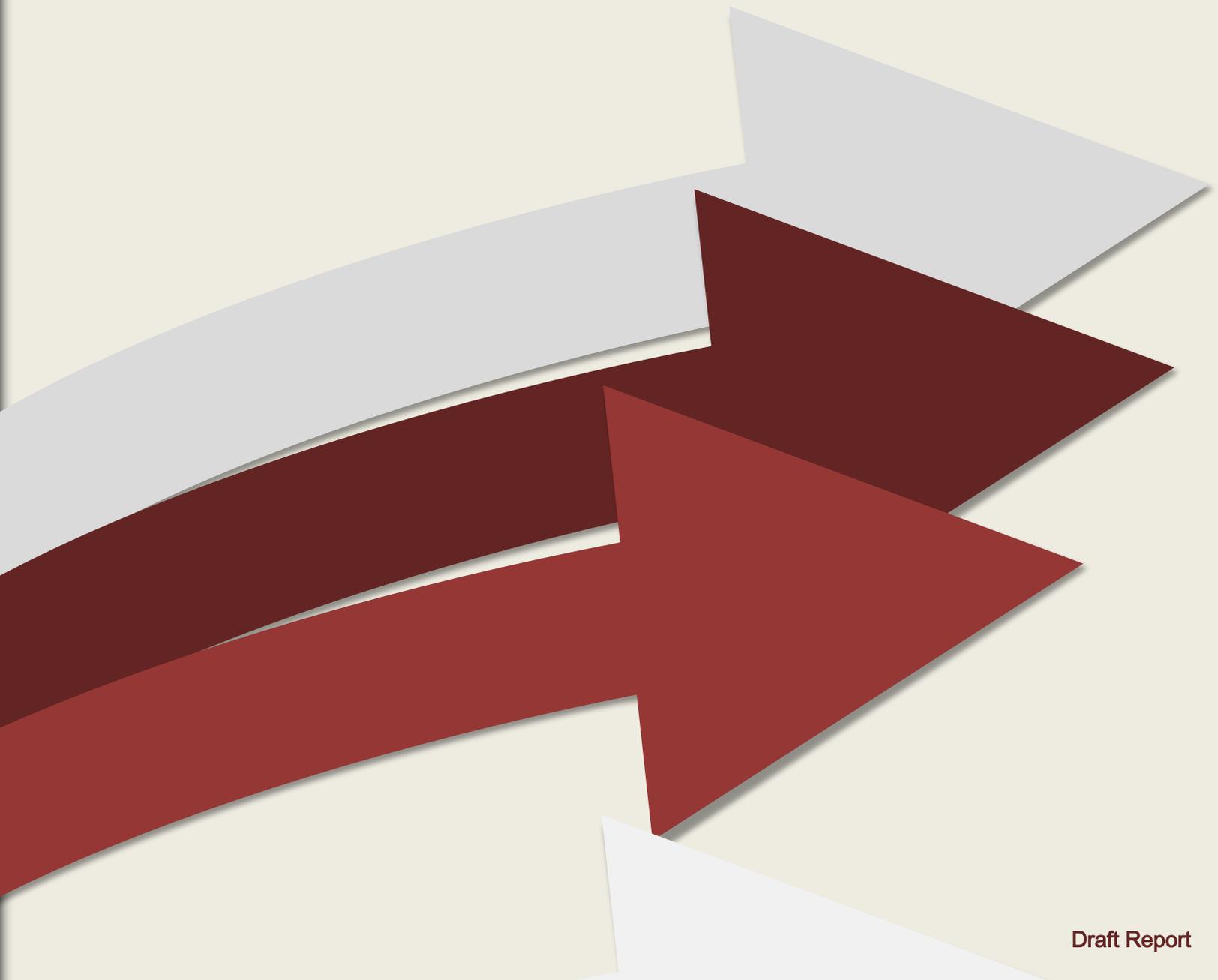


A REPORT TO THE 65TH LEGISLATURE | MAY

NEXT GENERATION 9-1-1

Montana's Efforts to Move Forward



Energy and Telecommunications Interim Committee Members

Before the close of each legislative session, the House and Senate leadership appoint lawmakers to interim committees. The members of the ETIC, like most other interim committees, serve one 20-month term. Members who are reelected to the Legislature, subject to overall term limits and if appointed, may serve again on an interim committee. This information is included in order to comply with 2-15-155, MCA.

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This report is a summary of the work of the Energy and Telecommunications Interim Committee, specific to the ETIC's 2015-2016 next-generation 9-1-1 review as outlined in the ETIC's 2015-16 work plan and House Joint Resolution No. 7. Members received additional information and public testimony on the subject, and this report is an effort to highlight key information and the processes followed by the ETIC in reaching its conclusions. To review additional information, including written minutes, exhibits, and audio minutes, visit the ETIC website: www.leg.mt.gov/etic

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Glossary

ESInet: An emergency services IP network. It includes the IP infrastructure upon which independent application platforms and core functional processes are deployed.

GIS: Geographic Information System displays information in layers that allows the analysis and interpretation of data to determine relationships, trends, and patterns. GIS can be fully integrated and required for NG911. It can be one of the central data stores.

IP: Internet Protocol. The method by which data are sent on the Internet or a communications protocol for computers connected to a network, especially the Internet.

NG911: Next generation 9-1-1. A system comprised of hardware, software, data, and operational policies and procedures that provides standardized interfaces from call and message services, processes all types of emergency calls including non-voice (multi-media) messages, acquires and integrates additional data useful to call routing and handling, delivers the calls/messages and data to the appropriate PSAPs and other appropriate emergency entities, supports data and communications needs for coordinated incident response and management, and provides a secure environment for emergency communications.

PSAP: Public Service Answering Point. A call center responsible for answering calls to an emergency telephone number for police, firefighting, and ambulance services. Often called a 9-1-1 jurisdiction.

Introduction

As the Energy and Telecommunications Interim Committee (ETIC), guided by House Joint Resolution No. 7, began its review of next generation 9-1-1 (NG911) in Montana, legislators quickly found that NG911 was a technical issue that would require far more than a policy discussion. In addition, the committee found that Montana's existing 9-1-1 statutes are arcane, complicated and in need of updating – particularly if those statutes are to support deployment of NG911. The discussion also would require a candid and at-times contentious discussion about 9-1-1 funding in Montana. HJ 7, which guided the study of NG911, is included in **Appendix A**.

Legislators in the fall of 2015 asked stakeholders, including wireless providers, Public Safety Answering Points (PSAPs), county officials, and others, to work together on NG911 and to provide the ETIC with recommendations on planning for and implementing NG911. Since September 2015, 9-1-1 stakeholders met monthly to discuss NG911 as well as Montana's 9-1-1 statutes. The stakeholders, along with an advisory council formed by the Governor, presented a set of recommendations to the committee in March. The recommendations from both groups are included in **Appendix B**.

The recommendations address jurisdiction, governance, technology, and funding of Montana's 9-1-1 program. They also devote money to advancing NG911. The stakeholders and advisory council recommendations deal specifically with NG911 and updating Montana's statutes to address evolving technology. The recommendations also offer a complete update to 9-1-1 statutes in Montana. One of the most critical aspects of the update relates to the funding of 9-1-1 in Montana and potential use of about \$10 million in 9-1-1 funding that has been collecting in the state coffers. Stakeholders continue to work toward an agreement on a complete overhaul of the 9-1-1 funding statutes. A tentative agreement on changes to the allocation and distribution of 9-1-1 funds was reached in April, and is included in proposed draft legislation outlined in both LCET03 and LCET04.

In Montana there are three 9-1-1 funds, a basic fund, an enhanced fund, and the wireless enhanced fund. Money from all three accounts is distributed to a variety of entities including cities, counties, 9-1-1 jurisdictions, telephone providers, and wireless providers.

For wireless enhanced 9-1-1 services, each wireless subscriber in the state pays a fee of 50 cents a month. Half of that amount, or 25 cents, is available to wireless providers for certain costs and 25 cents goes to 9-1-1 jurisdictions (also referred to as PSAPs).

Neither the stakeholder group nor the 9-1-1 advisory council was interested in increasing the fee beyond the \$1 that is currently collected. The funding recommendations that continue to be discussed by stakeholders address the allocation, distribution, and expenditure of 9-1-1 funding. The tentative recommendations include allocating 75 cents to local governments or 9-1-1 jurisdictions and dedicating 25 cents to a grant program overseen by the Department of Administration for 9-1-1 purposes. Annual grants would be awarded to local governments. Priority would be given to local governments working with private telecommunications providers in Montana to advance 9-1-1. The changes would eliminate any future “stranded” funds.

In terms of advancing NG911, there was consensus among stakeholders to use a portion of the existing “stranded funds” discussed later in this report to fund initial infrastructure and capital upgrades to enable compliance with baseline NG911 deployment and to fund a statewide 9-1-1 plan.

The recommendations in the form of four bill drafts are included in **Appendix C**. It will be up to the ETIC in May to determine if it wishes to put all the drafts out for public comment and revision in July, or just certain drafts. LCET04 encompasses the other three drafts (LCET01, LCET02, and LCET03.) Stakeholders were uncertain if it was best to move forward with one big bill that encompasses all of their potential recommendations, or if it was more productive to individually approach the concepts in separate drafts.

Stakeholders committed a tremendous amount of time in developing the bill draft concepts. While at times difficult, the diverse group was able to reach a general consensus on a series of significant changes to Montana’s 9-1-1 laws. The group was committed to improving not only the collection and allocation process for 9-1-1 funding, but also recognizing the overall goal of improving 9-1-1 systems across Montana and recognizing the multiple interests at the table.

ETIC Findings and Recommendations

**Based on March 11 ETIC meeting, direction to ETIC staff, and stakeholder recommendations.*

- Establish a statewide ESInet (statewide IP network backbone), include an upgrade and/or replace existing selective routers with IP routers. This upgrade will bring all non-IP-capable PSAPs to IP capability and cost about \$5 million. Stranded funds should be diverted from the current account to facilitate the upgrade. (LC ET01 and LC ET04)
- An overall assessment of the status of GIS operations in Montana counties should be completed at a cost of \$80,000. The Montana State Library should take the lead in formalizing the assessment. Stranded funds should be diverted from the current account to facilitate the upgrade. (LC ET01 and ET04)
- Montana's 9-1-1 statutes should be revised to include planning for a statewide 9-1-1 system plan that describes the priorities for 9-1-1 service development and delivery. The 9-1-1 systems plan goals and objectives include continued use of legacy 9-1-1 systems and additional changes necessary (liability, confidentiality, statewide standards, etc.) in the future to accommodate NG911. The DOA should hire a third-party to complete the plan at a cost no more than \$350,000. Stranded funds should be diverted from the current account to pay for planning. (LC ET01 and ET04)
- Montana's 9-1-1 statutes should encourage the migration of existing technologies to incorporate and authorize NG911 in Montana. The Department of Administration (DOA) should be granted rulemaking to authorize implementation. Rules should include technology standards for primary PSAPs that are based on industry standards and with guidance from the 9-1-1 Advisory Council. (LC ET02 and ET04)
- Montana's 9-1-1 statutes should continue to support local decision making and operations of primary PSAPs at the local level. (LC ET02 and ET04)
 - Clarify in statute that any local government and 9-1-1 district can host a primary PSAP and provide 9-1-1;
 - Clarify in statute and in administrative rule the definition of a PSAP and a 9-1-1 funding recipient;

- Continue the DOA's role of collecting the 9-1-1 fee from telecommunications providers and allocating and distributing the fees to eligible recipients. (LC ET02 and ET04)
 - Clarify the Department of Administration's duties and powers to include: reviewing and approving requests for eligibility to receive program funds; distribution of program funds for approved cost recovery; allocation and distribution of program funds to local governments and 9-1-1 districts; and monitoring the expenditure of program funds for allowable uses by local government and 9-1-1 districts.
- The 9-1-1 Advisory Council should continue to meet in order to engage state and local stakeholders in program management. (LC ET02 and ET04)
 - Existing statutes should update the council membership requirements and duties, based on the Governor's 2015 Executive Order reestablishing the council.
 - Duties should include participation in the development, review, and implementation of the 9-1-1 system plan and advising the DOA in the management of the state 9-1-1 program.
- Statutes providing for the allocation and distribution of 9-1-1 funds require updating. Funds should not be "stranded" in any account, and all funds collected should be used for 9-1-1 purposes. (LC ET03 and ET04)
 - (Tentative) Of the 9-1-1 fees collected, 75% should be directed to local government entities that host a public safety answering point for direct use to maintain and advance 9-1-1 systems; and 25% should be awarded in the forms of grants to local governments working with private telecommunications providers.
 - (Tentative) Priority for the grants should be given to local governments that have a partnership with private telecommunications providers in Montana to advance all aspects of 9-1-1.

How should NG911 be defined for Montana and who are the stakeholders?

Definition

NG911 will continue to evolve with technology. It also will be different state-to-state. “While the key underpinnings of the legacy 9-1-1 framework are virtually the same as they were in 1968, NG911 will be an on-going state of progression as technologies continue to evolve and the industry’s understanding of what is possible expands.”¹

There is no universally agreed on definition for NG911. The National Emergency Numbers Association (NENA), in an effort to provide an industry-wide guide, defines NG911 as “an Internet Protocol (IP)-based system comprised of managed Emergency Services IP networks (ESInets), functional elements (applications), and databases that replicate traditional E9-1-1 features and functions and provides additional capabilities. NG911 is designed to provide access to emergency services from all connected communications sources, and provide multimedia data capabilities for PSAPs and other emergency service organizations.” NENA is a nonprofit organization that works with 9-1-1 professionals nationwide, public policy leaders, emergency services and telecommunications industry partners, and other stakeholder groups to develop and carry out initiatives to facilitate the creation of an IP-based NG911 system. Montana stakeholders used this definition as the starting point of their work.

Stakeholders

Montana stakeholders found that planning and implementing NG911 will likely require coordination and partnerships among government, private entities, and multiple public safety stakeholders. Implementation of NG911 also may require an in-depth review of budgetary considerations, governance structures, and regulations needed to address emerging technologies. The stakeholders group represented a wide spectrum of interested parties. Their recommendations were consensus-based. A list of the stakeholders involved in the discussion and development of recommendations is included in **Appendix D**.

