

SENATE BILL NO. 325

INTRODUCED BY VAN VALKENBURG, KEYSER, FULLER, HARDING,
HALLIGAN, BLAYLOCK, MCCALLUM, QUILICI, HIRSCH,
MOHAR, CRIPPEN

IN THE SENATE

February 5, 1985	Introduced and referred to Committee on Local Government.
February 6, 1985	Fiscal Note requested.
February 12, 1985	Fiscal Note returned.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached.
February 25, 1985	Bill printed and placed on members' desks. Second reading, do pass.
February 26, 1985	Considered correctly engrossed.
February 27, 1985	Third reading, passed. Ayes, 37; Noes, 13. Transmitted to House.

IN THE HOUSE

March 7, 1985	Introduced and referred to Committee on Business and Labor.
March 25, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in.

April 1, 1985 Returned to Senate with
amendments.

IN THE SENATE

April 1, 1985 Received from House.

April 3, 1985 Second reading, pass
consideration until the 74th
Legislative Day.

April 5, 1985 Second reading, amendments
concurring in.

April 9, 1985 Third reading, amendments
concurring in.
Ayes, 43; Noes, 5.

Sent to enrolling.

April 10, 1985 Correctly enrolled.

Signed by President.

Signed by Speaker.

Delivered to Governor.

April 15, 1985 Returned from Governor with
recommended amendments.

April 17, 1985 Second reading, Governor's
amendments concurring in.

April 18, 1985 Third reading, Governor's
amendments concurring in.

Transmitted to House.

IN THE HOUSE

April 18, 1985 Received from Senate.

April 20, 1985 Second reading, Governor's
amendments concurring in.

April 22, 1985

Third reading, Governor's
amendments concurred in.

Returned to Senate.

IN THE SENATE

April 22, 1985

Received from House.

April 23, 1985

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *325*
 2 INTRODUCED BY *Van Vleet, Hoyer, Fuller, Harding, Holligan, McCall, Gribble, Mohr, Egan*

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A
 5 PERMISSIVE STATEWIDE EMERGENCY TELEPHONE SYSTEM; PROVIDING
 6 FOR A STATE PLAN; PROVIDING FOR TELEPHONE INDUSTRY
 7 COORDINATION; PROVIDING FOR COIN TELEPHONE CONVERSION;
 8 PROVIDING FOR FUNDING OF THE SYSTEM BY LEVYING A TELEPHONE
 9 FEE; AND PROVIDING AN EFFECTIVE DATE."

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

12 Section 1. Definitions. As used in [this act], unless
 13 the context requires otherwise, the following definitions
 14 apply:

15 (1) "Account" means the 9-1-1 emergency
 16 telecommunications account established in [section 16].

17 (2) "Commission" means the public service commission
 18 provided for in 2-15-2602.

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

21 (4) "Direct dispatch method" means a 9-1-1 service in
 22 which a public safety answering point, upon receipt of a
 23 telephone request for emergency services, provides for a
 24 decision as to the proper action to be taken and for
 25 dispatch of appropriate emergency service units.

1 (5) "Emergency" means any event that requires dispatch
 2 of a public or private safety agency.

3 (6) "Emergency services" means services provided by
 4 any public or private safety agency, including law
 5 enforcement, firefighting, ambulance or medical services,
 6 and civil defense services.

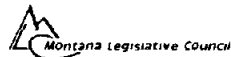
7 (7) "Exchange access services" means:

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

12 (b) unless a separate tariff rate is charged therefor,
 13 any facility or service provided in connection with the
 14 services described in subsection (7)(a).

15 (8) "Local government" means any city, county, or
 16 political subdivision of the state and its agencies.

17 (9) "Minimum 9-1-1 service" means a telephone service
 18 meeting the standards established in [section 3] that
 19 automatically connects a person dialing the digits 9-1-1 to
 20 an established public safety answering point. "Minimum
 21 9-1-1 services" includes equipment for connecting and
 22 outswitching 9-1-1 calls within a telephone central office,
 23 trunking facilities from the central office to a public
 24 safety answering point, and equipment, as appropriate, for
 25 transferring the call to another point, when appropriate.



1 (10) A "9-1-1 jurisdiction" means a group of public or
 2 private safety agencies who operate within or are affected
 3 by one or more common central office boundaries and who have
 4 agreed in writing to jointly plan a 9-1-1 emergency
 5 telephone system.

6 (11) "Private safety agency" means any entity, except a
 7 public safety agency, providing emergency fire, ambulance,
 8 or medical services.

9 (12) "Provider" means a public utility that provides
 10 telephone exchange access services.

11 (13) "Public safety agency" means the state and any
 12 city, county, city-county consolidated government, municipal
 13 corporation, chartered organization, public district, or
 14 public authority located in whole or in part within this
 15 state that provides or has authority to provide emergency
 16 services.

17 (14) "Public safety answering point" means a
 18 communications facility operated on a 24-hour basis that
 19 first receives 9-1-1 calls from persons in a 9-1-1 service
 20 area and which may, as appropriate, directly dispatch public
 21 or private safety services or transfer or relay 9-1-1 calls
 22 to appropriate public safety agencies.

23 (15) "Relay method" means a 9-1-1 service in which a
 24 public safety answering point, upon receipt of a telephone
 25 request for emergency services, notes the pertinent

1 information from the caller and relays such information to
 2 the appropriate public safety agency, other agencies, or
 3 other providers of emergency services for dispatch of an
 4 emergency unit.

5 (16) "Subscriber" means a person who receives telephone
 6 exchange access services.

7 (17) "Transfer method" means a 9-1-1 service in which a
 8 public safety answering point, upon receipt of a telephone
 9 request for emergency services, directly transfers such a
 10 request to an appropriate public safety answering agency or
 11 other provider of emergency services.

12 Section 2. Emergency telephone system requirements.

13 (1) Every public and private safety agency in this state may
 14 establish or participate in an emergency telephone system.

15 (2) An emergency telephone system must include:

16 (a) a 24-hour communications facility automatically
 17 accessible anywhere in the 9-1-1 jurisdiction's service area
 18 by dialing 9-1-1;

19 (b) direct dispatch of public and private safety
 20 services in the 9-1-1 jurisdiction or relay or transfer of
 21 9-1-1 calls to an appropriate public or private safety
 22 agency; and

23 (c) two 9-1-1 circuits from each telephone company
 24 central office to each 24-hour communications facility for
 25 law enforcement, firefighting, ambulance, and emergency

1 medical services.

2 (3) The primary emergency telephone number within the
3 state is 9-1-1, but a public safety answering point shall
4 maintain both a separate seven-digit secondary emergency
5 number for use by the telephone company operator and a
6 separate seven-digit nonemergency number.

7 Section 3. Department of administration duties and
8 powers. (1) The department shall assist in the development
9 of 9-1-1 systems in the state. The department shall:

10 (a) establish procedures for determining and
11 evaluating requests for variations from minimum 9-1-1
12 service;

13 (b) upon request of a 9-1-1 jurisdiction, assist in
14 planning an emergency 9-1-1 telephone system;

15 (c) establish criteria for evaluating plans;

16 (d) monitor implementation of approved plans for
17 compliance with the plan and use of funding; and

18 (e) report biennially to the legislature the progress
19 made in implementing a statewide emergency telephone system.

20 (2) The department shall obtain input from all 9-1-1
21 jurisdictions by creating an advisory council to participate
22 in development and implementation of the 9-1-1 program in
23 the state. The council must be established pursuant to
24 2-15-122. The highway patrol, emergency medical services
25 organizations, telephone companies, the associated public

1 safety communicators, the department of emergency services,
2 police departments, sheriff's departments, local citizens,
3 organizations, and other public safety organizations may
4 submit recommendations for membership on the advisory
5 council.

6 Section 4. Submission of preliminary plans for 9-1-1
7 jurisdictions -- review -- cost estimates. (1) A 9-1-1
8 jurisdiction may submit a preliminary plan for establishing
9 an emergency telephone system in accordance with [section 2]
10 to:

11 (a) public and private safety agencies in the 9-1-1
12 jurisdiction;

13 (b) the department; and

14 (c) public utilities that provide telephone service in
15 the 9-1-1 jurisdiction's service area.

16 (2) The department shall review the preliminary plan
17 for compliance with [section 2] and rules adopted pursuant
18 to [section 3] and report its approval or disapproval to the
19 9-1-1 jurisdiction within 90 days of receipt of the plan.

20 (3) A public utility that provides telephone service
21 in the 9-1-1 jurisdiction's service area shall, within 90
22 days of receipt of the plan, provide the 9-1-1 jurisdiction
23 with a good faith estimate of the cost to the 9-1-1
24 jurisdiction for implementing the plan.

25 Section 5. Submission and approval of final plans --

1 exception. (1) A 9-1-1 jurisdiction shall submit a proposed
 2 final plan for establishing an emergency telephone system
 3 pursuant to [section 2] within 1 year from receipt of the
 4 department's approval of its preliminary plan to:

5 (a) public and private safety agencies in the 9-1-1
 6 jurisdiction;

7 (b) the department; and

8 (c) public utilities that provide telephone service in
 9 the 9-1-1 jurisdiction's service area.

10 (2) In addition to other matters required by [section
 11 2], the final plan must include a description of all capital
 12 and recurring costs for the proposed emergency 9-1-1
 13 telephone system.

14 (3) The department shall determine whether the final
 15 plan complies with [section 2] and rules adopted pursuant to
 16 [section 3]. Subject to [section 6], if the department
 17 determines that the plan complies, it shall approve the
 18 plan, or if the department determines that the plan does not
 19 comply, it shall disapprove the plan. The department shall
 20 inform the 9-1-1 jurisdiction of its decision within 180
 21 days of receipt of the plan.

22 Section 6. Requirement for approval of final plan --
 23 department to insure compliance. The department may not
 24 approve the preliminary or final plan of a 9-1-1
 25 jurisdiction unless the plan is accompanied by a written

1 approval from the governing bodies of all participating
 2 public and private safety agencies included in the 9-1-1
 3 jurisdiction.

4 Section 7. Agreements among safety agencies for
 5 rendering emergency services. (1) Public or private safety
 6 agencies sharing common boundaries may enter into agreements
 7 which provide that an emergency unit dispatched by an
 8 emergency telephone system established in accordance with
 9 [section 2] must render emergency services without regard to
 10 jurisdictional boundaries.

11 (2) A public safety agency with jurisdictional
 12 responsibilities must in all cases be notified by the public
 13 safety answering point of a request for service in the
 14 agency's jurisdiction.

15 Section 8. Pay phones to be converted to allow
 16 emergency calls without charge. A public utility that
 17 provides telephone service in an area served by an emergency
 18 telephone system established pursuant to [section 2] must
 19 convert every pay station telephone to permit dialing 9-1-1
 20 or the telephone company operator without deposit of a coin
 21 or other charge to the caller. Conversion must be completed
 22 by or before the time the emergency telephone system is
 23 operational.

24 Section 9. Fee imposed for telephone exchange access
 25 services. (1) Except as provided in [section 10], a fee of

1 25 cents a month per access line on each service subscriber
 2 in the state is imposed on the amount charged for telephone
 3 exchange access services.

4 (2) The subscriber paying for exchange access line
 5 services is liable for the fee imposed by this section.

6 (3) The provider shall collect the fee. The amount of
 7 the fee collected by the provider is considered payment by
 8 the subscriber for that amount of fee.

9 (4) Any return made by the provider collecting the fee
 10 is prima facie evidence of payments by the subscribers of
 11 the amount of fees indicated on the return.

12 Section 10. Exemptions from fee imposed. The fee
 13 imposed by [section 9] does not apply to:

14 (1) services that the state is prohibited from taxing
 15 under the constitution or laws of the United States or the
 16 constitution or laws of the state of Montana; or

17 (2) amounts paid by depositing coins in a public
 18 telephone.

