

HOUSE BILL NO. 618

INTRODUCED BY B. MERCER

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATEWIDE PUBLIC SAFETY COMMUNICATIONS
5 SYSTEM LAWS; ESTABLISHING A FEE FOR THE STATEWIDE PUBLIC SAFETY COMMUNICATIONS
6 SYSTEM; PROVIDING FOR THE PAYMENT OF THE FEE BY PROVIDERS; REQUIRING THE COLLECTION
7 OF THE FEE BY THE DEPARTMENT OF REVENUE; PROVIDING A STATUTORY APPROPRIATION;
8 PROVIDING REPORTING REQUIREMENTS; AMENDING SECTIONS 10-4-117, 10-4-201, 10-4-203, 10-4-204,
9 10-4-211, 10-4-304, 17-7-502, 44-4-1603, 44-4-1606, AND 44-4-1607, MCA; AND PROVIDING AN EFFECTIVE
10 DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 10-4-117, MCA, is amended to read:

15 **"10-4-117. Provider obligations -- limitations.** Nothing in this chapter or Title 44, chapter 4, part 16:

16 (1) relieves a provider from its obligations pursuant to parts 1 through 3 of this chapter and Title 44,
17 chapter 4, part 16, including obligations pursuant to 10-4-201 to collect 9-1-1 and statewide public safety
18 communications system operation, maintenance, sustainability, and expansion fees from customers on a per
19 access line basis; or

20 (2) grants the department of administration or the department of justice the authority to regulate the
21 services offered by an originating service provider."
22

23 **Section 2.** Section 10-4-201, MCA, is amended to read:

24 **"10-4-201. Fees imposed for 9-1-1 services and public safety communications systems.** (1) Except
25 as provided in 10-4-202:

26 (a) for 9-1-1 services, a fee of 75 cents a month per access line on each subscriber in the state is
27 imposed for the administration of 9-1-1 programs in accordance with 10-4-305; ~~and~~

28 (b) a fee of 25 cents a month per access line on each subscriber in the state is imposed for the grants
29 provided in accordance with 10-4-306; and

30 (c) a fee of 95 cents per month per access line on each subscriber in the state is imposed for the

1 operation, maintenance, sustainability, and expansion of the statewide public safety communications system in
 2 accordance with Title 44, chapter 4, part 16.

3 (2) The subscriber paying for an access line is liable for the fees imposed by this section.

4 (3) The provider shall collect the fees. The amount of the fees collected by the provider is considered
 5 payment by the subscriber for that amount of fees.

6 (4) Any return made by the provider collecting the fees is prima facie evidence of payments by the
 7 subscribers of the amount of fees indicated on the return."
 8

9 **Section 3.** Section 10-4-203, MCA, is amended to read:

10 **"10-4-203. Provider required to maintain record of collections.** Every provider responsible for the
 11 collection of the ~~fee~~ fees imposed by 10-4-201 shall keep records, render statements, make returns, and comply
 12 with rules adopted by the department of revenue with respect to the ~~fee~~ fees. Whenever necessary in the
 13 judgment of the department of revenue, it may require the provider or subscriber to make returns, render
 14 statements, or keep records sufficient to show whether there is liability for the ~~fee~~ fees."
 15

16 **Section 4.** Section 10-4-204, MCA, is amended to read:

17 **"10-4-204. Deadlines for filing returns.** (1) The provider collecting the ~~fee~~ fees under 10-4-201 must
 18 file a return with the department of revenue on or before the last day of the month following the end of each
 19 calendar quarter, reporting the amount of fee due on access lines during the quarter. Returns are subject to the
 20 penalty for false swearing provided in 45-7-202.

21 (2) When a return of the ~~fee~~ fees is required, the provider required to make the return shall pay the ~~fee~~
 22 fees due the department of revenue at the time fixed for filing the return.

23 (3) The provider shall pay the ~~fee~~ fees based on the net amount billed for the access line ~~fee~~ fees during
 24 the quarter.

25 (4) As used in this section, the "net amount billed for the access line ~~fee~~ fees" equals the gross amount
 26 billed for the service, less adjustments for uncollectible accounts, refunds, incorrect billings, and other appropriate
 27 adjustments."
 28

29 **Section 5.** Section 10-4-211, MCA, is amended to read:

30 **"10-4-211. Provider required to hold ~~fee~~ fees in trust for state -- penalty and interest.** (1) Every

1 provider required to collect the ~~fee fees~~ imposed by 10-4-201 holds it in trust for the state of Montana and for the
 2 payment thereof to the department of revenue in the manner and at the time provided by 10-4-204.