¹ http://www.intrado.com/sites/default/files/documents/Volume%203%20IP-Enabled%20PSAP_0.pdf

In its discussion of the potential implementation of NG911, Montana incorporated a discussion of existing statutes and the process for transition from the existing system, a review of coordination efforts needed to move forward, and an evaluation of the current 9-1-1 surcharge assessed on telecommunications devices. In October, the Governor reestablished a 9-1-1 Advisory Council within the DOA. The council is established pursuant to 10-4-102, MCA, to advise the DOA on 9-1-1 matters. It includes 17 members representing a variety of stakeholders ranging from PSAPs to the Montana Fire Chiefs Association. It is charged with providing input in the development, implementation, and management of Montana's 9-1-1 program. The council advised the department in developing the attached draft legislation to modernize the 9-1-1 program statutes in Montana and to enable and support the deployment of current and future technologies. A list of its members, which overlapped with NG911 stakeholders, is included in **Appendix E**. The work of the stakeholder's group and DOA's Advisory Council dovetailed to form the current recommendations.

How does Montana begin the process of establishing an evolving, fully-functional, NG911 system that can be accessed by anyone from any device anywhere at any time?

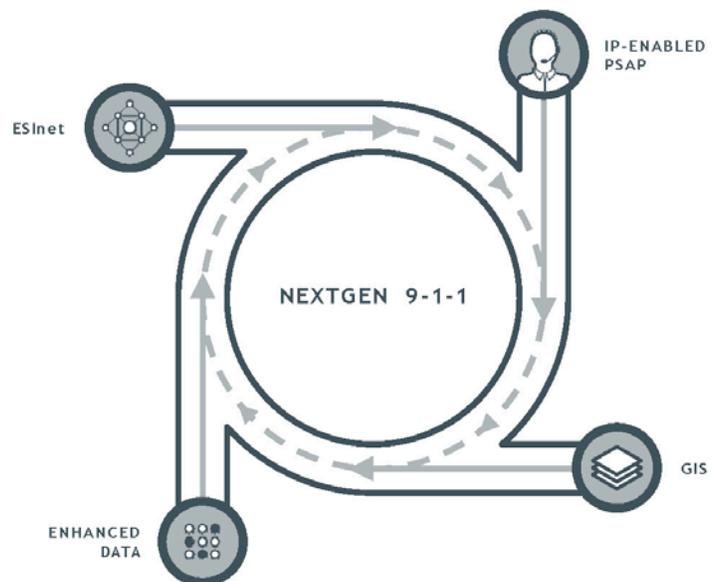
Many states have begun a planning process to transition to a new system of 9-1-1 or NG911, which is estimated to take from five to 10 years. Other states have moved planning efforts forward with pilot programs. Both Kansas and Connecticut, for example, are working on pilot programs or pilot studies. The National 9-1-1 program, which is part of the Office of Emergency Medical Services at the U.S. Department of Transportation's National Highway Traffic Safety Administration, offers a set of guidelines, based on input from a wide variety of stakeholders, to assist legislators and others in coordinating and implementing NG911. "There are multiple

statutory and regulatory changes necessary to facilitate the implementation of NG911, and they are complex and multifaceted.”²

The National 9-1-1 program has identified five critical components to guide policymakers in their discussion of NG911. For successful migration to NG911 they recommend a review of:

- Statewide 9-1-1 governance structure;
- 9-1-1 funding and resources;
- Confidentiality, privacy, and security;
- Liability; and
- Rulemaking and regulatory environment.

There currently aren't federal mandates for NG911. Implementation policies across the country have been based on recommendations and industry standards from entities like NENA and the Association of Public-Safety Communications Officials. The Federal Communications Commission, however,



Source: Intrado. NG 911. The Essential Guide to Getting Started. 2013.

does have rules related to text-to-9-1-1 “bounce-back” requirements that apply to Commercial Mobile Radio Service (CMRS) providers when consumers are roaming. CMRS providers and providers of interconnected text messaging services, for example, must provide an automatic “bounce-back” text message in situations where a consumer attempts to send a text message to 9-1-1 in a location where text-to-9-1-1 is not available.³ The FCC also has adopted measures that require Public Safety Answering Points (PSAPs) to begin planning to accurately identify the

² “Guidelines for State NG9-1-1 Legislative Language,” U.S. Department of Transportation, National Highway Traffic Safety Administration, National 9-1-1 program.

³ 47 C.F.R. § 20.18.

location of wireless 9-1-1 callers when the caller is indoors. The federal rules also strengthen existing E911 location accuracy rules to improve location determination for outdoor as well as indoor calls.⁴

To move Montana toward NG911, the stakeholders group recommended beginning baseline technology advancements. They recommend the establishment of a statewide ESInet (statewide IP network backbone) and the upgrade or replacement of existing selective routers with IP routers. In Montana, about 80% of the PSAPs in Montana have an IP network backbone; however, this does not represent 80% of the people in Montana. There are 15 “legacy” PSAPs on CenturyLink’s network in Montana, which represents about 60% of the population. To upgrade all non-IP capable PSAPs in Montana, the stakeholders estimate the cost to be about \$5 million. A map showing Montana’s IP network is included in **Appendix F**.

North Dakota

North Dakota provides an example of planning and implementation processes and the timelines involved in NG911. The state has approached NG911 in two ways – with the state playing a role and the North Dakota Association of Counties playing a role. North Dakota has a “joint powers” contractual arrangement between local 9-1-1 authorities and the state’s Association of Counties. The Association provides the statewide coordination and planning involved. In 2008, the joint power entity contracted with L.R. Kimball, a company that provides professional services related to architecture, engineering, and communications technology, to work with stakeholders across the state to develop a NG911 master plan for North Dakota. The plan looked at a six-year deployment effort. A year later the North Dakota Legislature directed an Emergency Services Communications Coordinating Council, created by the Legislature in 2001, to coordinate planning for NG911. In that same year, the council, through the North Dakota Information Technology Department received a federal grant of \$912,722 to begin implementing NG911. As those steps were being taken, the North Dakota Legislature also made decisions about how its 9-1-1 fees were collected and used in order to plan for NG911 and also took steps to address overall coverage.



⁴ 47 C.F.R. § 20.18(i)(3)(i)

State Radio is established as a division of the Department of Emergency Services under the administration of the Adjutant General in North Dakota, and State Radio provides 9-1-1 services to the public through a network of 23 PSAPs. During the 2007-08 interim, State Radio identified coverage gaps in the broadcast system, and the 2009 Legislature provided \$500,000 for a study of NG911 (\$100,000), establishment of alternatives to constructing new State Radio towers (\$75,000), and implementation of a new tower site (\$325,000). The 2011 Legislature provided \$1.5 million for the construction of new towers to address some of the coverage gaps, and the 2013 Legislature provided \$1,175,000 for more radio towers.

In 2014 North Dakota PSAPs announced plans to roll out NG911 technologies. The Association of Counties has an active role with the initiative. The county association has a NG911 program manager position to coordinate with the Emergency Services Communications Coordinating Council. North Dakota will become one of the first states to plan and then implement a statewide NG911 system. North Dakota also expects to spend about \$1.2 million on the initial rollout of the technology upgrade.⁵ However, it has been noted that text-to-9-1-1, for example, is still not available in North Dakota. This distinction is also important in terms of how a state chooses to define NG911. The information provided in this report is limited to the work of Montana stakeholders in beginning implementation planning for Montana.

Other States

The National Conference of State Legislatures (NCSL) keeps a 9-1-1 database. They annually track legislation related to 9-1-1 and state efforts to promote NG911. The information below was taken directly from the NCSL database. It also shows the various planning stages for NG911 across the country and the role of legislation in that process.⁶ In 2014, at least three states—California, Kansas and Tennessee—passed legislation related to NG911, and in 2015 four additional states, Illinois, North Carolina, Texas, and Pennsylvania, passed legislation related to NG911.

⁵ http://www.ndaco.org/programs_and_services/911/

⁶ <http://www.ncsl.org/research/telecommunications-and-information-technology/2015-key-enacted-9-1-1-legislation.aspx>

2015

State	Link	Overview
Illinois	S 96	Creates a single statewide 9-1-1 system, with a statewide 9-1-1 administrator and a statewide 9-1-1 advisory board. Requires collection of fees on the sale of prepaid wireless telecommunications services. Requires the implementation of NG911 in every 9-1-1 system in Illinois by July 1, 2020. Requires the development of uniform technical and operational standards for all 911 systems in the state. Specifies that the administrator and board must develop and implement a plan for a statewide NG911 network. Consolidates the number of PSAPs in a county depending on the size of the population. Provides grants to assist in the consolidation process.
North Carolina	H 730	Creates a NG911 reserve fund to implement NG911. Requires PSAPS to implement NG911. Authorizes a 9-1-1 board to establish purchasing agreements for statewide procurement. Allows a PSAP grant account to be used for expenses used to enhance 9-1-1 service. Amends the limitation of liability for the 9-1-1 system.
Pennsylvania	H911	Requires the development of a statewide 9-1-1 plan that includes plans for NG911 technology. Establishes a 9-1-1 board to advise on matters related to the administration and operation of 9-1-1 systems, including measures to promote NG911 technology, cost-saving measures and training standards for dispatchers.
Texas	H 479	Relates to transfer of regional emergency dispatch centers program to a Commission on State Emergency Communications and a pilot project to provide NG911 telemedicine medical services in rural areas.

2014

State	Link	Overview
California	S 1211	Requires the Office of Emergency Services to develop a plan and timeline for testing, implementing, and operating a NG911 emergency communication system, including text to 9-1-1 services, throughout the state. Requires the office in determining a surcharge rate, to include costs it expects to incur to plan, test, implement, and operate the system and services, including text to 911service. Requires providing the Legislature with rate calculations and posting information on its website.
Kansas	S 284	Amends the Kansas 9-1-1 Act, relates to 9-1-1 emergency services, the 911 coordinating council and a PSAP, provides that a provider may also be a 911 systems operator, relates to electronic requests for emergency response, by wireline, wireless, VoIP or telecommunications device for the deaf (TDD) technology, text message or any other technology by which a service user initiates an immediate information interchange or conversation with a PSAP.
Tennessee	H 2255	Relates to Emergency Communications Districts, enacts a 9-1-1 Funding Modernization and IP Transition Act, creates a 9-1-1 surcharge, provides a surcharge for prepaid services collected at the point of sale, and provides that emergency communications districts are immune from suit or liability for civil claims arising from the actions or omission of emergency communications district personnel in processing emergency calls.

2013

State	Link	Overview
Nebraska	NE L 595	Provides for a study of NG911, provides for the use of the Enhanced Wireless 9-1-1 Fund, and requires the Public Service Commission to use the fund to conduct a study to examine issues surrounding the statewide implementation of NG911 and to contract with an independent third party to assist with the study.
North Dakota	ND H 1202	Relates to use of wide area network services. Provides that for the purposes of enhanced 9-1-1 and NG911 communications services, governmental entities are exempt from department service requirements. Provides that in selecting enhanced 9-1-1 and NG911 communication network providers, governmental entities select providers that are cost-effective, demonstrably reliable, and follow interoperable standards set by the emergency services communications coordinating committee.

2012

State	Link	Overview
Delaware	DE S 196	Clarifies that the limitation of liability applies to the provision of NG911 service, provides that the bill does not expand the current scope of the limitation but rather updates the language to account for change in the technology used to deliver 9-1-1 service.
Maryland	MD H 1235	Alters the responsibilities of the Emergency Number Systems Board to include establishing planning guidelines for NG911 service plans and deployment of NG911 services, defines NG911 services.
Ohio	OH H 509	Creates a statewide emergency services internet protocol network steering committee to generally advise the state on the implementation, operation, and maintenance of a statewide emergency services internet protocol network that would support state and local government NG911 and the dispatch of emergency service providers.

The Role of GIS

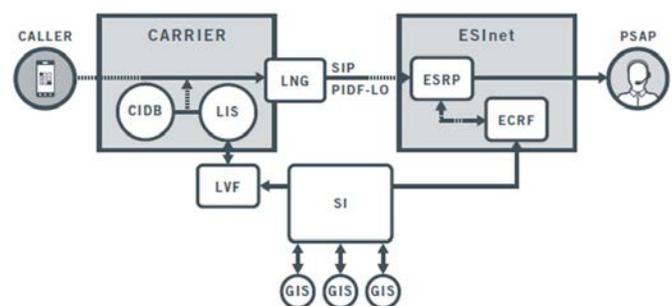
The role of GIS in 9-1-1 changes profoundly with the migration to NG911. Currently, GIS is used to display the location of an emergency call after the call has been routed to the 9-1-1 call center. However, in NG911 GIS is part of the 9-1-1 call flow itself and is used to locate an emergency call, to route the call to the 9-1-1 call center, and to aid in the dispatch of emergency response agencies. "GIS may serve a minor role in legacy 9-1-1 systems, but it will be an integral part of next-generation system. The sooner 9-1-1 professionals realize this and start preparing, the smoother their transition to next-generation 9-1-1 will be, according to panelists at the recent Association of Public-Safety Communications Officials conference."⁷

Various GIS map data layers can be developed and integrated into a system, the key layers for 9-1-1 include:

- Road Centerlines
- Address Points
- PSAP Service Area Boundaries
- Other Service Area Boundaries such as law, fire, medical, coast guard, etc.
- Community Boundaries⁸

The Montana State Library is charged with GIS coordination in Montana.⁹ PSAPs manage GIS data individually, usually at the county-level. However, some PSAPs coordinate with neighbors to expand mapping data beyond their boundaries. Counties that have GIS staff usually maintain their 9-1-1 GIS data, but counties without GIS staff rely on 9-1-1/GIS services providers to do mapping.

GIS Location Validation and Call



Source: Intrado. *Next Generation 9-1-1: The Essential Guide to Getting Started. Vol 4. The Role of Geographic Information Systems in Next Generation 9-1-1. 2015.*

⁷ <http://urgentcomm.com/ng-911/gis-will-become-hero-911-says-apco-panelist>

⁸ <http://www.geo-comm.com/map-data-development-services/>

⁹ 90-1-404, MCA.