19 Section 11. Provider required to maintain record of
 20 collections. Every provider responsible for the collection
 21 of the fee imposed by [section 9] shall keep records, render
 22 statements, make returns, and comply with rules adopted by
 23 the department of revenue with respect to the fee. Whenever
 24 necessary in the judgment of the department of revenue, it
 25 may require the provider or subscriber to make returns,

1 render statements, or keep records sufficient to show
 2 whether there is tax liability.

3 Section 12. Deadlines for filing returns. (1) The
 4 provider collecting the fee under [section 9] must file a
 5 return with the department of revenue on or before the last
 6 day of the month following the end of each calendar quarter,
 7 reporting the amount of fee due on exchange access line
 8 services during the quarter. Returns are subject to the
 9 penalty for false swearing provided in 45-7-202.

10 (2) When a return of the fee is required, the provider
 11 required to make the return shall pay the fee due the
 12 department of revenue at the time fixed for filing the
 13 return.

14 (3) The provider shall pay the fee based on the net
 15 amount billed for the exchange access service fee during the
 16 quarter.

17 (4) As used in this section, the "net amount billed
 18 for the exchange access service fee" equals the gross amount
 19 billed for such service, less adjustments for uncollectable
 20 accounts, refunds, incorrect billings, and other appropriate
 21 adjustments.

22 Section 13. Refund to provider for excess payment of
 23 fee. If the amount paid by a provider to the department of
 24 revenue exceeds the amount of fee owed, the department of
 25 revenue shall refund the amount of the excess payment, with

1 interest thereon at the rate of 0.5% a month or fraction of
 2 a month from the date of payment of the excess until the
 3 date of the refund. No refund may be made to a provider who
 4 fails to claim the refund within 2 years after the due date
 5 for filing of the return with respect to which the claim for
 6 refund relates.

7 Section 14. Provider required to hold fee in trust for
 8 state. (1) Every provider required to collect the fee
 9 imposed by [section 9] holds it in trust for the state of
 10 Montana and for the payment thereof to the department of
 11 revenue in the manner and at the time provided by [section
 12 12].

13 (2) If a provider required to collect the fee fails to
 14 remit any amount held in trust for the state of Montana or
 15 if a subscriber fails to pay the fee, the department of
 16 revenue may enforce collection by the issuance of a warrant
 17 for distraint for the collection of the delinquent amount
 18 and all penalties, interest, and collection charges accrued
 19 thereon. The warrant is governed by the provisions of Title
 20 15, chapter 1, part 7.

21 Section 15. Provider considered a taxpayer under
 22 provisions for fee. Unless the context requires otherwise,
 23 the provisions of Title 15 referring to the audit and
 24 examination of reports and returns, determination of
 25 deficiency assessments, claims for refunds, penalties,

1 interest, jeopardy assessments, warrants, conferences,
 2 appeals to the department of revenue, appeals to the state
 3 tax appeal board, and procedures relating thereto apply to
 4 [sections 9 through 14] the same as if the fee were a tax
 5 imposed upon or measured by net income. All such provisions
 6 apply to the subscriber liable for the fee and to the
 7 provider required to collect the fee. As to any amount
 8 collected and required to be remitted to the department of
 9 revenue, the fee is considered a tax upon the provider
 10 required to collect it and that provider is considered a
 11 taxpayer.

12 Section 16. Establishment of emergency
 13 telecommunications account. A 9-1-1 emergency
 14 telecommunications account is established in the state
 15 special revenue fund in the state treasury. All money
 16 received by the department of revenue pursuant to [section
 17 9] must be paid to the state treasurer for deposit in the
 18 account. After payment of refunds pursuant to [section 13],
 19 the balance of the account is statutorily appropriated [as
 20 provided in section 2 of House Bill No. 12] to the
 21 department to be used for the purposes described in
 22 [sections 2 through 8].

23 Section 17. Distribution of account by department. (1)
 24 The department shall make quarterly distributions of the
 25 entire account beginning on October 1, 1985. The

1 distributions must be made for the following:

2 (a) administrative costs incurred during the preceding
3 calendar quarter by the department of revenue in carrying
4 out [this act]. The amount paid may not exceed 1% of the
5 account on the date of distribution or actual expenses
6 incurred, whichever is less.

7 (b) administrative costs incurred during the preceding
8 calendar quarter by the department in carrying out its
9 duties under [this act]. The amount paid to the department
10 may not exceed 7% of the account on the date of distribution
11 or actual expenses incurred, whichever is less.

12 (c) costs incurred during the preceding calendar
13 quarter by each public utility that provides telephone
14 service in the state for:

15 (i) collection of the fee imposed by [section 9];

16 (ii) modification of central office switching and
17 trunking equipment for emergency telephone service only; and

18 (iii) conversion of pay station telephones required by
19 [section 8].

20 (2) Payments under subsection (1)(c) may be made only
21 after application by the public utility to the commission
22 for costs incurred in subsection (1)(c). The commission
23 shall audit all applications relevant to subsection (1)(c)
24 for appropriateness of costs claimed by the public utility
25 and shall forward the results of such audits to the

1 department. If the utility contests the audit, payment may
2 not be made until the amount owed the utility is made
3 certain.

4 (3) After all amounts under subsections (1) and (2)
5 have been paid, the balance of the account must be
6 distributed to cities within a 9-1-1 jurisdiction that have
7 an approved final plan and to counties within a 9-1-1
8 jurisdiction that have an approved final plan on a per
9 capita basis. However, each county must receive a minimum of
10 1% of the balance of the counties' share of the account.
11 Cities and counties shall distribute amounts received to
12 9-1-1 jurisdictions within their jurisdiction. A 9-1-1
13 jurisdiction whose 9-1-1 service area includes more than one
14 city or county is eligible to receive operating funds from
15 each city or county involved.

16 (4) If the department through its monitoring process
17 determines that a 9-1-1 jurisdiction is not adhering to an
18 approved plan or is not using funds in the manner prescribed
19 in [section 18], the department may, after notice and
20 hearing, suspend payment to the 9-1-1 jurisdiction. The
21 jurisdiction is not eligible to receive funds until such
22 time as the department determines that the jurisdiction is
23 complying with the approved plan and fund usage limitations.

24 Section 18. Limitation on use of funds. Money received
25 under subsection (3) of [section 17] may be used only to pay

1 for installing, operating, and improving an emergency
2 telephone system using 9-1-1. Money not necessary for
3 immediate use may be invested by the city or county. The
4 income from the investments shall be used only for the
5 purposes described in this section.

6 Section 19. Coordination. If this act and House Bill
7 No. 12 are both passed and approved, subsection (3) of
8 section 2 of House Bill No. 12 is amended to include a
9 reference to section 16 of this act, and the bracketed
10 language in section 16 of this act "[as provided in section
11 2 of House Bill No. 12]" is effective. If House Bill No. 12
12 is not passed and approved, such bracketed language in
13 section 16 of this act is void.

14 Section 20. Effective date. This act is effective July
15 1, 1985.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 359-85

Form BD-15

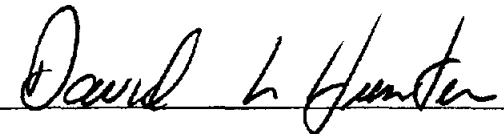
In compliance with a written request received February 6, 19 85, there is hereby submitted a Fiscal Note for S.B. 325 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing a permissive statewide emergency telephone system; providing for a state plan; providing for telephone industry coordination; providing for coin telephone conversion; providing for funding of the system by levying a telephone fee; and providing an effective date.

ASSUMPTIONS:

1. There are approximately 365,100 access lines in Montana.
2. There are 293 telephone company central offices in Montana.
 - a. 25 of these are equipped for 9-1-1 service.
 - b. Of the remaining 268 central offices, 257 are classified as small and 11 as large.
3. The cost of upgrading the small central offices is \$6,000 and the large is \$35,000.
4. A 9-1-1 fee of \$.25 per month per access line will be applied on a statewide basis beginning July 1, 1985.
5. From the revenues collected from the fee, 7% is allocated to the Department of Administration for establishing procedures and evaluating plans, providing assistance in planning, and monitoring implementation of approved plans of the 9-1-1 jurisdiction; 1% is allocated to the Department of Revenue for collection expenses and 1% is allocated to telephone companies for aid in tax collection.
6. Remaining revenues after administrative expenses in assumption 5 will be available for disbursements to local 9-1-1 jurisdictions after approval of final plans.
7. All 9-1-1 jurisdictions would have a 9-1-1 procedure established by July 1, 1995.
8. Ten percent of the 9-1-1 jurisdictions would obtain approval of plans each year for distribution of capital outlay and local assistance monies.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 12, 1985

SB 325

FISCAL IMPACT:

Annual Revenue from local access line fee =		\$1,095,300
Annual Expenditures: 7% - Department of Administration =	\$ 76,671	
Personal Services, 2 FTE =	\$ 47,321	
Operating Expenses =	\$ 29,350	
1% Department of Revenue =	\$ 10,953	
1% Telephone Companies =	\$ 10,953	
Central office equipment upgrades	\$ 192,700	
Available funds for distribution to local 9-1-1 jurisdictions	<u>804,023</u>	
Total Expenditures	\$1,095,300	

The Public Service Commission will require one auditor to audit duties laid out in Section 17. Local access line fee revenue cannot be used for these costs.

	<u>FY 86</u>	<u>FY 87</u>
Personal Services	\$ 25,127	\$ 25,127
Operating Expenses	5,594	5,817
Equipment	500	
Office Expansion	<u>2,000</u>	
Total General Fund Cost	\$ 33,221	\$ 30,944

LOCAL IMPACT:

Funds distributed to local 9-1-1 jurisdictions must be used to establish and/or operate 9-1-1 systems. An estimated total of \$804,023 per year will be available for distribution to 9-1-1 jurisdictions with approved final plans, as prescribed in this legislation.

LONG-RANGE EFFECTS:

The yearly revenue and expenditure levels will be the same for each fiscal year over a 10 year forecast period.

APPROVED BY COMM.
ON LOCAL GOVERNMENT

1 STATEMENT OF INTENT

2 SENATE BILL 325

3 Senate Local Government Committee

4
5 A statement of intent is required for this act because
6 it delegates rulemaking to the department of administration
7 and the department of revenue. It is the intent of the
8 legislature that the department of administration solicit
9 the advice of emergency service providers and the advisory
10 council created by section 3 in developing rules for
11 requirements of systems and criteria for approving or
12 disapproving plans.

13 Rules adopted by the department of revenue must provide
14 for forms for returns and requests for refunds that are not
15 burdensome to providers. The rules must also provide
16 recordkeeping requirements for service providers and dates
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3 HALLIGAN, BLAYLOCK, MCCALLUM, QUILICI,
4 HIRSCH, MOHAR, CRIPPEN

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6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A
7 PERMISSIVE STATEWIDE EMERGENCY TELEPHONE SYSTEM; PROVIDING
8 FOR A STATE PLAN; PROVIDING FOR TELEPHONE INDUSTRY
9 COORDINATION; PROVIDING FOR COIN TELEPHONE CONVERSION;
10 PROVIDING FOR FUNDING OF THE SYSTEM BY LEVYING A TELEPHONE
11 FEE; AMENDING SECTION 35-18-503, MCA; AND PROVIDING AN
12 EFFECTIVE DATE."

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1 office, trunking facilities from the central office to a
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14 TELEPHONE COMPANY, OR ANY OTHER ENTITY that provides
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4 a public safety answering point, upon receipt of a telephone
5 request for emergency services, notes the pertinent
6 information from the caller and relays such information to
7 the appropriate public safety agency, other agencies, or
8 other providers of emergency services for dispatch of an
9 emergency unit.

10 ~~(16)~~(15) "Subscriber" means a person who receives
11 telephone exchange access services.

12 ~~(17)~~(16) "Transfer method" means a 9-1-1 service in
13 which a public safety answering point, upon receipt of a
14 telephone request for emergency services, directly transfers
15 such a request to an appropriate public safety answering
16 agency or other provider of emergency services.