3 (2) (a) If a provider required to collect the ~~fee fees~~ fails to remit any amount held in trust for the state of
 4 Montana or if a subscriber fails to pay the ~~fee fees~~ on or before the last day of the month following the end of each
 5 calendar quarter, the department of revenue shall add to the amount of the delinquent ~~fee fees~~, in addition to any
 6 other penalty provided by law, a penalty equal to 10% of the delinquent ~~fee fees~~ plus interest at the rate of 1%
 7 a month or fraction of a month computed on the amount of the delinquent ~~fee fees~~ plus any unpaid penalties and
 8 interest. Interest is computed from the date the ~~fee is fees are~~ due until the date of payment.

9 (b) The department of revenue may waive the penalty if the provider establishes that the failure to pay
 10 on time was due to reasonable cause and was not due to neglect.

11 (3) (a) When a deficiency is determined and the additional ~~fee fees~~ becomes final, the department of
 12 revenue shall mail a notice and demand for payment to the provider. The ~~fee is fees are~~ due and payable at the
 13 expiration of 10 days after the notice and demand were mailed. Interest on any deficiency assessment bears
 14 interest until paid, at the rate of 1% a month or fraction of a month, computed from the original due date of the
 15 return.

16 (b) If payment is not made within 10 days, the amount of the deficiency is considered delinquent. A 10%
 17 penalty must be added to the amount of the deficiency.

18 (4) The 10% penalty provided for in subsection (3)(b) may be waived by the department of revenue if
 19 the provider establishes that the failure to pay the proper amount of fees was due to reasonable cause and was
 20 not due to neglect.

21 (5) The department of revenue may enforce collection by the issuance of a warrant for distraint for the
 22 collection of the delinquent amount and all penalties, interest, and collection charges accrued ~~thereon~~. The
 23 warrant is governed by the provisions of Title 15, chapter 1, part 7."
 24

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

26 **"10-4-304. Establishment of 9-1-1 accounts.** (1) ~~Beginning July 1, 2018, there~~ There is established
 27 in the state special revenue fund an account for fees collected for 9-1-1 services pursuant to ~~10-4-204~~
 28 10-4-201(1)(a) and (1)(b).

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

1 by the department are allocated as follows:

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

5 (b) 25% of the account must be deposited in an account for distribution in the form of grants to private
6 telecommunications providers, local government entities that host public safety answering points, or both in
7 accordance with 10-4-306.

8 (3) ~~Beginning July 1, 2018, all~~ All money received by the department of revenue pursuant to ~~10-4-201~~
9 10-4-201(1)(a) and (1)(b) must be paid to the state treasurer for deposit in the appropriate account.

10 (4) The accounts established in subsections (1) and (2) retain interest earned from the investment of
11 money in the accounts."

12

13 **Section 7.** Section 17-7-502, MCA, is amended to read:

14 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
15 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
16 need for a biennial legislative appropriation or budget amendment.

17 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
18 of the following provisions:

19 (a) The law containing the statutory authority must be listed in subsection (3).

20 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
21 appropriation is made as provided in this section.

22 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
23 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;
24 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110;
25 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222;
26 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604;
27 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622;
28 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409;
29 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011;
30 42-2-105; 44-4-1101; 44-4-1607; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113;

1 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214;
2 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
3 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505;
4 [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

5 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
6 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
7 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
8 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
9 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
10 appropriation authority for the payments.(In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
11 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
12 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
13 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
14 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
15 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion
16 of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112
17 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015,
18 the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of
19 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates
20 June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of
21 contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant
22 to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec.
23 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457,
24 L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the
25 inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304
26 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates
27 June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant
28 to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023;
29 pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2,
30 Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10,

1 Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

2

3 **Section 8.** Section 44-4-1603, MCA, is amended to read:

4 **"44-4-1603. Definitions.** As used in this part, the following definitions apply:

5 (1) "Advisory council" means the statewide public safety communications system advisory council
6 established in 44-4-1604.

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

8 (3) "FirstNet" means a radio access network planned in connection with a first responder network
9 authority's nationwide public safety broadband network for the purpose of supporting public safety voice and data
10 communications.

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

14 (a) the statewide trunked land-mobile radio system;

15 (b) a statewide microwave network;

16 (c) any system interconnections that facilitate the operation of the statewide trunked land-mobile radio
17 system; ~~and~~

18 (d) future technology that enhances or replaces existing trunked land-mobile radio systems or microwave
19 networks; ~~and~~

20 (e) the FirstNet nationwide public safety broadband network."