As NG911 advances in Montana, PSAPs and counties still will be responsible for maintaining GIS data, but will no longer be able to work in isolation. GIS data will need to be shared and updates will need to occur in real-time, according to stakeholders in Montana.

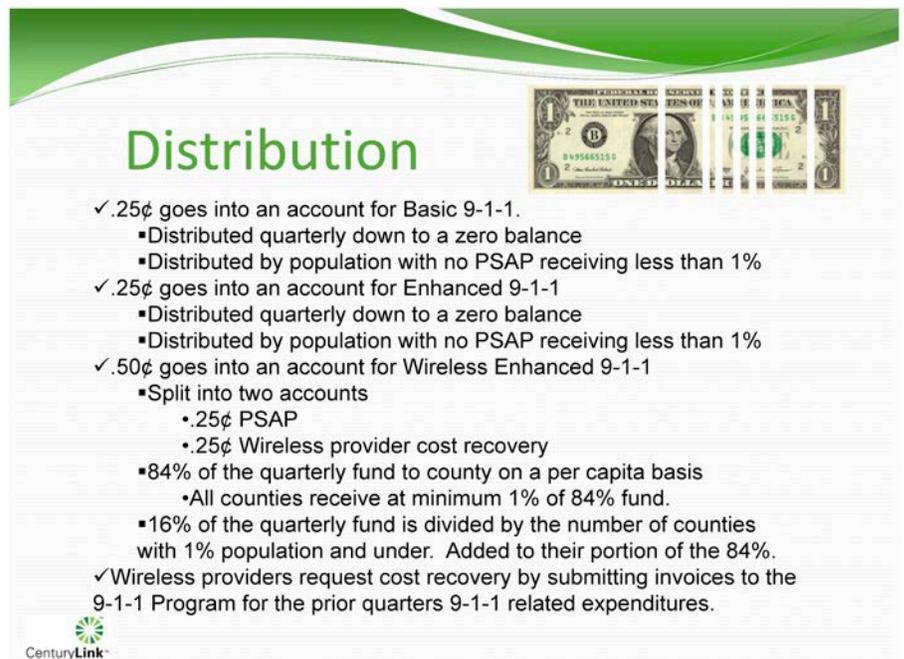
To prepare for the NG911 transition, Montana will need to first work with individual counties to assess the current use of GIS data and determine what data assessments, or layers, are being used. NG911 stakeholders recommend an assessment of the status of GIS adoption and operations in Montana counties. The estimated cost is about \$80,000. The results of the assessment would be used to assist policymakers on how best to proceed with standardization.

Existing 9-1-1 Statutes and Stranded Funds

The Montana 9-1-1 Program, part of DOA, assists local and tribal governments in the development of 9-1-1 emergency telephone systems throughout the state. The program also manages the quarterly allocation and distribution of state 9-1-1 revenues and monitors the use of the funding by local and tribal governments and wireless service providers.

The DOA is charged with monitoring “implementation of approved basic and enhanced 9-1-1 system plans for compliance with the plan and the use of funding.”

There are three 9-1-1 funds, a basic fund, an enhanced fund, and the wireless enhanced fund. Money from all three accounts is



Distribution

- ✓ .25¢ goes into an account for Basic 9-1-1.
 - Distributed quarterly down to a zero balance
 - Distributed by population with no PSAP receiving less than 1%
- ✓ .25¢ goes into an account for Enhanced 9-1-1
 - Distributed quarterly down to a zero balance
 - Distributed by population with no PSAP receiving less than 1%
- ✓ .50¢ goes into an account for Wireless Enhanced 9-1-1
 - Split into two accounts
 - .25¢ PSAP
 - .25¢ Wireless provider cost recovery
 - 84% of the quarterly fund to county on a per capita basis
 - All counties receive at minimum 1% of 84% fund.
 - 16% of the quarterly fund is divided by the number of counties with 1% population and under. Added to their portion of the 84%.
- ✓ Wireless providers request cost recovery by submitting invoices to the 9-1-1 Program for the prior quarters 9-1-1 related expenditures.

CenturyLink

distributed to a variety of entities including cities, counties, 9-1-1 jurisdictions, telephone providers, and wireless providers.

Wireless Fund

Based on state law, currently in the wireless account 50% goes to 9-1-1 jurisdictions (PSAPs) and 50% goes to wireless providers for allowable costs.¹⁰ Allowable costs associated with upgrading, purchasing, programming, installing, testing, operating, and maintaining data, hardware, and software necessary to comply with federal communications commission orders for the delivery of 9-1-1 calls and data. As background, for wireless enhanced 9-1-1 services, each subscriber in the state pays a fee of 50 cents a month. Half of that amount, or 25 cents, is available to wireless providers. The wireless enhanced 9-1-1 services fee and distribution process was established by the 2007 Legislature.¹¹

Basic Federal Communications Commission (FCC) 9-1-1 rules require wireless service providers to transmit all 9-1-1 calls to a PSAP, regardless of whether the caller subscribes to the provider's service or not. Enhanced 9-1-1 rules require wireless service providers to provide the PSAP with the telephone number of the originator of a wireless 9-1-1 call and the location of the cell site or base station transmitting the call. Wireless service providers are also required to provide location information to PSAPs; specifically, the latitude and longitude of the caller. Wireless providers that do not meet the FCC rules are out of compliance and can face federal fines.¹² Regardless of any type of reimbursement, the requirements must be met.

“Stranded” Funds

Over the last two interims, the ETIC tracked and discussed the use of 9-1-1 funds and specifically the wireless enhanced fund directed to wireless providers. Within that account, 84% of the balance of the account is allocated to wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. The balance of the account is to be allocated evenly to the wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state. A wireless provider submits an invoice for cost recovery to seek its portion of the money. However, all providers have not sought money from the account for

¹⁰ 10-4-301, MCA.

¹¹ Chapter 304, Laws of 2007.

¹² <https://www.fcc.gov/guides/wireless-911-services>

reimbursements. Smaller providers in the state generally seek the reimbursements, but larger providers, or more specifically providers in areas of the state with a larger population, have been unwilling to provide the information required to access the money in the fund. For example, service providers must include the total number of wireless subscribers within each 9-1-1 jurisdiction for which they are seeking cost recovery.

Concerns have been raised about providing potentially proprietary information in a public forum. Any reallocated funds not distributed by the Department of Administration remain in the fund. Over the last 5 years, money in that fund has not been fully accessed by wireless providers and has grown to about \$10 million. The fund is often called the “stranded” fund.

In an effort to address the stranded funds, the 2013 Legislature passed and approved legislation requiring fees collected for wireless enhanced 9-1-1 services be reallocated to wireless 9-1-1 jurisdictions and wireless providers under certain circumstances. The bill set an annual reallocation process to redistribute the wireless enhanced 9-1-1 fund statutorily purposed for wireless provider cost recovery. The bill allows 50% of the account balances to be used to pay wireless providers for obligated unreimbursed balances carried over due to insufficient funding in past years or to pay outstanding invoices. While the reallocation has helped to better distribute money, there continues to be about \$10 million stranded in the 9-1-1 fund.

During the 2015 legislative session, however, multiple efforts were made to “sweep” or use the fund for a variety of different purposes related to emergency services and 9-1-1. Those efforts did not come to fruition. However, the “stranded fund” was a critical part of the discussion before both the 9-1-1 Advisory Council and the NG911 stakeholders. Both groups agreed to use a portion of the money to advance NG911 and to develop a statewide 9-1-1 plan.

Statewide Solution

A statewide solution or update to how to allocate, distribute, and ultimately spend 9-1-1 program funding proved to be the most difficult area for stakeholders to reach consensus. The Governor’s Advisory Council in April reached a tentative agreement to change the overall funding of 9-1-1 in Montana and to request that the ETIC allow for further public comment. In July, the Advisory Council will provide a firm recommendation on moving ahead with the changes, based on the public comment expected from a variety of stakeholders.

Montana has 53 PSAPs operated by county, tribal, or city governments. PSAPs are staffed 24 hours a day, seven days a week by dispatchers. To help local governments implement, operate, and maintain 9-1-1 services, Montana’s 9-1-1 law allows for surcharges on each telephone access line at \$1 per access line per month. That dollar, however, as discussed above, is divided into four, 25 cent funds. DOA reviews PSAP expenditure records, and monitors the deployment status of PSAPs. However, there are no statutory guidelines for PSAP allowable costs for expenditures. The department has developed PSAP funding guidelines, but with no statutory guidance, questions are often raised about “allowable costs” and use of money by PSAPs.

While the “stranded” fund or balance in the wireless enhanced 9-1-1 provider account has been a large part of the conversation about NG911 and Montana’s 9-1-1 program, the overall funding of and distribution of funding also has proved to be a major point of discussion. The chart below provides information about the four funds and shows the balance or “stranded” funds.

	Basic 9-1-1 PSAP Account	9-Enhanced 9-1-1 PSAP Account	Wireless Enhanced 9-1-1 PSAP Account	Wireless 9-Enhanced 9-1-1 Provider Account	Wireless Enhanced 9-1-1 Provider Account Total Balance (Stranded Fund)
Q1-2 2016	\$1.6 million	\$1.6 million	\$1.6 million	\$1.6 million	\$9.7 million
2015	\$3.4 million	\$3.4 million	\$3.4 million	\$3.4 million	\$10.4 million
2014	\$3.2 million	\$3.2 million	\$3.2 million	\$3.2 million	\$8.7 million
2013	\$2.9 million	\$2.9 million	\$2.9 million	\$2.9 million	\$9 million

The basic 9-1-1 fund (25 cents) and the enhanced 9-1-1 fund (25 cents), the second and third column in the chart, are distributed to Montana counties, with the account cleared quarterly. The 50 cent distribution of funds to the 9-1-1 jurisdictions, however, also has raised some questions. Some jurisdictions, for example, save the money for large capital expenditures. In Yellowstone County, for example, in 2015 the ending cash balance for the 9-1-1 program was about \$6 million. The reserve will be used to build a new city and county 9-1-1 communications center. For the last nine years, Billings and Yellowstone County have been setting aside their share of the fees to save for construction of a new facility.

The advisory council discussed whether saving money and having significant reserves is appropriate. The combined cash balance for all 9-1-1 jurisdictions in Montana in early 2016 was about \$24 million.

9-1-1 jurisdictions provided the advisory council with information on use of the account and savings. Missoula County, for example, uses the local government general fund money (local mill levy) to pay for about 90% of salary and fringe costs, including items not allowed to be funded using the quarter fund. The quarter fund or 9-1-1 dollars are used to pay operational costs, including \$160,000 for 9-1-1 service lines and other capital expenditures. Missoula County has about \$223,271 in contracted services. Missoula County keeps a reserve or a “trust” using its quarter fund to cover primarily capital expenditures, which can be significant. In 2012 an equipment fire damaged equipment and about \$325,000 replacement was needed. The trust account was used for those costs.

Much of the discussion by the advisory council focused on what percentage of annual funding should be kept in a reserve and what expenses should be covered. Missoula, for example, keeps a one-year balance. Yellowstone County as discussed above saved over nine years and kept about \$6 million. A 2007 audit by the Legislative Audit Division found that PSAPs have accumulated large reserves. However, statute is unclear on “allowable costs” or how PSAPS may use the funds. The audit recommended revisions to state law to ensure that all 9-1-1 revenues are used for 9-1-1 system development and operations. To-date the revisions have not been completed.

The same audit recommended changes be made to Montana law to establish the intent and priorities for use of program funds by PSAPs. The audit recommended that as a second step, the state should clarify its expectations of 9-1-1 services to be provided in Montana, “including the minimal levels of service as new technologies become available.” Advisory council members recommended a statewide 9-1-1 plan, using up to \$350,000, to address the issue – in part.

PSAPS voiced strong support for keeping a trust account, noting a decreased appetite for increased local property taxes, growing capital equipment costs, decreasing federal funding for technology, increased call volumes to 9-1-1 centers, and ongoing efforts to keep 9-1-1 dispatchers, who have low starting salaries. Other council members raised concerns about how reserves are used and actual 9-1-1 PSAP needs.

Proposed Allocation and Distribution

The Advisory Council tentatively agreed that the multiple 9-1-1 accounts were not needed. They recommended eliminating the distinctions between basic 9-1-1 fees, enhanced 9-1-1 fees, and wireless enhanced 9-1-1 fees and the different accounting of those fees. The proposed recommendation by the Advisory Council eliminates the need for the Department of Administration to maintain four different accounts – three of which are often for the same purposes and directed to the same entities.

The tentative agreement reached allows that 75% of the \$1 collected be directed to local governments that host public safety answering points. The change is aimed at ending confusion about whether counties, dispatch centers, 9-1-1 jurisdictions, cities and towns, or some combination all receive 9-1-1 funding. It also allows the department to address issues raised in the 2007 audit by the Legislative Audit Division concerning the distribution of funds and the department's ability to track the use of the funds.

The tentative agreement sets aside 25% of the \$1 for a grant program administered by the Department of Administration. The department, in consultation with the Advisory Council, would award grants to local governments for 9-1-1 purposes. Priority would be given to applicants working directly with private telecommunications providers in Montana.

The proposal strikes the definition of allowable costs, and no longer requires the department to determine whether wireless providers have incurred allowable costs and should be reimbursed. The change also means money is no longer being directly set aside for wireless providers. Wireless providers working with local governments would be able to use the 25% grant fund.

The allocation of 9-1-1 funding also would change under the tentative agreement. Of the 75 cents collected, 1% would go to each local government entity that hosts a public safety answering point. The money would then be distributed to local government entities on a per capita basis. Based on the new, proposed allocation, some government entities could receive slightly more or less funding than in the past. The Department of Administration is preparing a spreadsheet to compare the current allocation per county (or jurisdiction) to the new allocation under the proposed changes outlined in LC ET03 and ET04. The spreadsheet should be available for the May 12-13 meeting.