17 Section 2. Emergency telephone system requirements.

18 (1) Every public and private safety agency in this state may
19 establish or participate in an emergency telephone system.

20 (2) An emergency telephone system must include:

21 (a) a 24-hour communications facility automatically
22 accessible anywhere in the 9-1-1 jurisdiction's service area
23 by dialing 9-1-1;

24 (b) direct dispatch of public and private safety
25 services in the 9-1-1 jurisdiction or relay or transfer of

1 9-1-1 calls to an appropriate public or private safety
2 agency; and

3 (c) two 9-1-1 circuits from each telephone company
4 central office to each 24-hour communications facility for
5 law enforcement, firefighting, ambulance, and emergency
6 medical services.

7 (3) The primary emergency telephone number within the
8 state is 9-1-1, but a public safety answering point shall
9 maintain both a separate seven-digit secondary emergency
10 number for use by the telephone company operator and a
11 separate seven-digit nonemergency number.

12 Section 3. Department of administration duties and
13 powers. (1) The department shall assist in the development
14 of 9-1-1 systems in the state. The department shall:

15 (a) establish procedures for determining and
16 evaluating requests for variations from minimum 9-1-1
17 service;

18 (b) upon request of a 9-1-1 jurisdiction, assist in
19 planning an emergency 9-1-1 telephone system;

20 (c) establish criteria for evaluating plans;

21 (d) monitor implementation of approved plans for
22 compliance with the plan and use of funding; and

23 (e) report biennially to the legislature the progress
24 made in implementing a statewide emergency telephone system.

25 (2) The department shall obtain input from all 9-1-1

1 jurisdictions by creating an advisory council to participate
2 in development and implementation of the 9-1-1 program in
3 the state. The council must be established pursuant to
4 2-15-122. The highway patrol, emergency medical services
5 organizations, telephone companies, the associated public
6 safety communicators, the department of emergency services,
7 police departments, sheriff's departments, local citizens,
8 organizations, and other public safety organizations may
9 submit recommendations for membership on the advisory
10 council.

11 Section 4. Submission of preliminary plans for 9-1-1
12 jurisdictions -- review -- cost estimates. (1) A 9-1-1
13 jurisdiction may submit a preliminary plan for establishing
14 an emergency telephone system in accordance with [section 2]
15 to:

16 (a) public and private safety agencies in the 9-1-1
17 jurisdiction;

18 (b) the department; and

19 (c) ~~public--utilities--that--provide~~ PROVIDERS OF
20 telephone service in the 9-1-1 jurisdiction's service area.

21 (2) The department shall review the preliminary plan
22 for compliance with [section 2] and rules adopted pursuant
23 to [section 3] and report its approval or disapproval to the
24 9-1-1 jurisdiction within 90 days of receipt of the plan.

25 (3) A ~~public--utility--that--provides~~ PROVIDER OF

1 telephone service in the 9-1-1 jurisdiction's service area
2 shall, within 90 days of receipt of the plan, provide the
3 9-1-1 jurisdiction with a good faith estimate of the cost to
4 the 9-1-1 jurisdiction for implementing the plan.

5 Section 5. Submission and approval of final plans --
6 exception. (1) A 9-1-1 jurisdiction shall submit a proposed
7 final plan for establishing an emergency telephone system
8 pursuant to [section 2] within 1 year from receipt of the
9 department's approval of its preliminary plan to:

10 (a) public and private safety agencies in the 9-1-1
11 jurisdiction;

12 (b) the department; and

13 (c) ~~public--utilities--that---provide~~ PROVIDERS OF
14 telephone service in the 9-1-1 jurisdiction's service area.

15 (2) In addition to other matters required by [section
16 2], the final plan must include a description of all capital
17 and recurring costs for the proposed emergency 9-1-1
18 telephone system.

19 (3) The department shall determine whether the final
20 plan complies with [section 2] and rules adopted pursuant to
21 [section 3]. Subject to [section 6], if the department
22 determines that the plan complies, it shall approve the
23 plan, or if the department determines that the plan does not
24 comply, it shall disapprove the plan. The department shall
25 inform the 9-1-1 jurisdiction of its decision within 180

1 days of receipt of the plan.

2 Section 6. Requirement for approval of final plan --
3 department to insure compliance. The department may not
4 approve the preliminary or final plan of a 9-1-1
5 jurisdiction unless the plan is accompanied by a written
6 approval from the governing bodies of all participating
7 public and private safety agencies included in the 9-1-1
8 jurisdiction.

9 Section 7. Agreements among safety agencies for
10 rendering emergency services. (1) Public or private safety
11 agencies sharing common boundaries may enter into agreements
12 which provide that an emergency unit dispatched by an
13 emergency telephone system established in accordance with
14 [section 2] must render emergency services without regard to
15 jurisdictional boundaries.

16 (2) A public safety agency with jurisdictional
17 responsibilities must in all cases be notified by the public
18 safety answering point of a request for service in the
19 agency's jurisdiction.

20 Section 8. Pay phones to be converted to allow
21 emergency calls without charge. ~~A--public--utility--that~~
22 provides EVERY PROVIDER OF telephone service OR OTHER OWNER
23 OF A PAY STATION TELEPHONE in an area served by an emergency
24 telephone system established pursuant to [section 2] must
25 convert every pay station telephone to permit dialing 9-1-1

1 or the telephone company operator without deposit of a coin
2 or other charge to the caller. Conversion must be completed
3 by or before the time the emergency telephone system is
4 operational.

5 Section 9. Fee imposed for telephone exchange access
6 services. (1) Except as provided in [section 10], a fee of
7 25 cents a month per access line on each service subscriber
8 in the state is imposed on the amount charged for telephone
9 exchange access services.

10 (2) The subscriber paying for exchange access line
11 services is liable for the fee imposed by this section.

12 (3) The provider shall collect the fee. The amount of
13 the fee collected by the provider is considered payment by
14 the subscriber for that amount of fee.

15 (4) Any return made by the provider collecting the fee
16 is prima facie evidence of payments by the subscribers of
17 the amount of fees indicated on the return.

18 Section 10. Exemptions from fee imposed. The fee
19 imposed by [section 9] does not apply to:

20 (1) services that the state is prohibited from taxing
21 under the constitution or laws of the United States or the
22 constitution or laws of the state of Montana; or

23 (2) amounts paid by depositing coins in a public
24 telephone.

25 Section 11. Provider required to maintain record of

1 collections. Every provider responsible for the collection
2 of the fee imposed by [section 9] shall keep records, render
3 statements, make returns, and comply with rules adopted by
4 the department of revenue with respect to the fee. Whenever
5 necessary in the judgment of the department of revenue, it
6 may require the provider or subscriber to make returns,
7 render statements, or keep records sufficient to show
8 whether there is tax liability FOR THE FEE.

9 Section 12. Deadlines for filing returns. (1) The
10 provider collecting the fee under [section 9] must file a
11 return with the department of revenue on or before the last
12 day of the month following the end of each calendar quarter,
13 reporting the amount of fee due on exchange access line
14 services during the quarter. Returns are subject to the
15 penalty for false swearing provided in 45-7-202.

16 (2) When a return of the fee is required, the provider
17 required to make the return shall pay the fee due the
18 department of revenue at the time fixed for filing the
19 return.

20 (3) The provider shall pay the fee based on the net
21 amount billed for the exchange access service fee during the
22 quarter.

23 (4) As used in this section, the "net amount billed
24 for the exchange access service fee" equals the gross amount
25 billed for such service, less adjustments for uncollectable

1 accounts, refunds, incorrect billings, and other appropriate
2 adjustments.

3 Section 13. Refund to provider for excess payment of
4 fee. If the amount paid by a provider to the department of
5 revenue exceeds the amount of fee owed, the department of
6 revenue shall refund the amount of the excess payment, with
7 interest thereon at the rate of 0.5% a month or fraction of
8 a month from the date of payment of the excess until the
9 date of the refund. No refund may be made to a provider who
10 fails to claim the refund within 2 years after the due date
11 for filing of the return with respect to which the claim for
12 refund relates.

13 Section 14. Provider required to hold fee in trust for
14 state. (1) Every provider required to collect the fee
15 imposed by [section 9] holds it in trust for the state of
16 Montana and for the payment thereof to the department of
17 revenue in the manner and at the time provided by [section
18 12].

19 (2) If a provider required to collect the fee fails to
20 remit any amount held in trust for the state of Montana or
21 if a subscriber fails to pay the fee, the department of
22 revenue may enforce collection by the issuance of a warrant
23 for distraint for the collection of the delinquent amount
24 and all penalties, interest, and collection charges accrued
25 thereon. The warrant is governed by the provisions of Title

1 15, chapter 1, part 7.

2 Section 15. Provider considered a taxpayer under
3 provisions for fee. Unless the context requires otherwise,
4 the provisions of Title 15 referring to the audit and
5 examination of reports and returns, determination of
6 deficiency assessments, claims for refunds, penalties,
7 interest, jeopardy assessments, warrants, conferences,
8 appeals to the department of revenue, appeals to the state
9 tax appeal board, and procedures relating thereto apply to
10 [sections 9 through 14] the same as if the fee were a tax
11 imposed upon or measured by net income. All such provisions
12 apply to the subscriber liable for the fee and to the
13 provider required to collect the fee. As to any amount
14 collected and required to be remitted to the department of
15 revenue, the fee is considered a tax upon the provider
16 required to collect it and that provider is considered a
17 taxpayer.

18 Section 16. Establishment of emergency
19 telecommunications account. A 9-1-1 emergency
20 telecommunications account is established in the state
21 special revenue fund in the state treasury. All money
22 received by the department of revenue pursuant to [section
23 9] must be paid to the state treasurer for deposit in the
24 account. After payment of refunds pursuant to [section 13],
25 the balance of the account is statutorily appropriated [as

1 provided in section 2 of House Bill No. 12] to the
2 department to be used for the purposes described in
3 [sections 2 through 8].

4 Section 17. Distribution of account by department. (1)
5 The department shall make quarterly distributions of the
6 entire account beginning on October 1, 1985. The
7 distributions must be made for the following:

8 (a) administrative costs incurred during the preceding
9 calendar quarter by the department of revenue in carrying
10 out [this act]. The amount paid may not exceed 1% of the
11 account on the date of distribution or actual expenses
12 incurred, whichever is less.

13 (b) administrative costs incurred during the preceding
14 calendar quarter by the department in carrying out its
15 duties under [this act]. The amount paid to the department
16 may not exceed 7% of the account on the date of distribution
17 or actual expenses incurred, whichever is less.

18 (c) costs incurred during the preceding calendar
19 quarter by each ~~public-utility--that--provides~~ PROVIDER OF
20 telephone service in the state for:

- 21 (i) collection of the fee imposed by [section 9];
22 (ii) modification of central office switching and
23 trunking equipment for emergency telephone service only; and
24 (iii) conversion of pay station telephones required by
25 [section 8].

1 (2) Payments under subsection (1)(c) may be made only
2 after application by the ~~public--utility~~ PROVIDER to the
3 ~~commission~~ DEPARTMENT for costs incurred in subsection
4 (1)(c). The ~~commission~~ DEPARTMENT shall audit REVIEW all
5 applications relevant to subsection (1)(c) for
6 appropriateness of costs claimed by the ~~public--utility--and~~
7 ~~shall--forward--the--results--of--such--audits--to--the--department~~
8 PROVIDER. If the ~~utility~~ PROVIDER contests the audit REVIEW,
9 payment may not be made until the amount owed the ~~utility~~
10 PROVIDER is made certain.

