary expenses required for the efficient administration of the plan must be made from appropriations made for that purpose."

{ Internal References to 10-4-301:

| | | | |
|----------|----------|----------|------------|
| 10-4-101 | 10-4-101 | 10-4-101 | 10-4-313 |
| 10-4-313 | 10-4-313 | 10-4-313 | 17-7-502 } |

Section 6. Section 10-4-313, MCA, is amended to read:

"10-4-313. Distribution of wireless enhanced 9-1-1 account by department. (1) Except as provided in ~~subsection (2)~~ subsections (2) and (4), the department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account for allowable costs described in 10-4-301(1)(c)(ii) incurred by each wireless provider in each 9-1-1 jurisdiction as follows:

(a) For each fiscal year through the fiscal year ending June 30, 2019:

(i) 84% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. The wireless provider in each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be allocated evenly to the wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state;

and

(iii) prior to distribution, the amounts allocated under subsections (1)(a)(i) and (1)(a)(ii) must be adjusted to ensure that a wireless provider does not receive less than the amount allocated to wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state.

(b) For fiscal years beginning after June 30, 2019, 100% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. Each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(c) If the department is unable to fully reimburse a wireless provider under subsection (1)(a) in any quarter, the department shall in the subsequent quarter pay from the allocation under subsection (1)(a) to wireless providers any unpaid balances from the previous quarter. If the amount available is insufficient to pay all previous unpaid balances, the department shall repeat the process of paying unpaid balances that remain unpaid for as many quarters as necessary until all unpaid balances are fully paid. The department shall review all invoices for appropriateness of costs claimed by the wireless provider. If the wireless provider contests the review, payment may not be made until the amount owed to the wireless provider is determined.

(d) A wireless provider shall submit an invoice for cost recovery according to the allowable costs.

(e) The department shall determine the percentage of

overall subscribers, based on billing addresses, within the 9-1-1 jurisdiction for each wireless provider seeking cost recovery by dividing the wireless provider's subscribers by the total number of subscribers in that 9-1-1 jurisdiction. The percentage must be applied to the total wireless provider funds for that 9-1-1 jurisdiction, and each wireless provider shall receive distribution based on the provider's percentage. To receive cost recovery, wireless providers shall submit subscriber counts to the department on a quarterly basis. The subscriber count must be provided for each 9-1-1 jurisdiction in which the wireless provider receives cost recovery within 30 calendar days following the end of each quarter. The department shall recalculate distribution percentages on a quarterly basis.

(f) If the department determines that a wireless provider has submitted costs that exceed allowable costs or are not submitted in the manner prescribed in 10-4-115, the department may, after giving notice to the wireless provider, suspend or withhold payment from the wireless enhanced 9-1-1 account.

(2) (a) Except as provided in subsection (3) and after the distribution for the final quarter of each fiscal year is made pursuant to subsection (1), the department, within 45 days of the end of the final quarter of each fiscal year, shall:

(i) determine an amount equal to 50% of the total balance included in the account under 10-4-301(1)(c)(ii); and

(ii) except as provided in subsection (2)(b), distribute the amount determined in accordance with subsection (2)(a)(i) to wireless providers to reimburse the unpaid balances carried over

by wireless providers pursuant to subsection (1)(c).

(b) If the amount determined pursuant to subsection (2)(a)(i) is insufficient to reimburse all wireless providers in full in accordance with subsection (2)(a)(ii), the department shall proportionately, based on outstanding balances, distribute the money to each wireless provider that has an unpaid balance carried over pursuant to subsection (1)(c).

(3) Funds may not be reallocated in accordance with subsection (2) if the county contains less than 1% of the state population.

(4)(a) After the distributions for the final quarter of the 2017 fiscal year are made pursuant to subsections (1) and (2), the department shall transfer:

(i) \$5 million into the next generation 9-1-1 infrastructure account established in accordance with [section 1];

(ii) \$80,000 into the GIS-mapping account established in accordance with [section 3]; and

(iii) \$350,000 into the statewide 9-1-1 planning account established in accordance with [section 4].

(b) The allocations in subsection (4)(a) may only be used in accordance with [section 1 through 4].

~~(4)(5)~~ Any Except as provided in subsection (4) of this section, reallocated funds not distributed in accordance with subsection (2) must be returned to the account established under 10-4-301(1)(c).

~~(5)(6)~~ The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account described in

10-4-301(1)(c)(i) to each 9-1-1 jurisdiction as follows:

(a) for each fiscal year through the fiscal year ending June 30, 2019:

(i) 84% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be allocated evenly to the counties with 1% or less than 1% of the total population of the state; and

(iii) prior to distribution, the amounts allocated under subsections ~~(5)(a)(i) and (5)(a)(ii)~~ (6)(a)(i) and (6)(a)(ii) must be adjusted to ensure that a county does not receive less than the amount allocated to counties with 1% or less of the total population of the state; and

(b) for fiscal years beginning after June 30, 2019, 100% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account."

{*Internal References to 10-4-313:*
10-4-301x }

NEW SECTION. Section 7. {standard} Codification

instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 10, chapter 4, part 3, and the provisions of Title 10, chapter 4, part 3, apply to [sections 1

through 4].

NEW SECTION. **Section 8. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 9. {standard} Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 10. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 11. {standard} Termination.** [This act] terminates October 1, 2019.

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