

## 1 HOUSE BILL NO. 604

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8  
9 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PUBLIC SAFETY COMMUNICATIONS LAWS;  
10 ESTABLISHING A STATEWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM ACT; ESTABLISHING A  
11 STATEWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM ADMINISTERED BY THE DEPARTMENT OF  
12 JUSTICE; ESTABLISHING PRINCIPLES AND GUIDELINES FOR THE SYSTEM AND ADMINISTRATION BY  
13 THE DEPARTMENT; ESTABLISHING A STATEWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM  
14 ADVISORY COUNCIL; ALLOWING FOR THE ESTABLISHMENT OF SUBCOMMITTEES OF THE ADVISORY  
15 COUNCIL; ADMINISTRATIVELY ATTACHING THE ADVISORY COUNCIL AND SUBCOMMITTEES TO THE  
16 DEPARTMENT OF JUSTICE; ESTABLISHING THE DUTIES OF THE ADVISORY COUNCIL; ESTABLISHING  
17 THE DUTIES OF THE DEPARTMENT TO IMPLEMENT, MAINTAIN, AND SUSTAIN A STATEWIDE PUBLIC  
18 SAFETY COMMUNICATIONS SYSTEM; ALLOWING THE DEPARTMENT TO ESTABLISH RATES OR  
19 CHARGES FOR STATEWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM SERVICES; ALLOWING FOR  
20 THE DEVELOPMENT OF AGREEMENTS BETWEEN GOVERNMENTAL AGENCIES RELATED TO A PUBLIC  
21 SAFETY COMMUNICATIONS SYSTEM; REQUIRING REPORTING TO THE LAW AND JUSTICE INTERIM  
22 COMMITTEE AND LEGISLATURE; ESTABLISHING A STATEWIDE PUBLIC SAFETY COMMUNICATIONS  
23 SYSTEM ACCOUNT; PROVIDING A FIRSTNET EXEMPTION; GRANTING THE DEPARTMENT OF JUSTICE  
24 RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE DATE."

25  
26 WHEREAS, it is necessary and it is the policy of the state of Montana to promote and encourage  
27 coordination of the statewide public safety communications system among state and local agencies, efficient  
28 planning and development of the system, cost-effective deployment of the system, and the sustainability of public  
29 safety communications technology and infrastructure in the state to provide for the safety of its citizens and  
30 emergency responders and for the protection of public and private property; and

1 WHEREAS, the legislature recognizes that consistency, continuity, and cost-effectiveness is needed to  
2 sustain the existing statewide public safety communications system to protect public and private property and  
3 to promote the safety of Montana's citizens and emergency responders; and

4 WHEREAS, it is necessary to ensure cost-effective, long-term solutions for delivering efficient statewide  
5 public safety communications.

6

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8

9 NEW SECTION. **Section 1. Short title.** [Sections 1 through 8 9] may be cited as the "Statewide Public  
10 Safety Communications System Act".

11

12 NEW SECTION. **Section 2. Findings -- intent.** (1) Montana finds that the continued planning and  
13 development of a unified statewide public safety communications system must be conducted in an organized,  
14 deliberate, and cost-effective manner.

15 (2) It is the intent of [sections 1 through 8 9] to guide future planning for and efforts to sustain the  
16 statewide public safety communications system by:

17 (a) creating and communicating operational recommendations and guidelines applicable to all state  
18 agencies and other entities using the statewide public safety communications system to improve overall  
19 satisfaction with the communications system, TO increase the adoption of recommendations and guidelines, and  
20 to set a benchmark for user expectations;

21 (b) developing a sustainable maintenance plan for the statewide public safety communications system  
22 to ensure that the existing statewide public safety communications system remains operational and reliable;

23 (c) establishing a plan to fund upgrades, modifications, maintenance, or migration of technology within  
24 the statewide public safety communications system;

25 (d) ensuring that public-private partnerships are used to expand, modify, migrate, operate, and maintain  
26 the statewide public safety communications system in a cost-effective manner to achieve the objectives and  
27 required functionality of the system;

28 (e) to the greatest extent possible, encouraging the use of nonproprietary, standards-based and  
29 commercially available technology to allow a wide array of system options and cost-effective deployments;

30 (f) ensuring that the primary purpose of the statewide public safety communications system is to enable

1 participating agencies to fulfill their respective missions, and not to implement a specific technology or standard;  
 2 and

3 (g) requiring that future modifications, expansions, or migrations of the statewide public safety  
 4 communications system are developed in cooperation with federal, state, tribal, and local governments and  
 5 private industry with a goal to provide seamless access to mission critical voice, data, or both voice and data  
 6 communications to the greatest extent possible.