11 (3) After all amounts under subsections (1) and (2)
12 have been paid, the balance of the account must be
13 distributed to cities within a 9-1-1 jurisdiction that have
14 an approved final plan and to counties within a 9-1-1
15 jurisdiction that have an approved final plan on a per
16 capita basis. However, each county must receive a minimum of
17 1% of the balance of the counties' share of the account.
18 Cities and counties shall distribute amounts received to
19 9-1-1 jurisdictions within their jurisdiction. A 9-1-1
20 jurisdiction whose 9-1-1 service area includes more than one
21 city or county is eligible to receive operating funds from
22 each city or county involved.

23 (4) If the department through its monitoring process
24 determines that a 9-1-1 jurisdiction is not adhering to an
25 approved plan or is not using funds in the manner prescribed

1 in [section 18], the department may, after notice and
 2 hearing, suspend payment to the 9-1-1 jurisdiction. The
 3 jurisdiction is not eligible to receive funds until such
 4 time as the department determines that the jurisdiction is
 5 complying with the approved plan and fund usage limitations.

6 Section 18. Limitation on use of funds. Money received
 7 under subsection (3) of [section 17] may be used only to pay
 8 for installing, operating, and improving an emergency
 9 telephone system using 9-1-1. Money not necessary for
 10 immediate use may be invested by the city or county. The
 11 income from the investments shall be used only for the
 12 purposes described in this section.

13 SECTION 19. SECTION 35-18-503, MCA, IS AMENDED TO
 14 READ:

15 "35-18-503. Annual fee to department of revenue --
 16 exemption from other taxes. Cooperatives and foreign
 17 corporations transacting business in this state pursuant to
 18 the provisions of this chapter shall pay annually on or
 19 before July 1, to the department of revenue a fee of \$10 for
 20 each 100 persons or fractions thereof to whom electricity or
 21 telephone service is supplied within the state but, except
 22 as provided in [section 9], shall be exempt from all other
 23 excise and income taxes of whatsoever kind or nature."

24 Section 20. Coordination. If this act and House Bill
 25 No. 12 are both passed and approved, subsection (3) of

1 section 2 of House Bill No. 12 is amended to include a
 2 reference to section 16 of this act, and the bracketed
 3 language in section 16 of this act "[as provided in section
 4 2 of House Bill No. 12]" is effective. If House Bill No. 12
 5 is not passed and approved, such bracketed language in
 6 section 16 of this act is void.

7 Section 21. Effective date. This act is effective July
 8 1, 1985.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 325

3 Senate Local Government Committee
4

5 A statement of intent is required for this act because
6 it delegates rulemaking to the department of administration
7 and the department of revenue. It is the intent of the
8 legislature that the department of administration solicit
9 the advice of emergency service providers and the advisory
10 council created by section 3 in developing rules for
11 requirements of systems and criteria for approving or
12 disapproving plans.

13 Rules adopted by the department of revenue must provide
14 for forms for returns and requests for refunds that are not
15 burdensome to providers. The rules must also provide
16 recordkeeping requirements for service providers and dates
17 when returns must be made. The department shall also
18 prescribe standards by which it will determine whether a
19 refund is payable.

1 SENATE BILL NO. 325

2 INTRODUCED BY VAN VALKENBURG, KEYSER, FULLER, HARDING,

3 HALLIGAN, BLAYLOCK, MCCALLUM, QUILICI,

4 HIRSCH, MOHAR, CRIPPEN

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A
7 PERMISSIVE STATEWIDE EMERGENCY TELEPHONE SYSTEM; PROVIDING
8 FOR A STATE PLAN; PROVIDING FOR TELEPHONE INDUSTRY
9 COORDINATION; PROVIDING FOR COIN TELEPHONE CONVERSION;
10 PROVIDING FOR FUNDING OF THE SYSTEM BY LEVYING A TELEPHONE
11 FEE; AMENDING SECTION 35-18-503, MCA; AND PROVIDING AN
12 EFFECTIVE DATE."
13

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

15 Section 1. Definitions. As used in [this act], unless
16 the context requires otherwise, the following definitions
17 apply:

18 (1) "Account" means the 9-1-1 emergency
19 telecommunications account established in [section 16].

20 ~~(2) "Commission" means the public service commission
21 provided for in 2-15-2602.~~

22 (3)(2) "Department" means the department of
23 administration provided for in Title 2, chapter 15, part 10.

24 (4)(3) "Direct dispatch method" means a 9-1-1 service
25 in which a public safety answering point, upon receipt of a

1 telephone request for emergency services, provides for a
2 decision as to the proper action to be taken and for
3 dispatch of appropriate emergency service units.

4 (5)(4) "Emergency" means any event that requires
5 dispatch of a public or private safety agency.

6 (6)(5) "Emergency services" means services provided by
7 any public or private safety agency, including law
8 enforcement, firefighting, ambulance or medical services,
9 and civil defense services.

10 (7)(6) "Exchange access services" means:

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

15 (b) unless a separate tariff rate is charged therefor,
16 any facility or service provided in connection with the
17 services described in subsection (7)(a).

18 (8)(7) "Local government" means any city, county, or
19 political subdivision of the state and its agencies.

20 (9)(8) "Minimum 9-1-1 service" means a telephone
21 service meeting the standards established in [section 3]
22 that automatically connects a person dialing the digits
23 9-1-1 to an established public safety answering point.
24 "Minimum 9-1-1 services" includes equipment for connecting
25 and outswitching 9-1-1 calls within a telephone central

1 office, trunking facilities from the central office to a
2 public safety answering point, and equipment, as
3 appropriate, for transferring the call to another point,
4 when appropriate.

5 ~~(10)~~(9) A "9-1-1 jurisdiction" means a group of public
6 or private safety agencies who operate within or are
7 affected by one or more common central office boundaries and
8 who have agreed in writing to jointly plan a 9-1-1 emergency
9 telephone system.

10 ~~(11)~~(10) "Private safety agency" means any entity,
11 except a public safety agency, providing emergency fire,
12 ambulance, or medical services.

13 ~~(12)~~(11) "Provider" means a public utility, COOPERATIVE
14 TELEPHONE COMPANY, OR ANY OTHER ENTITY that provides
15 telephone exchange access services.

16 ~~(13)~~(12) "Public safety agency" means the state and any
17 city, county, city-county consolidated government, municipal
18 corporation, chartered organization, public district, or
19 public authority located in whole or in part within this
20 state that provides or has authority to provide emergency
21 services.

22 ~~(14)~~(13) "Public safety answering point" means a
23 communications facility operated on a 24-hour basis that
24 first receives 9-1-1 calls from persons in a 9-1-1 service
25 area and which may, as appropriate, directly dispatch public

1 or private safety services or transfer or relay 9-1-1 calls
2 to appropriate public safety agencies.

3 ~~(15)~~(14) "Relay method" means a 9-1-1 service in which
4 a public safety answering point, upon receipt of a telephone
5 request for emergency services, notes the pertinent
6 information from the caller and relays such information to
7 the appropriate public safety agency, other agencies, or
8 other providers of emergency services for dispatch of an
9 emergency unit.

10 ~~(16)~~(15) "Subscriber" means a person who receives
11 telephone exchange access services.

12 ~~(17)~~(16) "Transfer method" means a 9-1-1 service in
13 which a public safety answering point, upon receipt of a
14 telephone request for emergency services, directly transfers
15 such a request to an appropriate public safety answering
16 agency or other provider of emergency services.

17 Section 2. Emergency telephone system requirements.

18 (1) Every public and private safety agency in this state may
19 establish or participate in an emergency telephone system.

20 (2) An emergency telephone system must include:

21 (a) a 24-hour communications facility automatically
22 accessible anywhere in the 9-1-1 jurisdiction's service area
23 by dialing 9-1-1;

24 (b) direct dispatch of public and private safety
25 services in the 9-1-1 jurisdiction or relay or transfer of

1 9-1-1 calls to an appropriate public or private safety
2 agency; and

3 (c) two 9-1-1 circuits from each telephone company
4 central office to each 24-hour communications facility for
5 law enforcement, firefighting, ambulance, and emergency
6 medical services.

7 (3) The primary emergency telephone number within the
8 state is 9-1-1, but a public safety answering point shall
9 maintain both a separate seven-digit secondary emergency
10 number for use by the telephone company operator and a
11 separate seven-digit nonemergency number.

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13 powers. (1) The department shall assist in the development
14 of 9-1-1 systems in the state. The department shall:

15 (a) establish procedures for determining and
16 evaluating requests for variations from minimum 9-1-1
17 service;

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19 planning an emergency 9-1-1 telephone system;

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21 (d) monitor implementation of approved plans for
22 compliance with the plan and use of funding; and

23 (e) report biennially to the legislature the progress
24 made in implementing a statewide emergency telephone system.

25 (2) The department shall obtain input from all 9-1-1

1 jurisdictions by creating an advisory council to participate
2 in development and implementation of the 9-1-1 program in
3 the state. The council must be established pursuant to
4 2-15-122. The highway patrol, emergency medical services
5 organizations, telephone companies, the associated public
6 safety communicators, the department of emergency services,
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12 jurisdictions -- review -- cost estimates. (1) A 9-1-1
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14 an emergency telephone system in accordance with [section 2]
15 to:

16 (a) public and private safety agencies in the 9-1-1
17 jurisdiction;

18 (b) the department; and

19 (c) ~~public--utilities--that---provide~~ PROVIDERS OF
20 telephone service in the 9-1-1 jurisdiction's service area.

21 (2) The department shall review the preliminary plan
22 for compliance with [section 2] and rules adopted pursuant
23 to [section 3] and report its approval or disapproval to the
24 9-1-1 jurisdiction within 90 days of receipt of the plan.

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 2 shall, within 90 days of receipt of the plan, provide the
 3 9-1-1 jurisdiction with a good faith estimate of the cost to
 4 the 9-1-1 jurisdiction for implementing the plan.

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 6 exception. (1) A 9-1-1 jurisdiction shall submit a proposed
 7 final plan for establishing an emergency telephone system
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15 (2) In addition to other matters required by [section
 16 2], the final plan must include a description of all capital
 17 and recurring costs for the proposed emergency 9-1-1
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 20 plan complies with [section 2] and rules adopted pursuant to
 21 [section 3]. Subject to [section 6], if the department
 22 determines that the plan complies, it shall approve the
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17 required to make the return shall pay the fee due the
18 department of revenue at the time fixed for filing the
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21 amount billed for the exchange access service fee during the
22 quarter.

23 (4) As used in this section, the "net amount billed
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25 thereon. The warrant is governed by the provisions of Title

1 15, chapter 1, part 7.

2 Section 15. Provider considered a taxpayer under
3 provisions for fee. Unless the context requires otherwise,
4 the provisions of Title 15 referring to the audit and
5 examination of reports and returns, determination of
6 deficiency assessments, claims for refunds, penalties,
7 interest, jeopardy assessments, warrants, conferences,
8 appeals to the department of revenue, appeals to the state
9 tax appeal board, and procedures relating thereto apply to
10 [sections 9 through 14] the same as if the fee were a tax
11 imposed upon or measured by net income. All such provisions
12 apply to the subscriber liable for the fee and to the
13 provider required to collect the fee. As to any amount
14 collected and required to be remitted to the department of
15 revenue, the fee is considered a tax upon the provider
16 required to collect it and that provider is considered a
17 taxpayer.

18 Section 16. Establishment of emergency
19 telecommunications account. A 9-1-1 emergency
20 telecommunications account is established in the state
21 special revenue fund in the state treasury. All money
22 received by the department of revenue pursuant to [section
23 9] must be paid to the state treasurer for deposit in the
24 account. After payment of refunds pursuant to [section 13],
25 the balance of the account is statutorily appropriated [as

1 provided in section 2 of House Bill No. 12] to the
2 department to be used for the purposes described in
3 [sections 2 through 8].

4 Section 17. Distribution of account by department. (1)
5 The department shall make quarterly distributions of the
6 entire account beginning on October 1, 1985. The
7 distributions must be made for the following:

8 (a) administrative costs incurred during the preceding
9 calendar quarter by the department of revenue in carrying
10 out [this act]. The amount paid may not exceed 1% of the
11 account on the date of distribution or actual expenses
12 incurred, whichever is less.