Unofficial Draft Copy

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

LCET01

**** Bill No. ****

Introduced By *****

By Request of the Energy and Telecommunications Interim Committee

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

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

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

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

(2) There must be deposited in the account:

- (a) money received from legislative allocations;
- (b) a transfer of money in accordance with 10-4-313(4)(a)(i) for the purposes of [section 2]; and
- (c) a gift, donation, grant, legacy, bequest, or devise made for the purposes of [section 2].

(3) Except as provided in subsection (4), the fund may be used only by the department to provide grants for next generation 9-1-1 infrastructure as provided in [section 2] to a local government working with a private telecommunications providers.

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

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

(2) For the purposes of [section 1] and this section:

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

(b) "IP" means internet protocol or the method by which data are sent on the internet or a communications protocol for computers connected to a network, especially the internet.

(c) "Next generation 9-1-1 infrastructure" means a statewide ESInet, upgrades and replacement of existing selective routers with IP routers, and upgrades to all non IP-capable public safety answering points as defined in 10-4-101 for IP capability.

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

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

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

- (a) applications;
- (b) timelines;
- (c) eligibility, including proof of eligibility;
- (d) the procedure for establishing the priority of grant awards;
- (e) the appeal process for grant applications that are denied; and
- (f) disbursement of grant money to providers.

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

[section 1] and this section.

(8) Before September 1, 2019, the department shall produce a report summarizing the grants provided, how the grant money was spent, and the program data and information reported by grant recipients. The department shall provide the report to the energy and telecommunications interim committee provided for in 5-5-230.

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

(2) There must be deposited in the account:

(a) money received from legislative allocations;

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

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

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

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

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

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

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

(2) There must be deposited in the account:

(a) money received from legislative allocations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

fund in the state treasury:

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

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

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

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

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

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

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

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

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

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

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

{ Internal References to 10-4-301:

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

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

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

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

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

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

and

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

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

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

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

(e) The department shall determine the percentage of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Section 7. {standard} Codification

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

through 4].

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

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

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

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

- END -

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As of: April 25, 2016 (8:14am)

LCET02

**** Bill No. ****

Introduced By *****

By Request of the Energy and Telecommunications Interim Committee

A Bill for an Act entitled: "An Act generally revising 9-1-1 laws; establishing a 9-1-1 advisory council; establishing 9-1-1 advisory council and department of administration duties for 9-1-1 programs and systems; granting the department rulemaking authority; clarifying local government and 9-1-1 district roles and funding eligibility; providing definitions; updating terms to include next generation 9-1-1; amending sections 10-4-101, 10-4-103, 10-4-115, 10-4-302, 10-4-311, 10-4-312, and 10-4-313, MCA; repealing sections 10-4-102, 10-4-104, 10-4-111, 10-4-112, 10-4-113, 10-4-114, 10-4-121, 10-4-125, and 10-4-126, MCA; and providing an immediate effective date."

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

NEW SECTION. **Section 1. 9-1-1 advisory council.** (1) There is a 9-1-1 advisory council.

(2) The council is composed of not less than 17 members appointed by the governor. The members are:

(a) the director of the department of administration provided for in 2-15-1001, or the director's designee who serves as presiding officer of the council;

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

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

(d) 3 representatives of Montana telecommunications providers;

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

(f) 2 public safety answering point managers: with one serving a population less than 30,000 and one serving a population greater than 30,000;

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

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

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

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

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

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

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

(n) the state librarian or the state librarian's designee.

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

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

(5) Council members shall serve without additional salary

but are entitled to reimbursement for travel expenses incurred while engaged in council activities as provided for in 2-18-501 through 2-18-503.

NEW SECTION. Section 2. 9-1-1 advisory council duties -- consultation by department. The council shall:

(1) advise the department in its duty to allocate and distribute 9-1-1 fees;

(2) provide recommendations to the department in determining allowable costs for wireless providers cost recovery and allowable costs for local governments that host public safety answering points;

(3) advise the department on significant matters concerning 9-1-1 systems development and 9-1-1 services in the state of Montana, including rulemaking.

NEW SECTION. Section 3. Department of administration duties and powers -- 9-1-1 planning. (1) There is a 9-1-1 program administered by the department.

(2) The department shall:

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

(b) monitor the expenditure of program funds for 9-1-1 purposes;

(d) establish a statewide 9-1-1 plan. The plan should include 9-1-1 system standards and support efforts to migrate legacy technologies to next generation 9-1-1 technologies when appropriate, and provide for the implementation of future 9-1-1

technologies. Any standards adopted by the department for legacy 9-1-1 technologies or principles adopted for baseline next generation 9-1-1 technologies must be:

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

(ii) based on industry standards;

(e) staff and fund the administrative costs of the 9-1-1 advisory council provided for in [section 1]; and

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

(3) The department, in fulfilling its duties pursuant to subsection (2), may request necessary information from local governments that host public safety answering points. If a local government does not comply with the request, the department may withhold funding distributions as provided for in 10-4-302(4).

NEW SECTION. Section 4. Rulemaking authority. (1) The department shall adopt rules to implement the provisions of this chapter. The rules shall include, but are not limited to:

(a) allocation and distribution procedures for 9-1-1 funding, including reimbursement for allowable costs to wireless providers;

(b) post-disbursement activities by the department to monitor the use of 9-1-1 funding including:

(i) reporting requirements; and

(ii) procedures for repayment of funds expended on

activities determined not to meet eligibility requirements.

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

(a) technology standards, based on industry standards to ensure public safety answering points meet minimum 9-1-1 services levels; and

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

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

NEW SECTION. Section 5. Local government entities and funding-- department delegation. (1) After the department determines baseline next generation 9-1-1 principles in accordance with rules adopted pursuant to [section 4], the department shall delegate implementation to local government entities that host public safety answering points.

(2) Nothing in this chapter, prevents a local government entity that hosts a public safety answering point from exceeding legacy technology standards or baseline next generation 9-1-1 principles.

Section 6. Section 10-4-101, MCA, is amended to read:

"10-4-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Allowable costs" means the actual costs associated

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with upgrading, purchasing, programming, installing, testing, operating, and maintaining data, hardware, and software necessary to comply with federal communications commission orders for the delivery of 9-1-1 calls and data as set forth in 47 CFR 20.18.

(2) "Basic 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(a).

(3) "Basic 9-1-1 service" means a telephone service meeting the standards established in 10-4-103 that automatically connects a person dialing the digits 9-1-1 to an established public safety answering point.

(4) "Basic 9-1-1 system" includes equipment for connecting and outswitching 9-1-1 calls within a telephone central office, trunking facilities from the central office to a public safety answering point, and equipment, as appropriate, that is used for transferring the call to another point, when appropriate, and that is capable of providing basic 9-1-1 service.

(5) "Commercial mobile radio service" means:

(a) a mobile service that is:

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

(ii) an interconnected service; and

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

(b) a mobile service that is the functional equivalent of a mobile service described in subsection (5)(a).

(6) "Department" means the department of administration

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provided for in Title 2, chapter 15, part 10.

~~(7) "Direct dispatch" 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.~~

~~(8) "Emergency" means an event that requires dispatch of a public or private safety agency.~~

(7) A "9-1-1 district" means a special district, provided for in 7-11-1002, that is created by a combination of local governments acting together according to an interlocal agreement to plan, deploy, operate, and maintain emergency communications.

(8) "Emergency communications" means the transmission of voice, video, or electronic data involving the safety of human life and protection of property from one device to another.

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

(10) "Enhanced 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(b).

(11) "Enhanced 9-1-1 service" means telephone service that meets the requirements for basic 9-1-1 service and that consists of selective routing with the capability of automatic number identification and automatic location identification at a public safety answering point enabling users of the public telecommunications system to request emergency services by

dialing the digits 9-1-1.

(12) "Enhanced 9-1-1 system" includes customer premises equipment that is directly related to the operation of an enhanced 9-1-1 system, including but not limited to automatic number identification or automatic location identification controllers and display units, printers, and software associated with call detail recording, and that is capable of providing enhanced 9-1-1 service.

(13) "Exchange access services" means:

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

(b) unless a separate tariff rate is charged for the exchange access lines or channels, any facility or service provided in connection with the services described in subsection (13) (a).

~~(14) A "9-1-1 jurisdiction" means a group of public or private safety agencies who operate within or are affected by one or more common central office boundaries and who have agreed in writing to jointly plan a 9-1-1 emergency telephone system.~~

(14) "Local government" has the meaning as defined in 7-11-1002.

(15) "Next generation 9-1-1" means a system comprised of hardware, software, data, and operational policies and procedures that provides standardized interfaces from call and message services, processes all types of emergency calls, including

non-voice or multi-media messages, acquires and integrates additional data useful to emergency communications, delivers the emergency communications, messages, or both, and data to the appropriate public safety answering point and other appropriate emergency entities, supports data and communications needs for coordinated incident response and management, and provides a secure environment for emergency communications.

~~(15)~~(16) "Per capita basis" means a calculation made to allocate a monetary amount for each person residing within the jurisdictional boundary of a local government or 9-1-1 district according to the most recent decennial census ~~or population estimate~~ compiled by the United States bureau of the census.

~~(16)~~(17) "Phase I wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information to the public safety answering point for wireless calls.

~~(17)~~(18) "Phase II wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information and location information to the public safety answering point for wireless calls.

~~(18)~~(19) "Place of primary use" means the primary business or residential street address location at which an end-use customer's use of the commercial mobile radio service primarily occurs.

~~(19)~~(20) "Private safety agency" means any entity, except a public safety agency, providing emergency fire, ambulance, or medical services.

~~(20)~~(21) "Provider" means a public utility, a cooperative

telephone company, or any other entity that provides ~~telephone exchange~~ telecommunications access services.

~~(21)~~(22) "Public safety agency" means ~~the state and any city, county, city-county consolidated government, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state that provides or has authority to provide emergency services~~ a functional division of a local government or the state that dispatches or provides law enforcement, firefighting, emergency medical services, or other emergency services.

~~(22)~~(23) "Public safety answering point" means a communications facility operated on a 24-hour basis that first receives ~~9-1-1 calls~~ emergency communications from persons ~~in a 9-1-1 service area~~ requesting emergency services and that may, as appropriate, directly dispatch ~~public or private safety~~ emergency services or transfer or relay ~~9-1-1 calls~~ the emergency communications to appropriate public safety agencies.

~~(23)~~(24) "Relay" means a ~~9-1-1 service in which a public safety answering point,~~ that upon receipt of a ~~telephone~~ request for emergency services, notes the pertinent information ~~from the caller~~ and relays the information to the appropriate public safety agency, other agencies, or other providers of emergency services ~~for~~ to dispatch of an emergency unit.

~~(24)~~(25) "Subscriber" means an end user who receives telephone exchange access services or who contracts with a wireless provider for commercial mobile radio services.

~~(25)~~(26) "9-1-1 systems" means any telecommunications

facilities, circuits, equipment, device, software, and associated contracted services for the transmission of emergency communications. 9-1-1 systems include the transmission of emergency communications from persons requesting emergency services to a primary public safety answering point and communications systems for the direct dispatch, relay, transfer of emergency communications and the transmission of emergency communications to and from a public safety answering point to and from emergency service units.

~~(25)~~(27) "Transfer" means a ~~9-1-1~~ service in which a public safety answering point, upon receipt of a telephone request for emergency services, directly transfers the request to an appropriate public safety agency or other ~~provider~~ of emergency services provider.

~~(26)~~(28) "Wireless enhanced 9-1-1" means either phase I wireless enhanced 9-1-1 or phase II wireless enhanced 9-1-1.

~~(27)~~(29) "Wireless enhanced 9-1-1 account" means the wireless enhanced 9-1-1 account established in 10-4-301.

~~(28)~~(30) "Wireless provider" means an entity, as defined in 35-1-113, that is authorized by the federal communications commission to provide facilities-based commercial mobile radio service within this state."

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

Section 7. Section 10-4-103, MCA, is amended to read:

"10-4-103. Emergency telephone system requirements. (1)

Every public and private safety agency in this state may establish or participate in a basic or enhanced 9-1-1 system.

(2) A basic 9-1-1 system must include:

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

(b) direct dispatch of public and private safety services in the 9-1-1 ~~jurisdiction~~ district or relay or transfer of 9-1-1 ~~calls~~ communications to an appropriate public or private safety agency; and

(c) a 24-hour communications facility equipped with at least two trunk-hunting local access circuits provided by the local telephone company's central office.

(3) An enhanced 9-1-1 system must include, in addition to the requirements for a basic 9-1-1 system:

(a) automatic number identification that automatically identifies and displays the calling telephone number at the public safety answering point; and

(b) automatic location identification that automatically identifies and displays the ~~address~~ location of the calling telephone at the public safety answering point.

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

{*Internal References to 10-4-103:*

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10-4-101a 10-4-104r 10-4-111r 10-4-111r
10-4-112r 10-4-112r 10-4-112r 10-4-121r
10-4-126r }

Section 8. Section 10-4-115, MCA, is amended to read:

"10-4-115. Submission of phase I and phase II wireless notification by wireless provider. (1) A wireless provider must meet the following requirements to be eligible for wireless cost recovery:

(a) Within 30 days of receipt of a formal phase I and phase II request from a public safety answering point, the wireless provider shall submit to the department a notification stating the anticipated date of deployment and the number of subscribers, based on billing addresses, for the 9-1-1 ~~jurisdiction~~ district.

(b) The department shall first determine that the wireless provider is providing phase I and phase II functionality to the public safety answering point. The wireless provider is responsible for notifying the department of the date of deployment and proof of acceptance tests.

(2) A 9-1-1 ~~jurisdiction~~ district must be ready to provide phase I and phase II wireless service and have submitted a phase I and phase II wireless request to the wireless providers providing service in the ~~jurisdiction's~~ district's area."

{ *Internal References to 10-4-115:*
10-4-313x }

Section 9. Section 10-4-302, MCA, is amended to read:

"10-4-302. Distribution of basic 9-1-1 account by

department. (1) The department shall make quarterly distributions of the entire basic 9-1-1 account. The distributions must be made for the costs incurred during the preceding calendar quarter by each provider of telephone service in the state for:

(a) collection of the fees imposed by 10-4-201; and

(b) modification of central office switching and trunking equipment for emergency telephone service only; ~~and~~

~~(c) conversion of pay station telephones required by 10-4-121.~~

(2) Payments under subsection (1) may be made only after application by the provider to the department for costs incurred in subsection (1). The department shall review all applications relevant to subsection (1) for appropriateness of costs claimed by the provider. If the provider contests the review, payment may not be made until the amount owed the provider is made certain.