7  
 8 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 8 9], the following definitions  
 9 apply:

10 (1) "Advisory council" means the statewide public safety communications system advisory council  
 11 established in [section 4].

12 (2) "Department" means the department of justice established in 2-15-2001.

13 ~~(3) "FIRSTNET" MEANS A RADIO ACCESS NETWORK PLANNED IN CONNECTION WITH A FIRST RESPONDER~~  
 14 ~~NETWORK AUTHORITY'S NATIONWIDE PUBLIC SAFETY BROADBAND NETWORK FOR THE PURPOSE OF SUPPORTING PUBLIC~~  
 15 ~~SAFETY VOICE AND DATA COMMUNICATIONS.~~

16 ~~(3)(4) (a)~~ "Public safety communications system" means a system used primarily by public safety  
 17 agencies for transmitting and receiving voice, data, or both voice and data communications. The term includes  
 18 but is not limited to:

19 ~~(i)(A)~~ the statewide trunked land-mobile radio system;

20 ~~(ii)(B)~~ statewide microwave network;

21 ~~(iii)(C)~~ any system interconnections that facilitate the operation of the statewide trunked land-mobile radio  
 22 system; and

23 ~~(iv)(D)~~ future ~~governmental-owned~~ technology that enhances or replaces existing trunked land-mobile  
 24 radio systems or microwave networks.

25 ~~(b) The term does not include commercial wireless communication systems or commercial wired~~  
 26 ~~communication systems, including fiber optics or circuit-based technology.~~

27  
 28 **NEW SECTION. Section 4. Statewide public safety communications system advisory council --**  
 29 **membership -- subcommittees.** (1) There is a statewide public safety communications system advisory council.

30 (2) Subject to subsection (8), the advisory council consists of ~~seven~~ NINE members appointed by the

1 governor as follows:

2 (a) the attorney general or the attorney general's designee from the department, who serves as presiding  
3 officer of the council;

4 (b) a representative of the governor's office;

5 (c) a representative of the law enforcement community;

6 (d) a representative of the fire protection community;

7 (e) a representative of the emergency medical community;

8 (f) a representative of ~~local governments~~; and A MUNICIPALITY, DESIGNATED BY THE MONTANA LEAGUE OF  
9 CITIES AND TOWNS;

10 (G) A REPRESENTATIVE OF COUNTY GOVERNMENT, DESIGNATED BY THE MONTANA ASSOCIATION OF COUNTIES;

11 (H) A REPRESENTATIVE OF THE ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS, DESIGNATED BY  
12 THE MONTANA CHAPTER OF THE ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS; AND

13 ~~(g)(i)~~ a representative of tribal governments.

14 (3) The advisory council may create temporary or permanent subcommittees, when necessary, to advise  
15 members of the council. Subcommittee membership, appointed by a majority of the advisory council, may include  
16 but is not limited to:

17 (a) a representative of the Montana highway patrol;

18 (b) a representative of the department of transportation, maintenance division;

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

20 (d) a representative of the department of administration, state information technology services division;

21 (e) a representative of the department of natural resources and conservation, division of forestry, fire and  
22 aviation management bureau;

23 (f) two representatives of the Montana association of counties, with one representing counties with  
24 populations less than 30,000 and one representing counties with populations greater than 30,000;

25 (g) two representatives of the Montana league of cities and towns, with one representing cities and towns  
26 with populations less than 30,000 and one representing cities with populations greater than 30,000;

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

28 (i) a representative of the Montana association of chiefs of police;