13 (b) administrative costs incurred during the preceding
14 calendar quarter by the department in carrying out its
15 duties under [this act]. The amount paid to the department
16 may not exceed 7% of the account on the date of distribution
17 or actual expenses incurred, whichever is less.

18 (c) costs incurred during the preceding calendar
19 quarter by each ~~public-utility--that--provides~~ PROVIDER OF
20 telephone service in the state for:

- 21 (i) collection of the fee imposed by [section 9];
22 (ii) modification of central office switching and
23 trunking equipment for emergency telephone service only; and
24 (iii) conversion of pay station telephones required by
25 [section 8].

1 (2) Payments under subsection (1)(c) may be made only
2 after application by the ~~public--utility~~ PROVIDER to the
3 ~~commission~~ DEPARTMENT for costs incurred in subsection
4 (1)(c). The ~~commission~~ DEPARTMENT shall ~~audit~~ REVIEW all
5 applications relevant to subsection (1)(c) for
6 appropriateness of costs claimed by the ~~public--utility--and~~
7 ~~shall--forward--the--results--of--such--audits--to--the--department~~
8 PROVIDER. If the ~~utility~~ PROVIDER contests the ~~audit~~ REVIEW,
9 payment may not be made until the amount owed the ~~utility~~
10 PROVIDER is made certain.

11 (3) After all amounts under subsections (1) and (2)
12 have been paid, the balance of the account must be
13 distributed to cities within a 9-1-1 jurisdiction that have
14 an approved final plan and to counties within a 9-1-1
15 jurisdiction that have an approved final plan on a per
16 capita basis. However, each county must receive a minimum of
17 1% of the balance of the counties' share of the account.
18 Cities and counties shall distribute amounts received to
19 9-1-1 jurisdictions within their jurisdiction. A 9-1-1
20 jurisdiction whose 9-1-1 service area includes more than one
21 city or county is eligible to receive operating funds from
22 each city or county involved.

23 (4) If the department through its monitoring process
24 determines that a 9-1-1 jurisdiction is not adhering to an
25 approved plan or is not using funds in the manner prescribed

1 in [section 18], the department may, after notice and
 2 hearing, suspend payment to the 9-1-1 jurisdiction. The
 3 jurisdiction is not eligible to receive funds until such
 4 time as the department determines that the jurisdiction is
 5 complying with the approved plan and fund usage limitations.

6 Section 18. Limitation on use of funds. Money received
 7 under subsection (3) of [section 17] may be used only to pay
 8 for installing, operating, and improving an emergency
 9 telephone system using 9-1-1. Money not necessary for
 10 immediate use may be invested by the city or county. The
 11 income from the investments shall be used only for the
 12 purposes described in this section.

13 SECTION 19. SECTION 35-18-503, MCA, IS AMENDED TO
 14 READ:

15 "35-18-503. Annual fee to department of revenue --
 16 exemption from other taxes. Cooperatives and foreign
 17 corporations transacting business in this state pursuant to
 18 the provisions of this chapter shall pay annually on or
 19 before July 1, to the department of revenue a fee of \$10 for
 20 each 100 persons or fractions thereof to whom electricity or
 21 telephone service is supplied within the state but, except
 22 as provided in [section 9], shall be exempt from all other
 23 excise and income taxes of whatsoever kind or nature."

24 Section 20. Coordination. IF this act and House Bill
 25 No. 12 are both passed and approved, subsection (3) of

1 section 2 of House Bill No. 12 is amended to include a
 2 reference to section 16 of this act, and the bracketed
 3 language in section 16 of this act "[as provided in section
 4 2 of House Bill No. 12]" is effective. If House Bill No. 12
 5 is not passed and approved, such bracketed language in
 6 section 16 of this act is void.

7 Section 21. Effective date. This act is effective July
 8 1, 1985.

-End-

STANDING COMMITTEE REPORT

HOUSE

March 21 19 85
page 1 of 2

March 21 19 85
page 2 of 2
SB325

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration SENATE Bill No. 325

third reading copy (blue color)

ESTABLISHMENT OF STATEWIDE EMERGENCY PHONE SYSTEM

Respectfully report as follows: That SENATE Bill No. 325

BE AMENDED AS FOLLOWS:

- 1. Title, line 11
Strike: "AN"
- 2. Title, line 12
Strike: "DATE"
Insert: "DATES"
- 3. Page 4, line 10
Following: "means"
Strike: "a person"
Insert: "an end user"

- 4. Page 5, line 3
Following: "(c)"
Strike: the remainder of line 3, lines 4 and 5 in their entirety, and line 6 through "services"
Insert: "a 24-hour communications facility equipped with at least two trunk-hunting local access circuits provided by the local telephone company's central office"
- 5. Page 8, line 1
Following: "plan."
Insert: "In any statement approving a final plan, the department shall indicate a timetable in which the provider shall undertake necessary telephone system conversions. The timetable must be such that conversions may not be required unless sufficient funds to compensate the provider for its conversion costs are available within 1 year of the initial installation of the 9-1-1 system."
- 6. Page 16, line 7
Following: "Effective"
Strike: "date"
Insert: "dates"
Following: "."
Strike: "This act is"
Insert: "(1) [Sections 9 through 20], to the extent that they show a provider who voluntarily complies with the provisions for emergency telephone system in [section 2] to impose, collect, and use the proceeds of a charge of 25 cents a month per access line on each service subscriber, and this section are"
- 7. Page 16, following line 8
Insert: "(2) Sections 1 through 8 are effective July 1, 1987."

JK
66723

SL
3/25

Rep. Bob Pavlovich
Rep. Bob Pavlovich, Chairman.

BE CONCURRED IN AS AMENDED

Rep. Bob Pavlovich
Rep. Bob Pavlovich, Chairman.

1 STATEMENT OF INTENT

2 SENATE BILL 325

3 Senate Local Government Committee

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A statement of intent is required for this act because it delegates rulemaking to the department of administration and the department of revenue. It is the intent of the legislature that the department of administration solicit the advice of emergency service providers and the advisory council created by section 3 in developing rules for requirements of systems and criteria for approving or disapproving plans.

Rules adopted by the department of revenue must provide for forms for returns and requests for refunds that are not burdensome to providers. The rules must also provide recordkeeping requirements for service providers and dates when returns must be made. The department shall also prescribe standards by which it will determine whether a refund is payable.



REFERENCE BILL
SB 325

SENATE BILL NO. 325

INTRODUCED BY VAN VALKENBURG, KEYSER, FULLER, HARDING,
HALLIGAN, BLAYLOCK, MCCALLUM, QUILICI,
HIRSCH, MOHAR, CRIPPEN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A
PERMISSIVE STATEWIDE EMERGENCY TELEPHONE SYSTEM; PROVIDING
FOR A STATE PLAN; PROVIDING FOR TELEPHONE INDUSTRY
COORDINATION; PROVIDING FOR COIN TELEPHONE CONVERSION;
PROVIDING FOR FUNDING OF THE SYSTEM BY LEVYING A TELEPHONE
FEE; AMENDING SECTION 35-18-503, MCA; AND PROVIDING AN
EFFECTIVE DATE DATES."

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

Section 1. Definitions. As used in [this act], unless
the context requires otherwise, the following definitions
apply:

{1} "Account" means the 9-1-1 emergency
telecommunications account established in [section 16].

~~{2}--"Commission"--means--the--public--service--commission
provided--for--in--2-15-2602.~~

{3}{2} "Department" means the department of
administration provided for in Title 2, chapter 15, part 10.

{4}{3} "Direct dispatch method" means a 9-1-1 service
in which a public safety answering point, upon receipt of a

telephone request for emergency services, provides for a
decision as to the proper action to be taken and for
dispatch of appropriate emergency service units.

{5}{4} "Emergency" means any event that requires
dispatch of a public or private safety agency.

{6}{5} "Emergency services" means services provided by
any public or private safety agency, including law
enforcement, firefighting, ambulance or medical services,
and civil defense services.

{7}{6} "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 therefor,
any facility or service provided in connection with the
services described in subsection (7)(a).

{8}{7} "Local government" means any city, county, or
political subdivision of the state and its agencies.

{9}{8} "Minimum 9-1-1 service" means a telephone
service meeting the standards established in [section 3]
9-1-1 to an established public safety answering point.
"Minimum 9-1-1 services" includes equipment for connecting
and outswitching 9-1-1 calls within a telephone central



1 office, trunking facilities from the central office to a
2 public safety answering point, and equipment, as
3 appropriate, for transferring the call to another point,
4 when appropriate.

5 †10†(9) A "9-1-1 jurisdiction" means a group of public
6 or private safety agencies who operate within or are
7 affected by one or more common central office boundaries and
8 who have agreed in writing to jointly plan a 9-1-1 emergency
9 telephone system.

10 †11†(10) "Private safety agency" means any entity,
11 except a public safety agency, providing emergency fire,
12 ambulance, or medical services.

13 †12†(11) "Provider" means a public utility, COOPERATIVE
14 TELEPHONE COMPANY, OR ANY OTHER ENTITY that provides
15 telephone exchange access services.

16 †13†(12) "Public safety agency" means the state and any
17 city, county, city-county consolidated government, municipal
18 corporation, chartered organization, public district, or
19 public authority located in whole or in part within this
20 state that provides or has authority to provide emergency
21 services.

22 †14†(13) "Public safety answering point" means a
23 communications facility operated on a 24-hour basis that
24 first receives 9-1-1 calls from persons in a 9-1-1 service
25 area and which may, as appropriate, directly dispatch public

1 or private safety services or transfer or relay 9-1-1 calls
2 to appropriate public safety agencies.

3 †15†(14) "Relay method" means a 9-1-1 service in which
4 a public safety answering point, upon receipt of a telephone
5 request for emergency services, notes the pertinent
6 information from the caller and relays such information to
7 the appropriate public safety agency, other agencies, or
8 other providers of emergency services for dispatch of an
9 emergency unit.

10 †16†(15) "Subscriber" means ~~a person~~ AND END USER who
11 receives telephone exchange access services.

12 †17†(16) "Transfer method" means a 9-1-1 service in
13 which a public safety answering point, upon receipt of a
14 telephone request for emergency services, directly transfers
15 such a request to an appropriate public safety answering
16 agency or other provider of emergency services.

17 Section 2. Emergency telephone system requirements.
18 (1) Every public and private safety agency in this state may
19 establish or participate in an emergency telephone system.

20 (2) An emergency telephone system must include:

21 (a) a 24-hour communications facility automatically
22 accessible anywhere in the 9-1-1 jurisdiction's service area
23 by dialing 9-1-1;

24 (b) direct dispatch of public and private safety
25 services in the 9-1-1 jurisdiction or relay or transfer of

1 9-1-1 calls to an appropriate public or private safety
2 agency; and

3 (c) ~~two--9-1-1--circuits--from--each--telephone--company~~
4 ~~central--office--to--each--24-hour--communications--facility--for~~
5 ~~law--enforcement,--firefighting,--ambulance,--and--emergency~~
6 ~~medical--services~~ A 24-HOUR COMMUNICATIONS FACILITY EQUIPPED
7 WITH AT LEAST TWO TRUNK-HUNTING LOCAL ACCESS CIRCUITS
8 PROVIDED BY THE LOCAL TELEPHONE COMPANY'S CENTRAL OFFICE.

9 (3) The primary emergency telephone number within the
10 state is 9-1-1, but a public safety answering point shall
11 maintain both a separate seven-digit secondary emergency
12 number for use by the telephone company operator and a
13 separate seven-digit nonemergency number.