(3) After all amounts under subsections (1) and (2) have been paid, the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account. A 9-1-1 ~~jurisdiction~~ district whose 9-1-1 service area includes more than one city or county is eligible to receive operating funds from the allocation for each city or county involved. The department shall distribute to the accounting entity designated by a 9-1-1 ~~jurisdiction~~ district with an approved final plan the proportional amount for each city or county served by the 9-1-1 ~~jurisdiction~~ district. The department shall provide a report indicating the proportional share derived

from the individual city's or county's allocation with each distribution to a 9-1-1 jurisdiction district.

(4) If the department through its monitoring process determines that a 9-1-1 jurisdiction district is not adhering to an approved plan, is not using funds in the manner prescribed in 10-4-303, or has failed to provide information as provided in ~~10-4-102(3)~~ [section 3] and rules adopted by the department, the department may, after notice and hearing, suspend payment to the 9-1-1 jurisdiction district. The jurisdiction district is not eligible to receive funds until the department determines that the jurisdiction district is complying with the approved plan and fund usage limitations or has provided the requested information."

{*Internal References to 10-4-302:*
10-4-102r 10-4-301x 10-4-303x}

Section 10. Section 10-4-311, MCA, is amended to read:

"10-4-311. Distribution of enhanced 9-1-1 account by department. (1) The department shall make quarterly distributions of the entire enhanced 9-1-1 account for costs incurred during the preceding calendar quarter by each provider of telephone service in the state for:

- (a) collection of the fee imposed by 10-4-201(1)(b); and
- (b) modification of central office switching and trunking equipment necessary to provide service for an enhanced 9-1-1 system only.

(2) Payments under subsection (1) may be made only after

application by the provider to the department for costs described in subsection (1). The department shall review all applications relevant to subsection (1) for appropriateness of costs claimed by the provider. If the provider contests the review, payment may not be made until the amount owed the provider is made certain.

(3) After all amounts under subsections (1) and (2) have been paid, 100% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(4) An enhanced 9-1-1 ~~jurisdiction~~ district whose enhanced 9-1-1 service area includes more than one city or county is eligible to receive operating funds from the allocation for each city or county involved. The department shall distribute to the accounting entity designated by an enhanced 9-1-1 ~~jurisdiction~~ district with an approved final plan for enhanced 9-1-1 service the proportional amount for each city or county served by the enhanced 9-1-1 ~~jurisdiction~~ district. The department shall, upon request, provide a report indicating the proportional share derived from the individual city's or county's allocation with each distribution to a 9-1-1 ~~jurisdiction~~ district.

(5) If the department determines that an enhanced 9-1-1 ~~jurisdiction~~ district is not adhering to an approved plan for enhanced 9-1-1 service or is not using funds in the manner prescribed in 10-4-312, the department may, after giving notice to the ~~jurisdiction~~ 9-1-1 district and providing an opportunity for a representative of the ~~jurisdiction~~ 9-1-1 district to

comment on the department's determination, suspend payment from the enhanced 9-1-1 account to the 9-1-1 jurisdiction district. The jurisdiction district is not eligible to receive funds from the enhanced 9-1-1 account until the department determines that the jurisdiction 9-1-1 district is complying with the approved plan for enhanced 9-1-1 and fund usage limitations."

{Internal References to 10-4-311:
10-4-301x 10-4-312x 10-4-312x }

Section 11. Section 10-4-312, MCA, is amended to read:

"10-4-312. Limitation on use of enhanced 9-1-1 funds. (1) Money received under 10-4-311(3) or (4) may be used only to pay for installing enhanced 9-1-1 features or for operating and improving an emergency telephone system using 9-1-1 service once the plan for converting to enhanced 9-1-1 has been approved.

(2) With department approval, money received under 10-4-311(3) or (4) may be used to pay for basic 9-1-1 service. The 9-1-1 jurisdiction district shall submit a request for an exception under this subsection to the department based on a demonstrated hardship, including geographical constraints, funding limitations, or absence of technical capability or capacity.

(3) Money not necessary for immediate use may be invested by the city or county. The income from the investments may be used only for the purposes described in this section."

{Internal References to 10-4-312:
10-4-311x }

Section 12. Section 10-4-313, MCA, is amended to read:

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

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

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

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

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

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

of the balance of the counties' share of the account.

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

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

(e) The department shall determine the percentage of overall subscribers, based on billing addresses, within the 9-1-1 ~~jurisdiction district~~ for each wireless provider seeking cost recovery by dividing the wireless provider's subscribers by the total number of subscribers in that 9-1-1 ~~jurisdiction district~~. The percentage must be applied to the total wireless provider funds for that 9-1-1 ~~jurisdiction district~~, and each wireless provider shall receive distribution based on the provider's percentage. To receive cost recovery, wireless providers shall submit subscriber counts to the department on a quarterly basis. The subscriber count must be provided for each 9-1-1 ~~jurisdiction~~

district in which the wireless provider receives cost recovery within 30 calendar days following the end of each quarter. The department shall recalculate distribution percentages on a quarterly basis.

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

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

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

(ii) except as provided in subsection (2)(b), distribute the amount determined in accordance with subsection (2)(a)(i) to wireless providers to reimburse the unpaid balances carried over by wireless providers pursuant to subsection (1)(c).

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

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

population.

(4) Any reallocated funds not distributed in accordance with subsection (2) must be returned to the account established under 10-4-301(1)(c).

(5) The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account described in 10-4-301(1)(c)(i) to each 9-1-1 ~~jurisdiction~~ district as follows:

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

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

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

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

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

{*Internal References to 10-4-313:*

10-4-301x }

NEW SECTION. **Section 13. {standard} Repealer.** The following sections of the Montana Code Annotated are repealed:

10-4-102. Department of administration duties and powers.

10-4-104. Agreements among safety agencies for rendering emergency services.

10-4-111. Submission of preliminary plans for 9-1-1 jurisdictions -- review -- cost estimates.

10-4-112. Submission and approval of final plans -- exception.

10-4-113. Requirement for approval of final plan -- department to insure compliance.

10-4-114. Rulemaking authority.

10-4-121. Pay phones to be converted to allow emergency calls without charge.

10-4-125. Submission of revised plan for conversion from basic 9-1-1 to enhanced 9-1-1.

10-4-126. Dedicated 9-1-1 telephone facilities to be provided -- capabilities.

{ Internal References to 10-4-102: 10-4-111r 10-4-112r 10-4-125r
 10-4-302a
 Internal References to 10-4-104: None.
 Internal References to 10-4-111: 10-4-126r
 Internal References to 10-4-112: None.
 Internal References to 10-4-113: 10-4-112r
 Internal References to 10-4-114: None.
 Internal References to 10-4-121: 10-4-302a
 Internal References to 10-4-125: None.
 Internal References to 10-4-126: None. }

NEW SECTION. **Section 14. {standard} Codification**

instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 10, chapter 4, part 1, and the provisions of Title 10, chapter 4, part 1, apply to [sections 1 through 5].

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

NEW SECTION. **Section 16. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 17. {standard} Effective date.** [This act] is effective on passage and approval.

- END -

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LCET03

**** Bill No. ****

Introduced By *****

By Request of the Energy and Telecommunications Interim Committee

A Bill for an Act entitled: "An Act generally revising 9-1-1 funding collection and allocation laws; granting the department rulemaking authority; revising the allocation of 9-1-1 fees; establishing accounts for 9-1-1 distributions; establishing a local government 9-1-1 grant program; providing criteria and priority for the grant program; transferring funds; amending sections 10-4-101, 10-4-102, 10-4-103, 10-4-114, 10-4-201, and 17-7-502, MCA; repealing sections 10-4-104, 10-4-111, 10-4-112, 10-4-113, 10-4-114, 10-4-115, 10-4-121, 10-4-125, 10-4-126, 10-4-301, 10-4-302, 10-4-303, 10-4-311, 10-4-312, and 10-4-313, MCA; and providing effective dates."

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

NEW SECTION. Section 1. Local government entities and funding. If the department through its monitoring process determines that a local government entity that hosts a public safety answering point is not using funds in the manner prescribed in this chapter, or has failed to provide information required by the department, the department may, after notice and hearing, suspend payment to the local government entity. The local government entity is not eligible to receive funds until the department determines that the local government is complying

with department requirements or has provided the requested information.

NEW SECTION. Section 2. Establishment of 9-1-1 accounts.

(1) There is established in the state special revenue fund in the state treasury an account for fees collected for 9-1-1 services pursuant to 10-4-201.

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

(a) 75% of the account must be deposited in an account for distribution to local government entities that host public safety answering points in accordance with [section 3]; and

(b) 25% of the account must be deposited in an account for distribution in the form of grants to local governments in accordance with [section 4].

(3) All money received by the department of revenue pursuant to 10-4-201 must be paid to the state treasurer for deposit in the appropriate account.

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

NEW SECTION. Section 3. Distribution of 9-1-1 systems account by department. (1) For the first quarter of the 2019

fiscal year and for each quarter after that, the department shall make quarterly distributions of the account established for local government entities that host public safety answering points pursuant to [section 2(2)(a)], and each public safety answering point shall receive an allocation of the total quarterly balance of the account.

(2) The department shall allocate the total quarterly balance of the account provided for in [section 2(2)(a)] as follows:

(a) an amount equal to 1% of the total quarterly balance of the account to each local government entity that host a public safety answering point; and

(b) the remainder allocated on a per capita basis to each local government entity that hosts a public safety answering point.

NEW SECTION. Section 4. 9-1-1 grants. (1) The department shall, in consultation with the advisory council created pursuant to 10-4-102(2), award competitive grants annually using the account established for local governments pursuant to [section 2(2)(b)]. Beginning July 1, 2018, grants must be awarded to local governments in accordance with this section and rules adopted by the department in accordance with 10-4-114.

(2) Except as provided in subsection (3), grants may be awarded to local governments for:

- (a) emergency telecommunications systems plans;
- (b) project feasibility studies or project plans;

(c) the purchase of 9-1-1 systems, equipment, devices and data; and

(d) the purchase of services that support 9-1-1 systems.

(3) In awarding grants, the department shall give priority to grant requests that include participation and commitment by a private telecommunications provider for services to support 9-1-1 systems.

(4) Nothing in this section prevents a local government from:

(a) providing grant money received by the local government in accordance to this section to a private telecommunications provider for 9-1-1 purposes; or

(b) collaborating with another local government on a joint grant application.

Section 5. Section 10-4-101, MCA, is amended to read:

"10-4-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

~~(1) "Allowable costs" means the actual costs associated with upgrading, purchasing, programming, installing, testing, operating, and maintaining data, hardware, and software necessary to comply with federal communications commission orders for the delivery of 9-1-1 calls and data as set forth in 47 CFR 20.18.~~

~~(2) "Basic 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(a).~~

~~(3) "Basic 9-1-1 service" means a telephone service meeting the standards established in 10-4-103 that automatically connects~~

~~a person dialing the digits 9-1-1 to an established public safety answering point.~~

~~(4) "Basic 9-1-1 system" includes equipment for connecting and outswitching 9-1-1 calls within a telephone central office, trunking facilities from the central office to a public safety answering point, and equipment, as appropriate, that is used for transferring the call to another point, when appropriate, and that is capable of providing basic 9-1-1 service.~~

~~(5)(1) "Commercial mobile radio service" means:~~

~~(a) a mobile service that is:~~

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

~~(ii) an interconnected service; and~~

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

~~(b) a mobile service that is the functional equivalent of a mobile service described in subsection (5)(a) (1)(a).~~

~~(6)(2) "Department" means the department of administration provided for in Title 2, chapter 15, part 10.~~

~~(7) "Direct dispatch" 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.~~

~~(8) "Emergency" means an event that requires dispatch of a public or private safety agency.~~

(3) "Emergency communications" means the transmission of voice, video, or electronic data involving the safety of human life and protection of property from one device to another.

~~(9)~~(4) "Emergency services" means services provided by a public or private safety agency, including law enforcement, firefighting, ambulance or medical services, and civil defense services.

~~(10) "Enhanced 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(b).~~

~~(11) "Enhanced 9-1-1 service" means telephone service that meets the requirements for basic 9-1-1 service and that consists of selective routing with the capability of automatic number identification and automatic location identification at a public safety answering point enabling users of the public telecommunications system to request emergency services by dialing the digits 9-1-1.~~

~~(12) "Enhanced 9-1-1 system" includes customer premises equipment that is directly related to the operation of an enhanced 9-1-1 system, including but not limited to automatic number identification or automatic location identification controllers and display units, printers, and software associated with call detail recording, and that is capable of providing enhanced 9-1-1 service.~~

~~(13)~~(5) "Exchange access services" means:

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

transfer of information; and

(b) unless a separate tariff rate is charged for the exchange access lines or channels, any facility or service provided in connection with the services described in subsection ~~(13)(a)~~ (5)(a).

~~(14) A "9-1-1 jurisdiction" means a group of public or private safety agencies who operate within or are affected by one or more common central office boundaries and who have agreed in writing to jointly plan a 9-1-1 emergency telephone system.~~

(6) "Local government" has the meaning as defined in 7-11-1002.

~~(15)(7)~~ "Per capita basis" means a calculation made to allocate a monetary amount for each person residing within the jurisdictional boundary of a county according to the most recent decennial census or population estimate compiled by the United States bureau of the census.

~~(16) "Phase I wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information to the public safety answering point for wireless calls.~~

~~(17) "Phase II wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information and location information to the public safety answering point for wireless calls.~~

~~(18) "Place of primary use" means the primary business or residential street address location at which an end-use customer's use of the commercial mobile radio service primarily occurs.~~

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~~(19)~~(8) "Private safety agency" means any entity, except a public safety agency, providing emergency fire, ambulance, or medical services.