21

22 **Section 9.** Section 44-4-1606, MCA, is amended to read:

23 **"44-4-1606. Duties of department.** (1) (a) Except as provided in subsection (1)(b), there is a statewide
24 public safety communications system administered by the department.

25 (b) The department of natural resources and conservation may opt out of the public safety
26 communications system.

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

29 (3) The department shall:

30 (a) encourage and foster the development of new and innovative technology within the public safety

- 1 communications system and ways to deliver public safety communications functions;
- 2 (b) promote and coordinate the sharing of statewide public safety communications system resources;
- 3 (c) establish and execute a long-term, fiscally sustainable strategic plan for the statewide public safety
- 4 communications system;
- 5 (d) establish and communicate policies and standards for the statewide public safety communications
- 6 system;
- 7 (e) staff and cover the costs of the advisory council established in 44-4-1604;
- 8 (f) operate and maintain the statewide public safety communications system for the use of state
- 9 government, political subdivisions, and other participating entities under terms and conditions established by the
- 10 department, within the limits of budget authority dedicated to the system;
- 11 (g) establish rates and other charges for statewide public safety communications system services
- 12 provided by the department;
- 13 (h) ensure collection of any user fees is dedicated to the operation, maintenance, expansion, or any
- 14 combination of operation, maintenance, or expansion of the statewide public safety communications system.
- 15 Proposed fees must be deposited in the account established in 44-4-1607 and included in the department's
- 16 budget.
- 17 (i) accept federal funds, gifts, grants, and donations for the purposes of this part;
- 18 (j) accept county, tribal, and municipal funds provided for the operation, maintenance, deployment,
- 19 expansion, or any combination of operation, maintenance, deployment, or expansion of the statewide public
- 20 safety communications system;
- 21 (k) at the department's discretion, accept a transfer of ownership for the existing statewide public safety
- 22 communications system, subsystems, or other assets or property from a county, tribal, federal, or municipal
- 23 government;
- 24 (l) establish agreements between governmental agencies that currently own, operate, or both own and
- 25 operate infrastructure on the statewide public safety communications system. Agreements must, if applicable,
- 26 recognize that current network control points are owned and administered by a county and will remain owned and
- 27 administered by a county.
- 28 (m) pursue funding opportunities that can be leveraged based on user participation;
- 29 (n) before September 1 of each year, report to the law and justice interim committee and to the
- 30 legislature as provided in 5-11-210 on the statewide public safety communications system activities of the

1 department; and

2 (o) before February 1 of each odd-numbered year, report to the joint appropriations subcommittee on
 3 judicial branch, law enforcement, and justice on the build-out of a public safety communications system coverage
 4 area and usage by other government agencies; and

5 ~~(p)~~(p) represent the state before public and private entities on matters pertaining to the statewide public
 6 safety communications system.

7 (4) The department may contract with qualified private organizations, foundations, or individuals to carry
 8 out the purposes of this part.

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

11 (6) This part does not provide the department with regulatory authority or responsibility over a
 12 commercial business."

13

14 **Section 10.** Section 44-4-1607, MCA, is amended to read:

15 **"44-4-1607. Statewide public safety communications system account.** (1) There is an account in
 16 the state special revenue fund established in 17-2-102 to be known as the statewide public safety
 17 communications system account.

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

19 (a) money received from legislative allocations;

20 (b) a transfer of money from a state or local agency for the purposes of this part;

21 (c) rates, charges, or fees collected ~~by the department~~ in accordance with 10-4-201(1)(c) and
 22 44-4-1606(3)(h);

23 (d) funds accepted in accordance with 44-4-1606(3)(i) and (3)(j); and

24 (e) a gift, donation, grant, legacy, bequest, or devise made for the purposes of this part.

25 (3) There is an account in the federal special revenue fund established in 17-2-102 to be known as the
 26 statewide public safety communications system account. There must be deposited in the account money received
 27 from the federal government for the purposes of this part.

28 (4) Funds in ~~either account~~ the accounts created in this section:

29 (a) must be used by the department for the purposes of this part; and

30 (b) are statutorily appropriated to the department as provided in 17-7-502."

1
2 NEW SECTION. **Section 11. Notification to tribal governments.** The secretary of state shall send
3 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
4 Chippewa tribe.

5
6 NEW SECTION. **Section 12. Effective date.** [This act] is effective July 1, 2019.

7
8 NEW SECTION. **Section 13. Applicability.** [This act] applies to all returns and statements due on or
9 after July 1, 2019.

10
11 NEW SECTION. **Section 14. Termination.** [This act] terminates June 30, 2029.

12 - END -