14 Section 3. Department of administration duties and
15 powers. (1) The department shall assist in the development
16 of 9-1-1 systems in the state. The department shall:

17 (a) establish procedures for determining and
18 evaluating requests for variations from minimum 9-1-1
19 service;

20 (b) upon request of a 9-1-1 jurisdiction, assist in
21 planning an emergency 9-1-1 telephone system;

22 (c) establish criteria for evaluating plans;

23 (d) monitor implementation of approved plans for
24 compliance with the plan and use of funding; and

25 (e) report biennially to the legislature the progress

1 made in implementing a statewide emergency telephone system.

2 (2) The department shall obtain input from all 9-1-1
3 jurisdictions by creating an advisory council to participate
4 in development and implementation of the 9-1-1 program in
5 the state. The council must be established pursuant to
6 2-15-122. The highway patrol, emergency medical services
7 organizations, telephone companies, the associated public
8 safety communicators, the department of emergency services,
9 police departments, sheriff's departments, local citizens,
10 organizations, and other public safety organizations may
11 submit recommendations for membership on the advisory
12 council.

13 Section 4. Submission of preliminary plans for 9-1-1
14 jurisdictions -- review -- cost estimates. (1) A 9-1-1
15 jurisdiction may submit a preliminary plan for establishing
16 an emergency telephone system in accordance with [section 2]
17 to:

18 (a) public and private safety agencies in the 9-1-1
19 jurisdiction;

20 (b) the department; and

21 (c) ~~public--utilities--that---provide~~ PROVIDERS OF
22 telephone service in the 9-1-1 jurisdiction's service area.

23 (2) The department shall review the preliminary plan
24 for compliance with [section 2] and rules adopted pursuant
25 to [section 3] and report its approval or disapproval to the

1 9-1-1 jurisdiction within 90 days of receipt of the plan.

2 (3) A ~~public--utility--that--provides~~ PROVIDER OF
3 telephone service in the 9-1-1 jurisdiction's service area
4 shall, within 90 days of receipt of the plan, provide the
5 9-1-1 jurisdiction with a good faith estimate of the cost to
6 the 9-1-1 jurisdiction for implementing the plan.

7 Section 5. Submission and approval of final plans --
8 exception. (1) A 9-1-1 jurisdiction shall submit a proposed
9 final plan for establishing an emergency telephone system
10 pursuant to [section 2] within 1 year from receipt of the
11 department's approval of its preliminary plan to:

12 (a) public and private safety agencies in the 9-1-1
13 jurisdiction;

14 (b) the department; and

15 (c) ~~public--utilities--that---provide~~ PROVIDERS OF
16 telephone service in the 9-1-1 jurisdiction's service area.

17 (2) In addition to other matters required by [section
18 2], the final plan must include a description of all capital
19 and recurring costs for the proposed emergency 9-1-1
20 telephone system.

21 (3) The department shall determine whether the final
22 plan complies with [section 2] and rules adopted pursuant to
23 [section 3]. Subject to [section 6], if the department
24 determines that the plan complies, it shall approve the
25 plan, or if the department determines that the plan does not

1 comply, it shall disapprove the plan. The department shall
2 inform the 9-1-1 jurisdiction of its decision within 180
3 days of receipt of the plan. IN ANY STATEMENT APPROVING A
4 FINAL PLAN, THE DEPARTMENT SHALL INDICATE A TIMETABLE IN
5 WHICH THE PROVIDER SHALL UNDERTAKE NECESSARY TELEPHONE
6 SYSTEM CONVERSIONS. THE TIMETABLE MUST BE SUCH THAT
7 CONVERSIONS MAY NOT BE REQUIRED UNLESS SUFFICIENT FUNDS TO
8 COMPENSATE THE PROVIDER FOR ITS CONVERSION COSTS ARE
9 AVAILABLE WITHIN 1 YEAR OF THE INITIAL INSTALLATION OF THE
10 9-1-1 SYSTEM.

11 Section 6. Requirement for approval of final plan --
12 department to insure compliance. The department may not
13 approve the preliminary or final plan of a 9-1-1
14 jurisdiction unless the plan is accompanied by a written
15 approval from the governing bodies of all participating
16 public and private safety agencies included in the 9-1-1
17 jurisdiction.

18 Section 7. Agreements among safety agencies for
19 rendering emergency services. (1) Public or private safety
20 agencies sharing common boundaries may enter into agreements
21 which provide that an emergency unit dispatched by an
22 emergency telephone system established in accordance with
23 [section 2] must render emergency services without regard to
24 jurisdictional boundaries.

25 (2) A public safety agency with jurisdictional

1 responsibilities must in all cases be notified by the public
2 safety answering point of a request for service in the
3 agency's jurisdiction.

4 Section 8. Pay phones to be converted to allow
5 emergency calls without charge. ~~A--public--utility--that~~
6 provides EVERY PROVIDER OF telephone service OR OTHER OWNER
7 OF A PAY STATION TELEPHONE in an area served by an emergency
8 telephone system established pursuant to [section 2] must
9 convert every pay station telephone to permit dialing 9-1-1
10 or the telephone company operator without deposit of a coin
11 or other charge to the caller. Conversion must be completed
12 by or before the time the emergency telephone system is
13 operational.

14 Section 9. Fee imposed for telephone exchange access
15 services. (1) Except as provided in [section 10], a fee of
16 25 cents a month per access line on each service subscriber
17 in the state is imposed on the amount charged for telephone
18 exchange access services.

19 (2) The subscriber paying for exchange access line
20 services is liable for the fee imposed by this section.

21 (3) The provider shall collect the fee. The amount of
22 the fee collected by the provider is considered payment by
23 the subscriber for that amount of fee.

24 (4) Any return made by the provider collecting the fee
25 is prima facie evidence of payments by the subscribers of

1 the amount of fees indicated on the return.

2 Section 10. Exemptions from fee imposed. The fee
3 imposed by [section 9] does not apply to:

4 (1) services that the state is prohibited from taxing
5 under the constitution or laws of the United States or the
6 constitution or laws of the state of Montana; or

7 (2) amounts paid by depositing coins in a public
8 telephone.

9 Section 11. Provider required to maintain record of
10 collections. Every provider responsible for the collection
11 of the fee imposed by [section 9] shall keep records, render
12 statements, make returns, and comply with rules adopted by
13 the department of revenue with respect to the fee. Whenever
14 necessary in the judgment of the department of revenue, it
15 may require the provider or subscriber to make returns,
16 render statements, or keep records sufficient to show
17 whether there is tax liability FOR THE FEE.

18 Section 12. Deadlines for filing returns. (1) The
19 provider collecting the fee under [section 9] must file a
20 return with the department of revenue on or before the last
21 day of the month following the end of each calendar quarter,
22 reporting the amount of fee due on exchange access line
23 services during the quarter. Returns are subject to the
24 penalty for false swearing provided in 45-7-202.

25 (2) When a return of the fee is required, the provider

1 required to make the return shall pay the fee due the
2 department of revenue at the time fixed for filing the
3 return.

4 (3) The provider shall pay the fee based on the net
5 amount billed for the exchange access service fee during the
6 quarter.

7 (4) As used in this section, the "net amount billed
8 for the exchange access service fee" equals the gross amount
9 billed for such service, less adjustments for uncollectable
10 accounts, refunds, incorrect billings, and other appropriate
11 adjustments.

12 Section 13. Refund to provider for excess payment of
13 fee. If the amount paid by a provider to the department of
14 revenue exceeds the amount of fee owed, the department of
15 revenue shall refund the amount of the excess payment, with
16 interest thereon at the rate of 0.5% a month or fraction of
17 a month from the date of payment of the excess until the
18 date of the refund. No refund may be made to a provider who
19 fails to claim the refund within 2 years after the due date
20 for filing of the return with respect to which the claim for
21 refund relates.

22 Section 14. Provider required to hold fee in trust for
23 state. (1) Every provider required to collect the fee
24 imposed by [section 9] holds it in trust for the state of
25 Montana and for the payment thereof to the department of

1 revenue in the manner and at the time provided by [section
2 12].

3 (2) If a provider required to collect the fee fails to
4 remit any amount held in trust for the state of Montana or
5 if a subscriber fails to pay the fee, the department of
6 revenue may enforce collection by the issuance of a warrant
7 for distraint for the collection of the delinquent amount
8 and all penalties, interest, and collection charges accrued
9 thereon. The warrant is governed by the provisions of Title
10 15, chapter 1, part 7.

11 Section 15. Provider considered a taxpayer under
12 provisions for fee. Unless the context requires otherwise,
13 the provisions of Title 15 referring to the audit and
14 examination of reports and returns, determination of
15 deficiency assessments, claims for refunds, penalties,
16 interest, jeopardy assessments, warrants, conferences,
17 appeals to the department of revenue, appeals to the state
18 tax appeal board, and procedures relating thereto apply to
19 [sections 9 through 14] the same as if the fee were a tax
20 imposed upon or measured by net income. All such provisions
21 apply to the subscriber liable for the fee and to the
22 provider required to collect the fee. As to any amount
23 collected and required to be remitted to the department of
24 revenue, the fee is considered a tax upon the provider
25 required to collect it and that provider is considered a

1 taxpayer.

2 Section 16. Establishment of emergency
3 telecommunications account. A 9-1-1 emergency
4 telecommunications account is established in the state
5 special revenue fund in the state treasury. All money
6 received by the department of revenue pursuant to [section
7 9] must be paid to the state treasurer for deposit in the
8 account. After payment of refunds pursuant to [section 13],
9 the balance of the account is statutorily appropriated (as
10 provided in section 2 of House Bill No. 12) to the
11 department to be used for the purposes described in
12 [sections 2 through 8].

13 Section 17. Distribution of account by department. (1)
14 The department shall make quarterly distributions of the
15 entire account beginning on October 1, 1985. The
16 distributions must be made for the following:

17 (a) administrative costs incurred during the preceding
18 calendar quarter by the department of revenue in carrying
19 out [this act]. The amount paid may not exceed 1% of the
20 account on the date of distribution or actual expenses
21 incurred, whichever is less.

22 (b) administrative costs incurred during the preceding
23 calendar quarter by the department in carrying out its
24 duties under [this act]. The amount paid to the department
25 may not exceed 7% of the account on the date of distribution

1 or actual expenses incurred, whichever is less.

2 (c) costs incurred during the preceding calendar
3 quarter by each ~~public--utility-that-provides~~ PROVIDER OF
4 telephone service in the state for:

5 (i) collection of the fee imposed by [section 9];

6 (ii) modification of central office switching and
7 trunking equipment for emergency telephone service only; and

8 (iii) conversion of pay station telephones required by
9 [section 8].

10 (2) Payments under subsection (1)(c) may be made only
11 after application by the ~~public--utility~~ PROVIDER to the
12 ~~commission~~ DEPARTMENT for costs incurred in subsection
13 (1)(c). The ~~commission~~ DEPARTMENT shall ~~audit~~ REVIEW all
14 applications relevant to subsection (1)(c) for
15 appropriateness of costs claimed by the ~~public-utility-and~~
16 ~~shall-forward-the-results-of-such-audits-to--the--department~~
17 PROVIDER. If the ~~utility~~ PROVIDER contests the ~~audit~~ REVIEW,
18 payment may not be made until the amount owed the ~~utility~~
19 PROVIDER is made certain.

20 (3) After all amounts under subsections (1) and (2)
21 have been paid, the balance of the account must be
22 distributed to cities within a 9-1-1 jurisdiction that have
23 an approved final plan and to counties within a 9-1-1
24 jurisdiction that have an approved final plan on a per
25 capita basis. However, each county must receive a minimum of

1 1% of the balance of the counties' share of the account.
 2 Cities and counties shall distribute amounts received to
 3 9-1-1 jurisdictions within their jurisdiction. A 9-1-1
 4 jurisdiction whose 9-1-1 service area includes more than one
 5 city or county is eligible to receive operating funds from
 6 each city or county involved.

7 (4) If the department through its monitoring process
 8 determines that a 9-1-1 jurisdiction is not adhering to an
 9 approved plan or is not using funds in the manner prescribed
 10 in [section 18], the department may, after notice and
 11 hearing, suspend payment to the 9-1-1 jurisdiction. The
 12 jurisdiction is not eligible to receive funds until such
 13 time as the department determines that the jurisdiction is
 14 complying with the approved plan and fund usage limitations.