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

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

- 1 (l) a representative of the Montana emergency medical services association; and
- 2 (m) a representative of the Montana association of public safety communications officials.
- 3 (4) The advisory council shall establish a technical subcommittee to advise subcommittees appointed
- 4 in accordance with subsection (3) and the advisory council established in subsection (2) on subjects including
- 5 but not limited to:
- 6 (a) system maintenance and operational issues; and
- 7 (b) technology considerations as assigned by the advisory council.
- 8 (5) The advisory council and related subcommittees are attached to the department for administrative
- 9 purposes only, as provided in 2-15-121.
- 10 (6) The advisory council shall at a minimum, within its budget, hold quarterly meetings.
- 11 (7) Advisory council members and subcommittee members shall serve without additional salary but are
- 12 ~~entitled to reimbursement for travel expenses incurred while engaged in council or subcommittee activities as~~
- 13 ~~provided for in 2-18-501 through 2-18-503~~ COMPENSATION.
- 14 (8) (a) Membership on the advisory council established in accordance with subsection (2) is limited to
- 15 agencies or their appointed representatives who use the statewide public safety communications system.
- 16 (b) Members shall work to improve and sustain the statewide public safety communications system within
- 17 the state.
- 18 (c) This subsection (8) does not limit the ability of a vendor, consultant, or other individual representing
- 19 a business to, by invitation, provide the advisory council with useful information.
- 20 (9) (a) Vendors, consultants, and other individuals representing business interests may be appointed
- 21 to a subcommittee formed in accordance with subsection (3) or (4).
- 22 (b) Members included under this subsection (9) are nonvoting members.
- 23
- 24 **NEW SECTION. Section 5. Statewide public safety communications system advisory council --**
- 25 **duties and responsibilities.** (1) The advisory council shall:
- 26 (a) advise the department concerning future development and sustainability of the statewide public safety
- 27 communications system;
- 28 (b) provide recommendations to the department for the continued funding of the statewide public safety
- 29 communications system;
- 30 (c) provide recommendations to the department concerning the establishment of potential rates and

1 other charges for use of the statewide public safety communications system to sustain, expand, or both sustain  
2 and expand the system;

3 (d) advise the department in the development of statewide public safety communications system  
4 standards and policies; and

5 (e) advise the department on significant matters concerning statewide public safety communications  
6 system services in the state of Montana, including rulemaking in accordance with [section 8 9].

7 (2) The advisory council shall review the operations and funding of the statewide public safety  
8 communications system in Montana to ensure:

9 (a) efficient spending of public funds;

10 (b) statewide standards for use and access of the public safety communications system;

11 (c) leveraging, when and where it has been deemed operationally suitable and economically  
12 advantageous, existing commercial communications infrastructure; and

13 (d) overall operational efficiency, while not unreasonably limiting system users in fulfilling their respective  
14 missions.

15  
16 NEW SECTION. Section 6. Duties of department. (1) ~~(A) There~~ EXCEPT AS PROVIDED IN SUBSECTION  
17 (1)(B), THERE is a statewide public safety communications system administered by the department.

18 (B) THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MAY OPT OUT OF THE PUBLIC SAFETY  
19 COMMUNICATIONS SYSTEM.

20 (2) The department shall implement, sustain, and plan for the statewide public safety communications  
21 system within the limits of budget authority dedicated to the system.

22 (3) The department shall:

23 (a) encourage and foster the development of new and innovative technology within the public safety  
24 communications system and ways to deliver public safety communications functions;

25 (b) promote and coordinate the sharing of statewide public safety communications system resources;

26 (c) establish and execute a long-term, fiscally sustainable strategic plan for the statewide public safety  
27 communications system;

28 (d) establish and communicate policies and standards for the statewide public safety communications  
29 system;

30 (e) staff and cover the costs of the advisory council established in [section 4];

1 (f) operate and maintain the statewide public safety communications system for the use of state  
2 government, political subdivisions, and other participating entities under terms and conditions established by the  
3 department, within the limits of budget authority dedicated to the system;

4 (g) establish rates and other charges for statewide public safety communications system services  
5 provided by the department;

6 (h) ensure collection of any user fees is dedicated to the operation, maintenance, expansion, or any  
7 combination of operation, maintenance, or expansion of the statewide public safety communications system.  
8 Proposed fees must be deposited in the account established in [section 7] and included in the department's  
9 budget.