~~(20)~~(9) "Provider" means a public utility, a cooperative telephone company, or any other entity that provides ~~telephone exchange~~ telecommunications access services.

~~(21)~~(10) "Public safety agency" means ~~the state and any city, county, city-county consolidated government, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state that provides or has authority to provide emergency services~~ a functional division of a local government or the state that dispatches or provides law enforcement, firefighting, emergency medical services, or other emergency services.

~~(22)~~(11) "Public safety answering point" means a communications facility operated on a 24-hour basis that first receives ~~9-1-1 calls~~ emergency communications from persons in ~~a 9-1-1 service area~~ requesting emergency services and that may, as appropriate, directly dispatch ~~public or private safety~~ emergency services or transfer or relay ~~9-1-1 calls~~ the emergency communications to appropriate public safety agencies.

~~(23)~~(12) "Relay" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, notes the pertinent information from the caller and relays the information to the appropriate public safety agency, other agencies, or other providers of emergency services for dispatch of an emergency unit.

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~~(24)~~(13) "Subscriber" means an end user who receives telephone exchange access services or who contracts with a wireless provider for commercial mobile radio services.

(14) "9-1-1 systems" means any telecommunications facilities, circuits, equipment, device, software, and associated contracted services for the transmission of emergency communications. 9-1-1 systems include the transmission of emergency communications from persons requesting emergency services to a primary public safety answering point and communications systems for the direct dispatch, relay, transfer of emergency communications and the transmission of emergency communications to and from a public safety answering point to and from emergency service units.

~~(25)~~(15) "Transfer" means a ~~9-1-1~~ service in which a public safety answering point, upon receipt of a telephone request for emergency services, directly transfers the request to an appropriate public safety agency or other ~~provider of emergency services~~ provider.

~~(26) "Wireless enhanced 9-1-1" means either phase I wireless enhanced 9-1-1 or phase II wireless enhanced 9-1-1.~~

~~(27) "Wireless enhanced 9-1-1 account" means the wireless enhanced 9-1-1 account established in 10-4-301.~~

~~(28)~~(16) "Wireless provider" means an entity, as defined in 35-1-113, that is authorized by the federal communications commission to provide facilities-based commercial mobile radio service within this state."

{ *Internal References to 10-4-101:*

2-17-506x 2-17-506x 7-31-201x 7-31-203x
53-19-306x }

Section 6. Section 10-4-102, MCA, is amended to read:

"10-4-102. Department of administration duties and powers.

~~(1) The department shall assist in the development of basic and enhanced 9-1-1 systems in the state. The department shall:~~

~~—— (a) establish procedures for determining and evaluating requests for variations from basic or enhanced 9-1-1 service;~~

~~—— (b) upon request of a 9-1-1 jurisdiction, assist in planning a basic or enhanced 9-1-1 system;~~

~~—— (c) establish criteria for evaluating basic and enhanced 9-1-1 system plans;~~

~~—— (d) monitor implementation of approved basic and enhanced 9-1-1 system plans for compliance with the plan and use of funding; and~~

~~—— (e) as it finds necessary, report to the legislature the progress made in implementing statewide basic and enhanced 9-1-1 systems and in implementing wireless enhanced 9-1-1 services.~~

~~There is a 9-1-1 program administered by the department.~~

(2) The department shall:

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

(b) provide grants in accordance with [section 4] to local governments. In awarding the grants the department shall review and approve requests for funding in accordance with [section 4];

(c) monitor the expenditure of program funds for:

(i) 9-1-1 purposes by local government entities that host

public safety answering points; and

(ii) allowable uses of grant funds by local governments.

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

~~(3) The department may request information from a specific 9-1-1 jurisdiction as determined necessary for the department to fulfill its duties under this chapter. If a 9-1-1 jurisdiction does not comply with the request, the department may suspend distributions to the 9-1-1 jurisdiction as provided in 10-4-302(4).~~

(4) The department, in fulfilling its duties pursuant to subsection (2), may request necessary information from local governments. If a local government does not comply with the request, the department may withhold funding distributions as provided for in [section 1]"

{ Internal References to 10-4-102:
10-4-111 10-4-112 10-4-125 10-4-302 }

Section 7. Section 10-4-103, MCA, is amended to read:

"10-4-103. Emergency telephone system requirements. (1)

Every public and private safety agency in this state may establish or participate in a ~~basic or enhanced~~ 9-1-1 system.

(2) A ~~basic~~ 9-1-1 system must include:

(a) a 24-hour communications facility automatically accessible anywhere in the ~~9-1-1 jurisdiction's~~ public safety answering point's service area by dialing 9-1-1;

(b) direct dispatch of public and private safety services in the ~~9-1-1 jurisdiction~~ public safety answering point's service area or relay or transfer of 9-1-1 ~~calls~~ communications to an appropriate public or private safety agency; and

(c) a 24-hour communications facility equipped with at least two trunk-hunting local access circuits provided by the local telephone company's central office.

(3) ~~An enhanced~~ A 9-1-1 system must include, in addition to the requirements for a ~~basic 9-1-1 system~~ of subsection (2):

(a) automatic number identification that automatically identifies and displays the calling telephone number at the public safety answering point; and

(b) automatic location identification that automatically identifies and displays the ~~address~~ location of the calling telephone at the public safety answering point.

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

{ Internal References to 10-4-103:

10-4-101a	10-4-104r	10-4-111r	10-4-111r
10-4-112r	10-4-112r	10-4-112r	10-4-121r
10-4-126r}			

Section 8. Section 10-4-114, MCA, is amended to read:

"10-4-114. Rulemaking authority. (1) The department may adopt rules to implement the provisions of this chapter. ~~The rules may include but are not limited to:~~

- ~~—— (1) establishing procedures to evaluate and make determinations on requests for a variation of the basic or enhanced 9-1-1 service;~~
- ~~—— (2) establishing evaluation criteria for basic and enhanced 9-1-1 systems plans;~~
- ~~—— (3) establishing requirements for program participation by public and private safety agencies;~~
- ~~—— (4) establishing guidelines for the distribution of funds;~~
and
- ~~—— (5) establishing requirements regarding applications for reimbursement for allowable costs to wireless providers for enabling wireless enhanced 9-1-1 services.~~

(2) Before July 1, 2018, the department shall adopt rules to implement the provisions of this chapter. The rules shall include, but are not limited to:

(a) allocation and distribution procedures for funding authorized in [section 2];

(b) procedures for grant funding authorized in [section 4].

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

(i) eligibility requirements for entities applying for grants;

(ii) criteria for awarding grants; and

(iii) reporting procedures for grant recipients; and

(c) post-disbursement activities by the department to monitor the use of funding by local governments including:

(i) reporting requirements; and

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

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

{Internal References to 10-4-114: None.}

Section 9. Section 10-4-201, MCA, is amended to read:

"10-4-201. Fees imposed for 9-1-1 services. (1) Except as provided in 10-4-202:

(a) for ~~basic~~ 9-1-1 services, a fee of 25 75 cents a month per access line on each service subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other ~~9-1-1~~ emergency telecommunications accessible services for the administration of 9-1-1 programs in accordance with [section 3]; and

~~(b) for enhanced 9-1-1 services, a fee of 25 cents a month per access line on each service subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible~~

~~services; and~~

~~(c) for wireless enhanced 9-1-1 services, a fee of 50 25 cents a month per access line or subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 emergency telecommunications accessible services for grants provided in accordance with [section 4].~~

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

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

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

{ *Internal References to 10-4-201:*

10-4-202x	10-4-203x	10-4-204x	10-4-211x
10-4-301r	10-4-301r	10-4-301r	10-4-301r
10-4-301r	10-4-302r	10-4-311r	15-53-129x
15-53-129x	35-18-503x		}

Section 10. Section 17-7-502, MCA, is amended to read:

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

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

provisions:

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; ~~10-4-301~~ [section 2]; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 85-25-102; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the

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principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to

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sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to secs. 27 and 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 is effective on occurrence of contingency and terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023.)"

{ *Internal References to 17-7-502:*

2-17-105	5-11-120	5-11-407	5-13-403
7-4-2502	10-1-108	10-1-1202	10-1-1303
10-2-603	10-3-203	10-3-310	10-3-312
10-3-312	10-3-314	10-4-301	15-1-121
15-1-218	15-35-108	15-35-108	15-35-108
15-35-108	15-36-332	15-36-332	15-37-117
15-37-117	15-37-117	15-39-110	15-65-121
15-70-101	15-70-433	15-70-601	16-11-509
17-1-508	17-3-106	17-3-112	17-3-212
17-3-222	17-3-241	17-6-101	17-7-215
17-7-501	18-11-112	19-3-319	19-6-404
19-6-410	19-9-702	19-13-604	19-17-301
19-18-512	19-19-305	19-19-506	19-20-604
19-20-607	19-21-203	20-8-107	20-9-517
20-9-517	20-9-520	20-9-534	20-9-622
20-9-905	20-26-617	20-26-1503	22-1-327
22-3-116	22-3-117	22-3-1004	23-4-105
23-4-105	23-5-306	23-5-409	23-5-612
23-7-301	23-7-402	23-7-402	23-7-402
30-10-1004	37-43-204	37-50-209	37-51-501
39-71-503	41-5-2011	42-2-105	44-4-1101
44-12-213	44-13-102	50-1-115	53-1-109
53-6-1304	53-6-1304	53-9-113	53-24-108
53-24-108	53-24-206	60-11-115	61-3-415

69-3-870	75-1-1101	75-5-1108	75-6-214
75-11-313	76-13-150	76-13-416	77-1-108
77-2-362	80-2-222	80-4-416	80-11-518
81-1-112	81-7-106	81-10-103	82-11-161
82-11-161	85-20-1504	85-20-1505	85-25-102
87-1-603	90-1-115	90-1-115	90-1-205
90-1-504	90-3-1003	90-6-331	90-9-306 }

NEW SECTION. **Section 11. {standard} Repealer.** The

following sections of the Montana Code Annotated are repealed:

- 10-4-104. Agreements among safety agencies for rendering emergency services.
- 10-4-111. Submission of preliminary plans for 9-1-1 jurisdictions -- review -- cost estimates.
- 10-4-112. Submission and approval of final plans -- exception.
- 10-4-113. Requirement for approval of final plan -- department to insure compliance.
- 10-4-114. Rulemaking authority.
- 10-4-115. Submission of phase I and phase II wireless notification by wireless provider.
- 10-4-121. Pay phones to be converted to allow emergency calls without charge.
- 10-4-125. Submission of revised plan for conversion from basic 9-1-1 to enhanced 9-1-1.
- 10-4-126. Dedicated 9-1-1 telephone facilities to be provided -- capabilities.
- 10-4-301. Establishment of emergency telecommunications accounts.
- 10-4-302. Distribution of basic 9-1-1 account by department.
- 10-4-303. Limitation on use of basic 9-1-1 funds.
- 10-4-311. Distribution of enhanced 9-1-1 account by department.

10-4-312. Limitation on use of enhanced 9-1-1 funds.

10-4-313. Distribution of wireless enhanced 9-1-1 account by department.

{ Internal References to 10-4-104: None.
 Internal References to 10-4-111: 10-4-126r
 Internal References to 10-4-112: None.
 Internal References to 10-4-113: 10-4-112r
 Internal References to 10-4-114: None.
 Internal References to 10-4-115: 10-4-313r
 Internal References to 10-4-121: 10-4-302r
 Internal References to 10-4-125: None.
 Internal References to 10-4-126: None.
 Internal References to 10-4-301: 10-4-101a 10-4-101a 10-4-101a
 10-4-313r
 10-4-313r 10-4-313r 10-4-313r 17-7-502a
 Internal References to 10-4-302: 10-4-102a 10-4-301r 10-4-303r
 Internal References to 10-4-303: 10-4-302r
 Internal References to 10-4-311: 10-4-301r 10-4-312r 10-4-312r
 Internal References to 10-4-312: 10-4-311r
 Internal References to 10-4-313: 10-4-301r }

NEW SECTION. **Section 12. Transfer of funds.** (1) After the distribution of 9-1-1 funds in accordance with Title 10, chapter 4, part 3 for the final quarter of the 2018 fiscal year, the department shall transfer any balance remaining in the accounts in 10-4-301(1)(a), 10-4-301(1)(b), and 10-4-301(1)(c)(i) into the account established in [section 2(2)(a)].

(2) After the distribution of 9-1-1 funds in accordance with Title 10, chapter 4, part 3 for the final quarter of the 2018 fiscal year, the department shall transfer any balance remaining in the account in 10-4-301(1)(c)(ii) into the account established in [section 2(2)(b)].

NEW SECTION. **Section 13. {standard} Codification instruction.** [Sections 1 through 4] are intended to be codified

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as an integral part of Title 10, chapter 4, part 3, and the provisions of Title 10, chapter 4, part 3, apply to [sections 1 through 4].

NEW SECTION. **Section 14. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 15. {standard} Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2018.

(2) [Section 8] is effective upon passage and approval.

- END -

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LCET04

**** Bill No. ****

Introduced By *****

By Request of the Energy and Telecommunications Interim Committee

A Bill for an Act entitled: "An Act generally revising 9-1-1 laws; establishing a 9-1-1 advisory council; establishing 9-1-1 advisory council and department of administration duties for 9-1-1 systems and services; granting the department rulemaking authority; clarifying local government and 9-1-1 district roles; providing definitions; updating terms to include next generation 9-1-1; revising the allocation of 9-1-1 fees; establishing accounts for 9-1-1 distributions; requiring that certain fees collected for 9-1-1 services be reallocated under certain circumstances; establishing a reallocation process; establishing a next generation 9-1-1 infrastructure account; creating a next generation 9-1-1 infrastructure grant program; providing criteria to the department of administration for awarding next generation 9-1-1 infrastructure grants; establishing a 9-1-1 GIS mapping account; requiring the state library to award a contract for a GIS assessment; establishing a statewide 9-1-1 planning account; requiring the department to award a contract to develop a statewide 9-1-1 plan; establishing a local government 9-1-1 grant program; providing priorities and criteria for the 9-1-1 grant program; transferring funds; amending sections 10-4-101, 10-4-103, 10-4-201, 10-4-301, 10-4-302, 10-4-313, and 17-7-502, MCA; repealing sections 10-4-102, 10-4-104, 10-4-111, 10-4-112, 10-4-113, 10-4-114, 10-4-121, 10-4-125, and 10-4-126, MCA; repealing

sections 10-4-115, 10-4-301, 10-4-302, 10-4-303, 10-4-311, 10-4-312, and 10-4-313, MCA; providing effective dates; and providing a termination date."