15 Section 18. Limitation on use of funds. Money received
 16 under subsection (3) of [section 17] may be used only to pay
 17 for installing, operating, and improving an emergency
 18 telephone system using 9-1-1. Money not necessary for
 19 immediate use may be invested by the city or county. The
 20 income from the investments shall be used only for the
 21 purposes described in this section.

22 SECTION 19. SECTION 35-18-503, MCA, IS AMENDED TO
 23 READ:

24 "35-18-503. Annual fee to department of revenue --
 25 exemption from other taxes. Cooperatives and foreign

1 corporations transacting business in this state pursuant to
 2 the provisions of this chapter shall pay annually on or
 3 before July 1, to the department of revenue a fee of \$10 for
 4 each 100 persons or fractions thereof to whom electricity or
 5 telephone service is supplied within the state but, except
 6 as provided in [section 9], shall be exempt from all other
 7 excise and income taxes of whatsoever kind or nature."

8 Section 20. Coordination. If this act and House Bill
 9 No. 12 are both passed and approved, subsection (3) of
 10 section 2 of House Bill No. 12 is amended to include a
 11 reference to section 16 of this act, and the bracketed
 12 language in section 16 of this act "[as provided in section
 13 2 of House Bill No. 12]" is effective. If House Bill No. 12
 14 is not passed and approved, such bracketed language in
 15 section 16 of this act is void.

16 Section 21. Effective date DATES. This--act--is (1)
 17 SECTIONS 9 THROUGH 20, TO THE EXTENT THAT THEY SHOW A
 18 PROVIDER WHO VOLUNTARILY COMPLIES WITH THE PROVISIONS FOR AN
 19 EMERGENCY TELEPHONE SYSTEM IN SECTION 2 TO IMPOSE, COLLECT,
 20 AND USE THE PROCEEDS OF A CHARGE OF 25 CENTS A MONTH PER
 21 ACCESS LINE ON EACH SERVICE SUBSCRIBER, AND THIS SECTION ARE
 22 effective July 1, 1985.

23 (2) SECTIONS 1 THROUGH 8 ARE EFFECTIVE JULY 1, 1987.

-End-

GOVERNOR'S PROPOSED AMENDMENTS
TO SENATE BILL NO. 325
REFERENCE COPY
April 15, 1985

1. Page 13, line 15.
Following: "on"
Strike: "October 1, 1985"
Insert: "April 1, 1987"

2. Page 16, lines 16-23.
Following: "DATES."
Strike: (1) on line 16 through JULY 1, 1987 on line 23.
Insert: "Sections 3 and 11 are effective July 1, 1986 for the purpose of adopting rules to implement this [act]. The remainder of this [act] is effective January 1, 1987"

1 STATEMENT OF INTENT

2 SENATE BILL 325

3 Senate Local Government Committee
4

5 A statement of intent is required for this act because
6 it delegates rulemaking to the department of administration
7 and the department of revenue. It is the intent of the
8 legislature that the department of administration solicit
9 the advice of emergency service providers and the advisory
10 council created by section 3 in developing rules for
11 requirements of systems and criteria for approving or
12 disapproving plans.

13 Rules adopted by the department of revenue must provide
14 for forms for returns and requests for refunds that are not
15 burdensome to providers. The rules must also provide
16 recordkeeping requirements for service providers and dates
17 when returns must be made. The department shall also
18 prescribe standards by which it will determine whether a
19 refund is payable.

REFERENCE BILL: INCLUDES GOVERNOR'S
AMENDMENTS DATED 4-15-85

SB 325

SENATE BILL NO. 325

INTRODUCED BY VAN VALKENBURG, KEYSER, FULLER, HARDING,

HALLIGAN, BLAYLOCK, MCCALLUM, QUILICI,

HIRSCH, MOHAR, CRIPPEN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PERMISSIVE STATEWIDE EMERGENCY TELEPHONE SYSTEM; PROVIDING FOR A STATE PLAN; PROVIDING FOR TELEPHONE INDUSTRY COORDINATION; PROVIDING FOR COIN TELEPHONE CONVERSION; PROVIDING FOR FUNDING OF THE SYSTEM BY LEVYING A TELEPHONE FEE; AMENDING SECTION 35-18-503, MCA; AND PROVIDING AN EFFECTIVE DATE DATES."

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

Section 1. Definitions. As used in [this act], unless the context requires otherwise, the following definitions apply:

(1) "Account" means the 9-1-1 emergency telecommunications account established in [section 16].

~~{2}--"Commission"--means--the--public--service--commission--provided--for--in--2-15-2602.~~

{3}{2} "Department" means the department of administration provided for in Title 2, chapter 15, part 10.

{4}{3} "Direct dispatch method" means a 9-1-1 service in which a public safety answering point, upon receipt of a

telephone request for emergency services, provides for a decision as to the proper action to be taken and for dispatch of appropriate emergency service units.

{5}{4} "Emergency" means any event that requires dispatch of a public or private safety agency.

{6}{5} "Emergency services" means services provided by any public or private safety agency, including law enforcement, firefighting, ambulance or medical services, and civil defense services.

{7}{6} "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 therefor, any facility or service provided in connection with the services described in subsection (7)(a).

{8}{7} "Local government" means any city, county, or political subdivision of the state and its agencies.

{9}{8} "Minimum 9-1-1 service" means a telephone service meeting the standards established in [section 3] that automatically connects a person dialing the digits 9-1-1 to an established public safety answering point. "Minimum 9-1-1 services" includes equipment for connecting and outswitching 9-1-1 calls within a telephone central

1 office, trunking facilities from the central office to a
2 public safety answering point, and equipment, as
3 appropriate, for transferring the call to another point,
4 when appropriate.

5 {10}(9) A "9-1-1 jurisdiction" means a group of public
6 or private safety agencies who operate within or are
7 affected by one or more common central office boundaries and
8 who have agreed in writing to jointly plan a 9-1-1 emergency
9 telephone system.

10 {11}(10) "Private safety agency" means any entity,
11 except a public safety agency, providing emergency fire,
12 ambulance, or medical services.

13 {12}(11) "Provider" means a public utility, COOPERATIVE
14 TELEPHONE COMPANY, OR ANY OTHER ENTITY that provides
15 telephone exchange access services.

16 {13}(12) "Public safety agency" means the state and any
17 city, county, city-county consolidated government, municipal
18 corporation, chartered organization, public district, or
19 public authority located in whole or in part within this
20 state that provides or has authority to provide emergency
21 services.

22 {14}(13) "Public safety answering point" means a
23 communications facility operated on a 24-hour basis that
24 first receives 9-1-1 calls from persons in a 9-1-1 service
25 area and which may, as appropriate, directly dispatch public

1 or private safety services or transfer or relay 9-1-1 calls
2 to appropriate public safety agencies.

3 {15}(14) "Relay method" means a 9-1-1 service in which
4 a public safety answering point, upon receipt of a telephone
5 request for emergency services, notes the pertinent
6 information from the caller and relays such information to
7 the appropriate public safety agency, other agencies, or
8 other providers of emergency services for dispatch of an
9 emergency unit.

10 {16}(15) "Subscriber" means a--person AN END USER who
11 receives telephone exchange access services.

12 {17}(16) "Transfer method" means a 9-1-1 service in
13 which a public safety answering point, upon receipt of a
14 telephone request for emergency services, directly transfers
15 such a request to an appropriate public safety answering
16 agency or other provider of emergency services.

17 Section 2. Emergency telephone system requirements.

18 (1) Every public and private safety agency in this state may
19 establish or participate in an emergency telephone system.

20 (2) An emergency telephone system must include:

21 (a) a 24-hour communications facility automatically
22 accessible anywhere in the 9-1-1 jurisdiction's service area
23 by dialing 9-1-1;

24 (b) direct dispatch of public and private safety
25 services in the 9-1-1 jurisdiction or relay or transfer of

1 9-1-1 calls to an appropriate public or private safety
2 agency; and

3 (c) ~~two--9-1-1--circuits--from--each--telephone--company~~
4 ~~central--office--to--each--24--hour--communications--facility--for~~
5 ~~law--enforcement,--firefighting,--ambulance,--and--emergency~~
6 ~~medical--services~~ A 24-HOUR COMMUNICATIONS FACILITY EQUIPPED
7 WITH AT LEAST TWO TRUNK-HUNTING LOCAL ACCESS CIRCUITS
8 PROVIDED BY THE LOCAL TELEPHONE COMPANY'S CENTRAL OFFICE.

9 (3) The primary emergency telephone number within the
10 state is 9-1-1, but a public safety answering point shall
11 maintain both a separate seven-digit secondary emergency
12 number for use by the telephone company operator and a
13 separate seven-digit nonemergency number.

14 Section 3. Department of administration duties and
15 powers. (1) The department shall assist in the development
16 of 9-1-1 systems in the state. The department shall:

17 (a) establish procedures for determining and
18 evaluating requests for variations from minimum 9-1-1
19 service;

20 (b) upon request of a 9-1-1 jurisdiction, assist in
21 planning an emergency 9-1-1 telephone system;

22 (c) establish criteria for evaluating plans;

23 (d) monitor implementation of approved plans for
24 compliance with the plan and use of funding; and

25 (e) report biennially to the legislature the progress

1 made in implementing a statewide emergency telephone system.

2 (2) The department shall obtain input from all 9-1-1
3 jurisdictions by creating an advisory council to participate
4 in development and implementation of the 9-1-1 program in
5 the state. The council must be established pursuant to
6 2-15-122. The highway patrol, emergency medical services
7 organizations, telephone companies, the associated public
8 safety communicators, the department of emergency services,
9 police departments, sheriff's departments, local citizens,
10 organizations, and other public safety organizations may
11 submit recommendations for membership on the advisory
12 council.

13 Section 4. Submission of preliminary plans for 9-1-1
14 jurisdictions -- review -- cost estimates. (1) A 9-1-1
15 jurisdiction may submit a preliminary plan for establishing
16 an emergency telephone system in accordance with [section 2]
17 to:

18 (a) public and private safety agencies in the 9-1-1
19 jurisdiction;

20 (b) the department; and

21 (c) ~~public--utilities--that---provide~~ PROVIDERS OF
22 telephone service in the 9-1-1 jurisdiction's service area.

23 (2) The department shall review the preliminary plan
24 for compliance with [section 2] and rules adopted pursuant
25 to [section 3] and report its approval or disapproval to the

1 9-1-1 jurisdiction within 90 days of receipt of the plan.

2 (3) A ~~public--utility--that--provides~~ PROVIDER OF
3 telephone service in the 9-1-1 jurisdiction's service area
4 shall, within 90 days of receipt of the plan, provide the
5 9-1-1 jurisdiction with a good faith estimate of the cost to
6 the 9-1-1 jurisdiction for implementing the plan.

7 Section 5. Submission and approval of final plans --
8 exception. (1) A 9-1-1 jurisdiction shall submit a proposed
9 final plan for establishing an emergency telephone system
10 pursuant to [section 2] within 1 year from receipt of the
11 department's approval of its preliminary plan to:

12 (a) public and private safety agencies in the 9-1-1
13 jurisdiction;

14 (b) the department; and

15 (c) ~~public--utilities--that---provide~~ PROVIDERS OF
16 telephone service in the 9-1-1 jurisdiction's service area.

17 (2) In addition to other matters required by [section
18 2], the final plan must include a description of all capital
19 and recurring costs for the proposed emergency 9-1-1
20 telephone system.