10 (i) accept federal funds, gifts, grants, and donations for the purposes of [sections 1 through 7 9];

11 (j) accept county, tribal, and municipal funds provided for the operation, maintenance, deployment,  
12 expansion, or any combination of operation, maintenance, deployment, or expansion of the statewide public  
13 safety communications system;

14 (k) at the department's discretion, accept a transfer of ownership for the existing statewide public safety  
15 communications system, subsystems, or other assets or property from a county, tribal, federal, or municipal  
16 government;

17 (l) establish agreements between governmental agencies that currently own, operate, or both own and  
18 operate infrastructure on the statewide public safety communications system. Agreements must, if applicable,  
19 recognize that current network control points are owned and administered by a county and will remain owned and  
20 administered by a county.

21 (m) pursue funding opportunities that can be leveraged based on user participation;

22 (n) before September 1 of each year, report to the law and justice interim committee and to the  
23 legislature as provided in 5-11-210 on the statewide public safety communications system activities of the  
24 department; and

25 (o) represent the state before public and private entities on matters pertaining to the statewide public  
26 safety communications system.

27 (4) The department may contract with qualified private organizations, foundations, or individuals to carry  
28 out the purposes of [sections 1 through 8 9].

29 (5) The department shall operate and maintain the statewide public safety communications system within  
30 the limits of budget authority dedicated to the system.

1 (6) [Sections 1 through 8 9] do not provide the department with regulatory authority or responsibility over  
2 a commercial business.

3  
4 **NEW SECTION. Section 7. Statewide public safety communications system account.** (1) There  
5 is an account in the state special revenue fund established in 17-2-102 to be known as the statewide public safety  
6 communications system account.

7 (2) There must be deposited in the account:

8 (a) money received from legislative allocations;

9 (b) a transfer of money from a state or local agency for the purposes of [sections 1 through 8 9];

10 (c) rates, charges, or fees collected by the department in accordance with [section 6(3)(h)];

11 (d) funds accepted in accordance with [section 6(3)(i) and section 6(3)(j)]; and

12 (e) a gift, donation, grant, legacy, bequest, or devise made for the purposes of [sections 1 through 8 9].

13 (3) There is an account in the federal special revenue fund established in 17-2-102 to be known as the  
14 statewide public safety communications system account. There must be deposited in the account money received  
15 from the federal government for the purposes of [sections 1 through 8 9].

16 (4) Funds in either account created in this section must be used by the department for the purposes of  
17 [sections 1 through 8 9].

18  
19 **NEW SECTION. SECTION 8. FIRSTNET EXEMPTION. [SECTIONS 1 THROUGH 7] AND RULES ADOPTED IN**  
20 **ACCORDANCE WITH [SECTIONS 1 THROUGH 7] DO NOT AFFECT:**

21 **(1) THE STATE'S ABILITY TO USE FIRSTNET, INCLUDING NEW SERVICES AND APPLICATIONS AVAILABLE WITH**  
22 **FIRSTNET; OR**

23 **(2) ANY OBLIGATIONS OR RESPONSIBILITIES RELATED TO FIRSTNET IN ACCORDANCE WITH FEDERAL STATUTE.**  
24

25 **NEW SECTION. Section 9. Rulemaking authority.** (1) The department may adopt rules necessary  
26 to implement [sections 1 through 7 8]. Rules may include provisions for:

27 (a) implementation of [sections 1 through 7 8]; and

28 (b) administration of the statewide public safety communications system in accordance with [sections  
29 1 through 7 8];

30 (2) Rules must be adopted in accordance with the Montana Administrative Procedure Act provided for



1 in Title 2, chapter 4.

2

3 NEW SECTION. **Section 10. Notification to tribal governments.** The secretary of state shall send  
4 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
5 Chippewa tribe.

6

7 NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 8 9] are intended to be  
8 codified as an integral part of Title 44, and the provisions of Title 44 apply to [sections 1 through 8 9].

9

10 NEW SECTION. **Section 12. Saving clause.** [This act] does not affect rights and duties that matured,  
11 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

12

13 NEW SECTION. **Section 13. Severability.** If a part of [this act] is invalid, all valid parts that are  
14 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
15 the part remains in effect in all valid applications that are severable from the invalid applications.

16

17 NEW SECTION. **Section 14. Effective date.** [This act] is effective July 1, 2017.

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- END -