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

NEW SECTION. **Section 1. 9-1-1 advisory council.** (1) There is a 9-1-1 advisory council.

(2) The council is composed of not less than 17 members appointed by the governor. The members are:

(a) the director of the department of administration provided for in 2-15-1001, or the director's designee who serves as presiding officer of the council;

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

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

(d) 3 representatives of Montana telecommunications providers;

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

(f) 2 public safety answering point managers: with one serving a population less than 30,000 and one serving a population greater than 30,000;

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

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

police;

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

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

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

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

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

(n) the state librarian or the state librarian's designee.

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

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

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

NEW SECTION. Section 2. 9-1-1 advisory council duties -- consultation by department. The council shall:

(1) advise the department in its duty to allocate and distribute 9-1-1 fees in accordance with [section 7];

(2) provide recommendations to the department in determining grants awarded in accordance with [section 8];

(3) advise the department in the development of a statewide 9-1-1 plan; and

(4) advise the department on significant matters concerning 9-1-1 systems development and 9-1-1 services in the state of Montana, including rulemaking.

NEW SECTION. **Section 3. Department of administration duties and powers -- 9-1-1 planning.** (1) There is a 9-1-1 program administered by the department.

(2) The department shall:

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

(b) provide grants in accordance with [section 8] to local governments. In awarding the grants the department shall review and approve requests for funding in accordance with [section 8];

(c) monitor the expenditure of program funds for:

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

(ii) allowable uses of grant funds by local governments.

(d) establish a statewide 9-1-1 plan. The plan should include 9-1-1 system standards and support efforts to migrate legacy technologies to next generation 9-1-1 technologies when appropriate, and provide for the implementation of future 9-1-1 technologies. Any standards adopted by the department for legacy 9-1-1 technologies or principles adopted for baseline next generation 9-1-1 technologies must be:

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

(ii) based on industry standards;

(e) staff and fund the administrative costs of the 9-1-1

advisory council provided for in [section 1]; and

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

(3) The department, in fulfilling its duties pursuant to subsection (2), may request necessary information from local governments. If a local government does not comply with the request, the department may withhold funding distributions as provided for in [section 5].

NEW SECTION. **Section 4. Rulemaking authority.** (1) Before July 1, 2018, the department shall adopt rules to implement the provisions of this chapter. The rules shall include, but are not limited to:

(a) allocation and distribution procedures for funding authorized in [section 7];

(b) procedures for grant funding authorized in [section 8].
The rules for grant funding must include, but are not limited to:

(i) eligibility requirements for entities applying for grants;

(ii) criteria for awarding grants; and

(iii) reporting procedures for grant recipients; and

(c) post-disbursement activities by the department to monitor the use of funding by local governments including:

(i) reporting requirements; and

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

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

(a) technology standards, based on industry standards and a statewide 9-1-1 plan pursuant to [section 12], to ensure public safety answering points meet minimum 9-1-1 services levels; and

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

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

NEW SECTION. Section 5. Local government entities and funding-- department delegation. (1) After the department determines baseline next generation 9-1-1 principles in accordance with rules adopted pursuant to [section 4(2)] and a statewide 9-1-1 plan, the department shall delegate implementation to local government entities that host public safety answering points.

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

information.

(3) Nothing in this chapter, prevents a local government entity that hosts a public safety answering point from exceeding legacy technology standards or baseline next generation 9-1-1 principles.

NEW SECTION. Section 6. Establishment of 9-1-1 accounts.

(1) There is established in the state special revenue fund in the state treasury an account for fees collected for 9-1-1 services pursuant to 10-4-201.

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

(a) 75% of the account must be deposited in an account for distribution to local government entities that host public safety answering points in accordance with [section 7]; and

(b) 25% of the account must be deposited in an account for distribution in the form of grants to local governments in accordance with [section 8].

(3) All money received by the department of revenue pursuant to 10-4-201 must be paid to the state treasurer for deposit in the appropriate account.

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

NEW SECTION. **Section 7. Distribution of 9-1-1 systems**

account by department. (1) For the first quarter of the 2019 fiscal year and for each quarter after that, the department shall make quarterly distributions of the account established for local government entities that host public safety answering points pursuant to [section 6(2)(a)], and each public safety answering point shall receive an allocation of the total quarterly balance of the account.

(2) The department shall allocate the total quarterly balance of the account provided for in [section 6(2)(a)] as follows:

(a) an amount equal to 1% of the total quarterly balance of the account to each local government entity that host a public safety answering point; and

(b) the remainder allocated on a per capita basis to each local government entity that hosts a public safety answering point.

NEW SECTION. **Section 8. 9-1-1 grants.** (1) The department

shall, in consultation with the advisory council created pursuant to [section 1], award competitive grants annually using the account established for local governments pursuant to [section 6(2)(b)]. Beginning July 1, 2018, grants must be awarded to local governments in accordance with this section and rules adopted by the department in accordance with [section 4].

(2) Except as provided in subsection (3), grants may be

awarded to local governments for:

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

(3) In awarding grants, the department shall give priority to grant requests that include participation and commitment by a private telecommunications provider for services to support 9-1-1 systems.

(4) Nothing in this section prevents a local government from:

(a) providing grant money received by the local government in accordance to this section to a private telecommunications provider for 9-1-1 purposes; or

(b) collaborating with another local government on a joint grant application.

NEW SECTION. Section 9. Baseline next generation 9-1-1 account transfers. (1) After the department makes distributions for the final quarter of the 2017 fiscal year from the wireless enhanced 9-1-1 account, the department shall transfer:

(a) \$5 million into the next generation 9-1-1 infrastructure account established in accordance with [section 10];

(b) \$80,000 into the 9-1-1 GIS-mapping account established in accordance with [section 12]; and

(c) \$350,000 into the statewide 9-1-1 planning account

established in accordance with [section 13].

(2) The allocations in subsection (1) may only be used in accordance with [sections 10 through 13].

NEW SECTION. Section 10. Next generation 9-1-1 infrastructure fund created -- source of funding -- use of fund.

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

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money in accordance with [section 9(1)(a)] for the purposes of [section 11]; and

(c) a gift, donation, grant, legacy, bequest, or devise made for the purposes of [section 11].

(3) Except as provided in subsection (4), the fund may be used only by the department to provide grants for next generation 9-1-1 infrastructure as provided in [section 11] to a local government working with a private telecommunications providers.

(5) At the end of fiscal year 2019, any unexpended balance in the fund shall revert to the account established by the department in accordance with [section 6(2)(b)].

NEW SECTION. Section 11. Next generation 9-1-1 infrastructure grants -- criteria -- rulemaking. (1) Money deposited in the next-generation 9-1-1 infrastructure grant account established in [section 10] may be expended by the

department through grants to local governments working with private telecommunications providers for next generation 9-1-1 infrastructure.

(2) For the purposes of [section 10] and this section:

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

(b) "IP" means internet protocol or the method by which data are sent on the internet or a communications protocol for computers connected to a network, especially the internet.

(c) "Next generation 9-1-1 infrastructure" means a statewide ESInet, upgrades and replacement of existing selective routers with IP routers, and upgrades to all non IP-capable public safety answering points as defined in 10-4-101 for IP capability.

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

(4) The department shall consult with and consider recommendations by the advisory council established in accordance with [section 1] for awards made under this section.

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

(a) applications;

- (b) timelines;
- (c) eligibility, including proof of eligibility;
- (d) the procedure for establishing the priority of grant awards;
- (e) the appeal process for grant applications that are denied; and
- (f) disbursement of grant money to providers.

(7) Before September 1, 2018, the department shall update the energy and telecommunications interim committee provided for in 5-5-230 on efforts to distribute grants in accordance with [section 10] and this section.

(8) Before September 1, 2019, the department shall produce a report summarizing the grants provided, how the grant money was spent, and the program data and information reported by grant recipients. The department shall provide the report to the energy and telecommunications interim committee provided for in 5-5-230.

NEW SECTION. Section 12. 9-1-1 GIS mapping fund created -- source of funding -- use of fund. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the 9-1-1 GIS mapping fund.

- (2) There must be deposited in the account:
 - (a) money received from legislative allocations;
 - (b) a transfer of money by the department in accordance with [section 9(1)(b)] for use in accordance with subsection (3); and
 - (c) a gift, donation, grant, legacy, bequest, or devise

made for the purposes of subsection (3).

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

(4) Before September 1, 2018, the state library shall produce a report summarizing the status of GIS adoption and operations in Montana as it pertains to next generation 9-1-1, including policy and funding recommendations necessary to use GIS to advance next generation 9-1-1. The state library shall provide the report to the energy and telecommunications interim committee provided for in 5-5-230.

(5) At the end of fiscal year 2019, any unexpended balance in the fund shall revert to the account established by the department in accordance with [section 6(2)(b)].

NEW SECTION. Section 13. Statewide 9-1-1 planning fund created -- source of funding -- use of fund. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the statewide 9-1-1 planning fund.

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money in accordance with [section 9(1)(c)] for use in accordance with subsections (3) through (5); and

(c) a gift, donation, grant, legacy, bequest, or devise

made for the purposes of subsections (3) through (5).

(3) The fund may be used only by the department to award a contract in accordance with 18-1-102 and after consulting with the 9-1-1 advisory council created in accordance with [section 1] to develop a statewide 9-1-1 plan.

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

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

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

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

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

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

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

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

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

(6) At the end of fiscal year 2019, any unexpended balance shall revert to the account established by the department in accordance with [section 6(2)(b)].

Section 14. Section 10-4-101, MCA, is amended to read:

"10-4-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

~~(1) "Allowable costs" means the actual costs associated with upgrading, purchasing, programming, installing, testing, operating, and maintaining data, hardware, and software necessary to comply with federal communications commission orders for the delivery of 9-1-1 calls and data as set forth in 47 CFR 20.18.~~

~~(2) "Basic 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(a).~~

~~(3) "Basic 9-1-1 service" means a telephone service meeting the standards established in 10-4-103 that automatically connects a person dialing the digits 9-1-1 to an established public safety answering point.~~

~~(4) "Basic 9-1-1 system" includes equipment for connecting and outswitching 9-1-1 calls within a telephone central office, trunking facilities from the central office to a public safety answering point, and equipment, as appropriate, that is used for transferring the call to another point, when appropriate, and that is capable of providing basic 9-1-1 service.~~

~~(5)~~(1) "Commercial mobile radio service" means:

(a) a mobile service that is:

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

(ii) an interconnected service; and

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

(b) a mobile service that is the functional equivalent of a mobile service described in subsection ~~(5)~~(a) (1)(a).

~~(6)~~(2) "Department" means the department of administration provided for in Title 2, chapter 15, part 10.

~~(7)~~ "Direct dispatch" 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.

~~(8)~~ "Emergency" means an event that requires dispatch of a public or private safety agency.

(3) "Emergency communications" means the transmission of voice, video, or electronic data involving the safety of human life and protection of property from one device to another.

~~(9)~~(4) "Emergency services" means services provided by a public or private safety agency, including law enforcement, firefighting, ambulance or medical services, and civil defense services.

~~(10)~~ "Enhanced 9-1-1 account" means the 9-1-1 emergency

~~telecommunications account established in 10-4-301(1)(b).~~

~~(11) "Enhanced 9-1-1 service" means telephone service that meets the requirements for basic 9-1-1 service and that consists of selective routing with the capability of automatic number identification and automatic location identification at a public safety answering point enabling users of the public telecommunications system to request emergency services by dialing the digits 9-1-1.~~

~~(12) "Enhanced 9-1-1 system" includes customer premises equipment that is directly related to the operation of an enhanced 9-1-1 system, including but not limited to automatic number identification or automatic location identification controllers and display units, printers, and software associated with call detail recording, and that is capable of providing enhanced 9-1-1 service.~~

~~(13)~~ (5) "Exchange access services" means:

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

(b) unless a separate tariff rate is charged for the exchange access lines or channels, any facility or service provided in connection with the services described in subsection ~~(13)(a)~~ (5)(a).

~~(14) A "9-1-1 jurisdiction" means a group of public or private safety agencies who operate within or are affected by one or more common central office boundaries and who have agreed in~~

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~~writing to jointly plan a 9-1-1 emergency telephone system.~~

~~(6) "Local government" has the meaning as defined in 7-11-1002.~~

~~(7) "Next generation 9-1-1" means a system comprised of hardware, software, data, and operational policies and procedures that provides standardized interfaces from call and message services, processes all types of emergency calls, including non-voice or multi-media messages, acquires and integrates additional data useful to emergency communications, delivers the emergency communications, messages, or both, and data to the appropriate public safety answering point and other appropriate emergency entities, supports data and communications needs for coordinated incident response and management, and provides a secure environment for emergency communications.~~

~~(15)(8) "Per capita basis" means a calculation made to allocate a monetary amount for each person residing within the jurisdictional boundary of a county according to the most recent decennial census or population estimate compiled by the United States bureau of the census.~~

~~(16) "Phase I wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information to the public safety answering point for wireless calls.~~

~~(17) "Phase II wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information and location information to the public safety answering point for wireless calls.~~

~~(18) "Place of primary use" means the primary business or~~

~~residential street address location at which an end-use customer's use of the commercial mobile radio service primarily occurs.~~

~~(19)~~(9) "Private safety agency" means any entity, except a public safety agency, providing emergency fire, ambulance, or medical services.

~~(20)~~(10) "Provider" means a public utility, a cooperative telephone company, or any other entity that provides ~~telephone exchange~~ telecommunications access services.

~~(21)~~(11) "Public safety agency" means ~~the state and any city, county, city-county consolidated government, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state that provides or has authority to provide emergency services~~ a functional division of a local government or the state that dispatches or provides law enforcement, firefighting, emergency medical services, or other emergency services.