21 (3) The department shall determine whether the final
22 plan complies with [section 2] and rules adopted pursuant to
23 [section 3]. Subject to [section 6], if the department
24 determines that the plan complies, it shall approve the
25 plan, or if the department determines that the plan does not

1 comply, it shall disapprove the plan. The department shall
2 inform the 9-1-1 jurisdiction of its decision within 180
3 days of receipt of the plan. IN ANY STATEMENT APPROVING A
4 FINAL PLAN, THE DEPARTMENT SHALL INDICATE A TIMETABLE IN
5 WHICH THE PROVIDER SHALL UNDERTAKE NECESSARY TELEPHONE
6 SYSTEM CONVERSIONS. THE TIMETABLE MUST BE SUCH THAT
7 CONVERSIONS MAY NOT BE REQUIRED UNLESS SUFFICIENT FUNDS TO
8 COMPENSATE THE PROVIDER FOR ITS CONVERSION COSTS ARE
9 AVAILABLE WITHIN 1 YEAR OF THE INITIAL INSTALLATION OF THE
10 9-1-1 SYSTEM.

11 Section 6. Requirement for approval of final plan --
12 department to insure compliance. The department may not
13 approve the preliminary or final plan of a 9-1-1
14 jurisdiction unless the plan is accompanied by a written
15 approval from the governing bodies of all participating
16 public and private safety agencies included in the 9-1-1
17 jurisdiction.

18 Section 7. Agreements among safety agencies for
19 rendering emergency services. (1) Public or private safety
20 agencies sharing common boundaries may enter into agreements
21 which provide that an emergency unit dispatched by an
22 emergency telephone system established in accordance with
23 [section 2] must render emergency services without regard to
24 jurisdictional boundaries.

25 (2) A public safety agency with jurisdictional

1 responsibilities must in all cases be notified by the public
2 safety answering point of a request for service in the
3 agency's jurisdiction.

4 Section 8. Pay phones to be converted to allow
5 emergency calls without charge. ~~A--public--utility--that~~
6 provides EVERY PROVIDER OF telephone service OR OTHER OWNER
7 OF A PAY STATION TELEPHONE in an area served by an emergency
8 telephone system established pursuant to [section 2] must
9 convert every pay station telephone to permit dialing 9-1-1
10 or the telephone company operator without deposit of a coin
11 or other charge to the caller. Conversion must be completed
12 by or before the time the emergency telephone system is
13 operational.

14 Section 9. Fee imposed for telephone exchange access
15 services. (1) Except as provided in [section 10], a fee of
16 25 cents a month per access line on each service subscriber
17 in the state is imposed on the amount charged for telephone
18 exchange access services.

19 (2) The subscriber paying for exchange access line
20 services is liable for the fee imposed by this section.

21 (3) The provider shall collect the fee. The amount of
22 the fee collected by the provider is considered payment by
23 the subscriber for that amount of fee.

24 (4) Any return made by the provider collecting the fee
25 is prima facie evidence of payments by the subscribers of

1 the amount of fees indicated on the return.

2 Section 10. Exemptions from fee imposed. The fee
3 imposed by [section 9] does not apply to:

4 (1) services that the state is prohibited from taxing
5 under the constitution or laws of the United States or the
6 constitution or laws of the state of Montana; or

7 (2) amounts paid by depositing coins in a public
8 telephone.

9 Section 11. Provider required to maintain record of
10 collections. Every provider responsible for the collection
11 of the fee imposed by [section 9] shall keep records, render
12 statements, make returns, and comply with rules adopted by
13 the department of revenue with respect to the fee. Whenever
14 necessary in the judgment of the department of revenue, it
15 may require the provider or subscriber to make returns,
16 render statements, or keep records sufficient to show
17 whether there is ~~tax~~ liability FOR THE FEE.

18 Section 12. Deadlines for filing returns. (1) The
19 provider collecting the fee under [section 9] must file a
20 return with the department of revenue on or before the last
21 day of the month following the end of each calendar quarter,
22 reporting the amount of fee due on exchange access line
23 services during the quarter. Returns are subject to the
24 penalty for false swearing provided in 45-7-202.

25 (2) When a return of the fee is required, the provider

1 required to make the return shall pay the fee due the
2 department of revenue at the time fixed for filing the
3 return.

4 (3) The provider shall pay the fee based on the net
5 amount billed for the exchange access service fee during the
6 quarter.

7 (4) As used in this section, the "net amount billed
8 for the exchange access service fee" equals the gross amount
9 billed for such service, less adjustments for uncollectable
10 accounts, refunds, incorrect billings, and other appropriate
11 adjustments.

12 Section 13. Refund to provider for excess payment of
13 fee. If the amount paid by a provider to the department of
14 revenue exceeds the amount of fee owed, the department of
15 revenue shall refund the amount of the excess payment, with
16 interest thereon at the rate of 0.5% a month or fraction of
17 a month from the date of payment of the excess until the
18 date of the refund. No refund may be made to a provider who
19 fails to claim the refund within 2 years after the due date
20 for filing of the return with respect to which the claim for
21 refund relates.

22 Section 14. Provider required to hold fee in trust for
23 state. (1) Every provider required to collect the fee
24 imposed by [section 9] holds it in trust for the state of
25 Montana and for the payment thereof to the department of

1 revenue in the manner and at the time provided by [section
2 12].

3 (2) If a provider required to collect the fee fails to
4 remit any amount held in trust for the state of Montana or
5 if a subscriber fails to pay the fee, the department of
6 revenue may enforce collection by the issuance of a warrant
7 for distraint for the collection of the delinquent amount
8 and all penalties, interest, and collection charges accrued
9 thereon. The warrant is governed by the provisions of Title
10 15, chapter 1, part 7.

11 Section 15. Provider considered a taxpayer under
12 provisions for fee. Unless the context requires otherwise,
13 the provisions of Title 15 referring to the audit and
14 examination of reports and returns, determination of
15 deficiency assessments, claims for refunds, penalties,
16 interest, jeopardy assessments, warrants, conferences,
17 appeals to the department of revenue, appeals to the state
18 tax appeal board, and procedures relating thereto apply to
19 [sections 9 through 14] the same as if the fee were a tax
20 imposed upon or measured by net income. All such provisions
21 apply to the subscriber liable for the fee and to the
22 provider required to collect the fee. As to any amount
23 collected and required to be remitted to the department of
24 revenue, the fee is considered a tax upon the provider
25 required to collect it and that provider is considered a

1 taxpayer.

2 Section 16. Establishment of emergency
3 telecommunications account. A 9-1-1 emergency
4 telecommunications account is established in the state
5 special revenue fund in the state treasury. All money
6 received by the department of revenue pursuant to [section
7 9] must be paid to the state treasurer for deposit in the
8 account. After payment of refunds pursuant to [section 13],
9 the balance of the account is statutorily appropriated [as
10 provided in section 2 of House Bill No. 12] to the
11 department to be used for the purposes described in
12 [sections 2 through 8].

13 Section 17. Distribution of account by department. (1)
14 The department shall make quarterly distributions of the
15 entire account beginning on ~~October-17-1985~~ APRIL 1, 1987.
16 The distributions must be made for the following:

17 (a) administrative costs incurred during the preceding
18 calendar quarter by the department of revenue in carrying
19 out [this act]. The amount paid may not exceed 1% of the
20 account on the date of distribution or actual expenses
21 incurred, whichever is less.

22 (b) administrative costs incurred during the preceding
23 calendar quarter by the department in carrying out its
24 duties under [this act]. The amount paid to the department
25 may not exceed 7% of the account on the date of distribution

1 or actual expenses incurred, whichever is less.

2 (c) costs incurred during the preceding calendar
3 quarter by each ~~public--utility-that-provides~~ PROVIDER OF
4 telephone service in the state for:

5 (i) collection of the fee imposed by [section 9];
6 (ii) modification of central office switching and
7 trunking equipment for emergency telephone service only; and
8 (iii) conversion of pay station telephones required by
9 [section 8].

10 (2) Payments under subsection (1)(c) may be made only
11 after application by the ~~public--utility~~ PROVIDER to the
12 ~~commission~~ DEPARTMENT for costs incurred in subsection
13 (1)(c). The ~~commission~~ DEPARTMENT shall ~~audit~~ REVIEW all
14 applications relevant to subsection (1)(c) for
15 appropriateness of costs claimed by the ~~public-utility-and~~
16 ~~shall-forward-the-results-of-such-audits-to--the--department~~
17 PROVIDER. If the ~~utility~~ PROVIDER contests the ~~audit~~ REVIEW,
18 payment may not be made until the amount owed the ~~utility~~
19 PROVIDER is made certain.

20 (3) After all amounts under subsections (1) and (2)
21 have been paid, the balance of the account must be
22 distributed to cities within a 9-1-1 jurisdiction that have
23 an approved final plan and to counties within a 9-1-1
24 jurisdiction that have an approved final plan on a per
25 capita basis. However, each county must receive a minimum of

1 1% of the balance of the counties' share of the account.
 2 Cities and counties shall distribute amounts received to
 3 9-1-1 jurisdictions within their jurisdiction. A 9-1-1
 4 jurisdiction whose 9-1-1 service area includes more than one
 5 city or county is eligible to receive operating funds from
 6 each city or county involved.

7 (4) If the department through its monitoring process
 8 determines that a 9-1-1 jurisdiction is not adhering to an
 9 approved plan or is not using funds in the manner prescribed
 10 in [section 18], the department may, after notice and
 11 hearing, suspend payment to the 9-1-1 jurisdiction. The
 12 jurisdiction is not eligible to receive funds until such
 13 time as the department determines that the jurisdiction is
 14 complying with the approved plan and fund usage limitations.

15 Section 18. Limitation on use of funds. Money received
 16 under subsection (3) of [section 17] may be used only to pay
 17 for installing, operating, and improving an emergency
 18 telephone system using 9-1-1. Money not necessary for
 19 immediate use may be invested by the city or county. The
 20 income from the investments shall be used only for the
 21 purposes described in this section.

22 SECTION 19. SECTION 35-18-503, MCA, IS AMENDED TO
 23 READ:
 24 "35-18-503. Annual fee to department of revenue --
 25 exemption from other taxes. Cooperatives and foreign

1 corporations transacting business in this state pursuant to
 2 the provisions of this chapter shall pay annually on or
 3 before July 1, to the department of revenue a fee of \$10 for
 4 each 100 persons or fractions thereof to whom electricity or
 5 telephone service is supplied within the state but, except
 6 as provided in [section 9], shall be exempt from all other
 7 excise and income taxes of whatsoever kind or nature."

8 Section 20. Coordination. If this act and House Bill
 9 No. 12 are both passed and approved, subsection (3) of
 10 section 2 of House Bill No. 12 is amended to include a
 11 reference to section 16 of this act, and the bracketed
 12 language in section 16 of this act "[as provided in section
 13 2 of House Bill No. 12]" is effective. If House Bill No. 12
 14 is not passed and approved, such bracketed language in
 15 section 16 of this act is void.

16 Section 21. Effective date DATES. This--act--is {1}
 17 SECTIONS-9-THROUGH-20,--TO--THE--EXTENT--THAT--THEY--SHOW--A
 18 PROVIDER-WHO-VOLUNTARILY-COMPLIES-WITH-THE-PROVISIONS-FOR-AN
 19 EMERGENCY--TELEPHONE-SYSTEM-IN-SECTION-2-TO-IMPOSE,--COLLECT,
 20 AND-USE-THE-PROCEEDS-OF-A-CHARGE-OF-25--CENTS--A--MONTH--PER
 21 ACCESS-LINE-ON-EACH-SERVICE-SUBSCRIBER,--AND-THIS-SECTION-ARE
 22 effective-July-17-1985.

23 {2}--SECTIONS--1--THROUGH-8-ARE-EFFECTIVE-JULY-17-1985.
 24 SECTIONS 3 AND 11 ARE EFFECTIVE JULY 1, 1986, FOR THE
 25 PURPOSE OF ADOPTING RULES TO IMPLEMENT THIS ACT. THE

SB 0325/04

1 REMAINDER OF THIS ACT IS EFFECTIVE JANUARY 1, 1987.

-End-