~~(22)~~(12) "Public safety answering point" means a communications facility operated on a 24-hour basis that first receives ~~9-1-1 calls~~ emergency communications from persons in a ~~9-1-1 service area~~ requesting emergency services and that may, as appropriate, directly dispatch ~~public or private safety~~ emergency services or transfer or relay ~~9-1-1 calls~~ the emergency communications to appropriate public safety agencies.

~~(23)~~(13) "Relay" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, notes the pertinent information from the

caller and relays the information to the appropriate public safety agency, other agencies, or other providers of emergency services for dispatch of an emergency unit.

~~(24)~~(14) "Subscriber" means an end user who receives telephone exchange access services or who contracts with a wireless provider for commercial mobile radio services.

(15) "9-1-1 systems" means any telecommunications facilities, circuits, equipment, device, software, and associated contracted services for the transmission of emergency communications. 9-1-1 systems include the transmission of emergency communications from persons requesting emergency services to a primary public safety answering point and communications systems for the direct dispatch, relay, transfer of emergency communications and the transmission of emergency communications to and from a public safety answering point to and from emergency service units.

~~(25)~~(16) "Transfer" means a ~~9-1-1~~ service in which a public safety answering point, upon receipt of a telephone request for emergency services, directly transfers the request to an appropriate public safety agency or other ~~provider~~ of emergency services provider.

~~(26) "Wireless enhanced 9-1-1" means either phase I wireless enhanced 9-1-1 or phase II wireless enhanced 9-1-1.~~

~~(27) "Wireless enhanced 9-1-1 account" means the wireless enhanced 9-1-1 account established in 10-4-301.~~

~~(28)~~(17) "Wireless provider" means an entity, as defined in 35-1-113, that is authorized by the federal communications

commission to provide facilities-based commercial mobile radio service within this state."

{ Internal References to 10-4-101:

2-17-506x 2-17-506x 7-31-201x 7-31-203x
53-19-306x }

Section 15. Section 10-4-103, MCA, is amended to read:

"10-4-103. Emergency telephone system requirements. (1)

Every public and private safety agency in this state may establish or participate in a ~~basic or enhanced~~ 9-1-1 system.

(2) A ~~basic~~ 9-1-1 system must include:

(a) a 24-hour communications facility automatically accessible anywhere in the ~~9-1-1 jurisdiction's~~ public safety answering point's service area by dialing 9-1-1;

(b) direct dispatch of public and private safety services in the ~~9-1-1 jurisdiction~~ public safety answering point's service area or relay or transfer of 9-1-1 ~~calls~~ communications to an appropriate public or private safety agency; and

(c) a 24-hour communications facility equipped with at least two trunk-hunting local access circuits provided by the local telephone company's central office.

(3) ~~An enhanced~~ A 9-1-1 system must include, in addition to the requirements for a ~~basic 9-1-1 system~~ of subsection (2):

(a) automatic number identification that automatically identifies and displays the calling telephone number at the public safety answering point; and

(b) automatic location identification that automatically identifies and displays the ~~address~~ location of the calling

telephone at the public safety answering point.

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

{ Internal References to 10-4-103:

10-4-101a	10-4-104r	10-4-111r	10-4-111r
10-4-112r	10-4-112r	10-4-112r	10-4-121r
10-4-126r}			

Section 16. Section 10-4-201, MCA, is amended to read:

"10-4-201. Fees imposed for 9-1-1 services. (1) Except as provided in 10-4-202:

(a) for ~~basic~~ 9-1-1 services, a fee of 25 75 cents a month per access line on each service subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other ~~9-1-1~~ emergency telecommunications accessible services for the administration of 9-1-1 programs in accordance with [section 7]; and

~~(b) for enhanced 9-1-1 services, a fee of 25 cents a month per access line on each service subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services; and~~

~~(c) for wireless enhanced 9-1-1 services, a fee of 50 25 cents a month per access line or subscriber in the state is imposed on the amount charged for telephone exchange access~~

services, wireless telephone service, or other ~~9-1-1~~ emergency telecommunications accessible services for grants provided in accordance with [section 8].

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

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

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

{ Internal References to 10-4-201:

10-4-202x	10-4-203x	10-4-204x	10-4-211x
10-4-301r	10-4-301r	10-4-301r	10-4-301r
10-4-301r	10-4-302r	10-4-311r	15-53-129x
15-53-129x	35-18-503x	}	

Section 17. Section 10-4-301, MCA, is amended to read:

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

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

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

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

(i) 50% of the account must be deposited in an account for

distribution to the 9-1-1 jurisdictions; and

(ii) 50% of the account must be deposited in an account for distribution to wireless providers or must be deposited in accordance with [section 9].

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

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

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

(5) The distribution of funds in the 9-1-1 emergency telecommunications accounts described in subsection (1), as required by 10-4-302, 10-4-311, and 10-4-313, is statutorily appropriated, as provided in 17-7-502, to the department.

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

{ *Internal References to 10-4-301:*

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

Section 18. Section 10-4-302, MCA, is amended to read:

"10-4-302. Distribution of basic 9-1-1 account by department. (1) The department shall make quarterly distributions of the entire basic 9-1-1 account. The distributions must be made for the costs incurred during the preceding calendar quarter by each provider of telephone service in the state for:

(a) collection of the fees imposed by 10-4-201; and

(b) modification of central office switching and trunking equipment for emergency telephone service only; ~~and~~

~~(c) conversion of pay station telephones required by 10-4-121.~~

(2) Payments under subsection (1) may be made only after application by the provider to the department for costs incurred in subsection (1). The department shall review all applications relevant to subsection (1) for appropriateness of costs claimed by the provider. If the provider contests the review, payment may not be made until the amount owed the provider is made certain.

(3) After all amounts under subsections (1) and (2) have been paid, the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account. A 9-1-1 jurisdiction whose 9-1-1 service area includes more than one city or county is eligible to receive operating funds from the allocation for each city or county involved. The department shall distribute to the accounting entity designated by a 9-1-1 jurisdiction with an approved final plan the proportional amount for each city or county served by

the 9-1-1 jurisdiction. The department shall provide a report indicating the proportional share derived from the individual city's or county's allocation with each distribution to a 9-1-1 jurisdiction.

(4) If the department through its monitoring process determines that a 9-1-1 jurisdiction is not adhering to an approved plan, is not using funds in the manner prescribed in 10-4-303, or has failed to provide information as provided in 10-4-102(3), the department may, after notice and hearing, suspend payment to the 9-1-1 jurisdiction. The jurisdiction is not eligible to receive funds until the department determines that the jurisdiction is complying with the approved plan and fund usage limitations or has provided the requested information."

{ *Internal References to 10-4-302:*
10-4-102 10-4-301 10-4-303 }

Section 19. Section 10-4-313, MCA, is amended to read:

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

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

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

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

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

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

(c) If the department is unable to fully reimburse a wireless provider under subsection (1)(a) in any quarter, the department shall in the subsequent quarter pay from the allocation under subsection (1)(a) to wireless providers any unpaid balances from the previous quarter. If the amount available is insufficient to pay all previous unpaid balances, the department shall repeat the process of paying unpaid balances that remain unpaid for as many quarters as necessary until all

unpaid balances are fully paid. The department shall review all invoices for appropriateness of costs claimed by the wireless provider. If the wireless provider contests the review, payment may not be made until the amount owed to the wireless provider is determined.

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

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

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

(2) (a) Except as provided in subsection (3) and after the

distribution for the final quarter of each fiscal year is made pursuant to subsection (1), the department, within 45 days of the end of the final quarter of each fiscal year, shall:

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

(ii) except as provided in subsection (2)(b), distribute the amount determined in accordance with subsection (2)(a)(i) to wireless providers to reimburse the unpaid balances carried over by wireless providers pursuant to subsection (1)(c).

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

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

(4) ~~Any~~ Except as provided in [section 9], any reallocated funds not distributed in accordance with subsection (2) must be returned to the account established under 10-4-301(1)(c).

(5) The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account described in 10-4-301(1)(c)(i) to each 9-1-1 jurisdiction as follows:

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

(i) 84% of the balance of the account must be allocated to

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

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

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

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

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

Section 20. Section 17-7-502, MCA, is amended to read:

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

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

provisions:

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; ~~10-4-301~~ [section 6]; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 85-25-102; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the

principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to

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sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to secs. 27 and 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 is effective on occurrence of contingency and terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023.)"

{ *Internal References to 17-7-502:*

2-17-105	5-11-120	5-11-407	5-13-403
7-4-2502	10-1-108	10-1-1202	10-1-1303
10-2-603	10-3-203	10-3-310	10-3-312
10-3-312	10-3-314	10-4-301	15-1-121
15-1-218	15-35-108	15-35-108	15-35-108
15-35-108	15-36-332	15-36-332	15-37-117
15-37-117	15-37-117	15-39-110	15-65-121
15-70-101	15-70-433	15-70-601	16-11-509
17-1-508	17-3-106	17-3-112	17-3-212
17-3-222	17-3-241	17-6-101	17-7-215
17-7-501	18-11-112	19-3-319	19-6-404
19-6-410	19-9-702	19-13-604	19-17-301
19-18-512	19-19-305	19-19-506	19-20-604
19-20-607	19-21-203	20-8-107	20-9-517
20-9-517	20-9-520	20-9-534	20-9-622
20-9-905	20-26-617	20-26-1503	22-1-327
22-3-116	22-3-117	22-3-1004	23-4-105
23-4-105	23-5-306	23-5-409	23-5-612
23-7-301	23-7-402	23-7-402	23-7-402
30-10-1004	37-43-204	37-50-209	37-51-501
39-71-503	41-5-2011	42-2-105	44-4-1101
44-12-213	44-13-102	50-1-115	53-1-109
53-6-1304	53-6-1304	53-9-113	53-24-108
53-24-108	53-24-206	60-11-115	61-3-415

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69-3-870	75-1-1101	75-5-1108	75-6-214
75-11-313	76-13-150	76-13-416	77-1-108
77-2-362	80-2-222	80-4-416	80-11-518
81-1-112	81-7-106	81-10-103	82-11-161
82-11-161	85-20-1504	85-20-1505	85-25-102
87-1-603	90-1-115	90-1-115	90-1-205
90-1-504	90-3-1003	90-6-331	90-9-306 }

NEW SECTION. Section 21. {standard} Repealer. The

following sections of the Montana Code Annotated are repealed:

10-4-102. Department of administration duties and powers.

10-4-104. Agreements among safety agencies for rendering emergency services.

10-4-111. Submission of preliminary plans for 9-1-1 jurisdictions -- review -- cost estimates.

10-4-112. Submission and approval of final plans -- exception.

10-4-113. Requirement for approval of final plan -- department to insure compliance.

10-4-114. Rulemaking authority.

10-4-121. Pay phones to be converted to allow emergency calls without charge.

10-4-125. Submission of revised plan for conversion from basic 9-1-1 to enhanced 9-1-1.

10-4-126. Dedicated 9-1-1 telephone facilities to be provided -- capabilities.

{ Internal References to 10-4-102: 10-4-111r 10-4-112r 10-4-125r 10-4-302a

Internal References to 10-4-104: None.

Internal References to 10-4-111: 10-4-126r

Internal References to 10-4-112: None.

Internal References to 10-4-113: 10-4-112r

Internal References to 10-4-114: None.

Internal References to 10-4-121: 10-4-302r

Internal References to 10-4-125: None.

Internal References to 10-4-126: None. }

NEW SECTION. **Section 22. {standard} Repealer.** The following sections of the Montana Code Annotated are repealed:

- 10-4-115. Submission of phase I and phase II wireless notification by wireless provider.
- 10-4-301. Establishment of emergency telecommunications accounts.
- 10-4-302. Distribution of basic 9-1-1 account by department.
- 10-4-303. Limitation on use of basic 9-1-1 funds.
- 10-4-311. Distribution of enhanced 9-1-1 account by department.
- 10-4-312. Limitation on use of enhanced 9-1-1 funds.
- 10-4-313. Distribution of wireless enhanced 9-1-1 account by department.

{ Internal References to 10-4-115:	10-4-313r			
Internal References to 10-4-301:	10-4-101a	10-4-101a	10-4-101a	
10-4-313r				
10-4-313r	10-4-313r	10-4-313r	17-7-502a	
Internal References to 10-4-302:	10-4-102r	10-4-301r	10-4-303r	
Internal References to 10-4-303:	10-4-302r			
Internal References to 10-4-311:	10-4-301r	10-4-312r	10-4-312r	
Internal References to 10-4-312:	10-4-311r			
Internal References to 10-4-313:	10-4-301r			}

NEW SECTION. **Section 23. Transfer of funds.** (1) After the distribution of 9-1-1 funds in accordance with Title 10, chapter 4, part 3 for the final quarter of the 2018 fiscal year, the department shall transfer any balance remaining in the accounts in 10-4-301(1) (a), 10-4-301(1) (b), and 10-4-301(1) (c) (i) into the account established in [section 6(2) (a)].

(2) After the distribution of 9-1-1 funds in accordance with Title 10, chapter 4, part 3 for the final quarter of the 2018

fiscal year, the department shall transfer any balance remaining in the account in 10-4-301(1)(c)(ii) into the account established in [section 6(2)(b)].

NEW SECTION. **Section 24. {standard} Codification**

instruction. (1) [Sections 1 through 5] are intended to be codified as an integral part of Title 10, chapter 4, part 1, and the provisions of Title 10, chapter 4, part 1, apply to [sections 1 through 5].

(2) [Sections 6 through 13] are intended to be codified as an integral part of Title 10, chapter 4, part 3, and the provisions of Title 10, chapter 4, part 3, apply to [sections 6 through 12].

NEW SECTION. **Section 25. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 26. {standard} Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 27. {standard} Effective dates.** (1)

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Except as provided in subsection (2), [this act] is effective upon passage and approval.

(2) [Sections 6 through 8, 14 through 16, 20, and 22] are effective July 1, 2018.

NEW SECTION. **Section 28. {standard} Termination.** [Sections 9 through 13] terminate October 1, 2019.

- END -

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