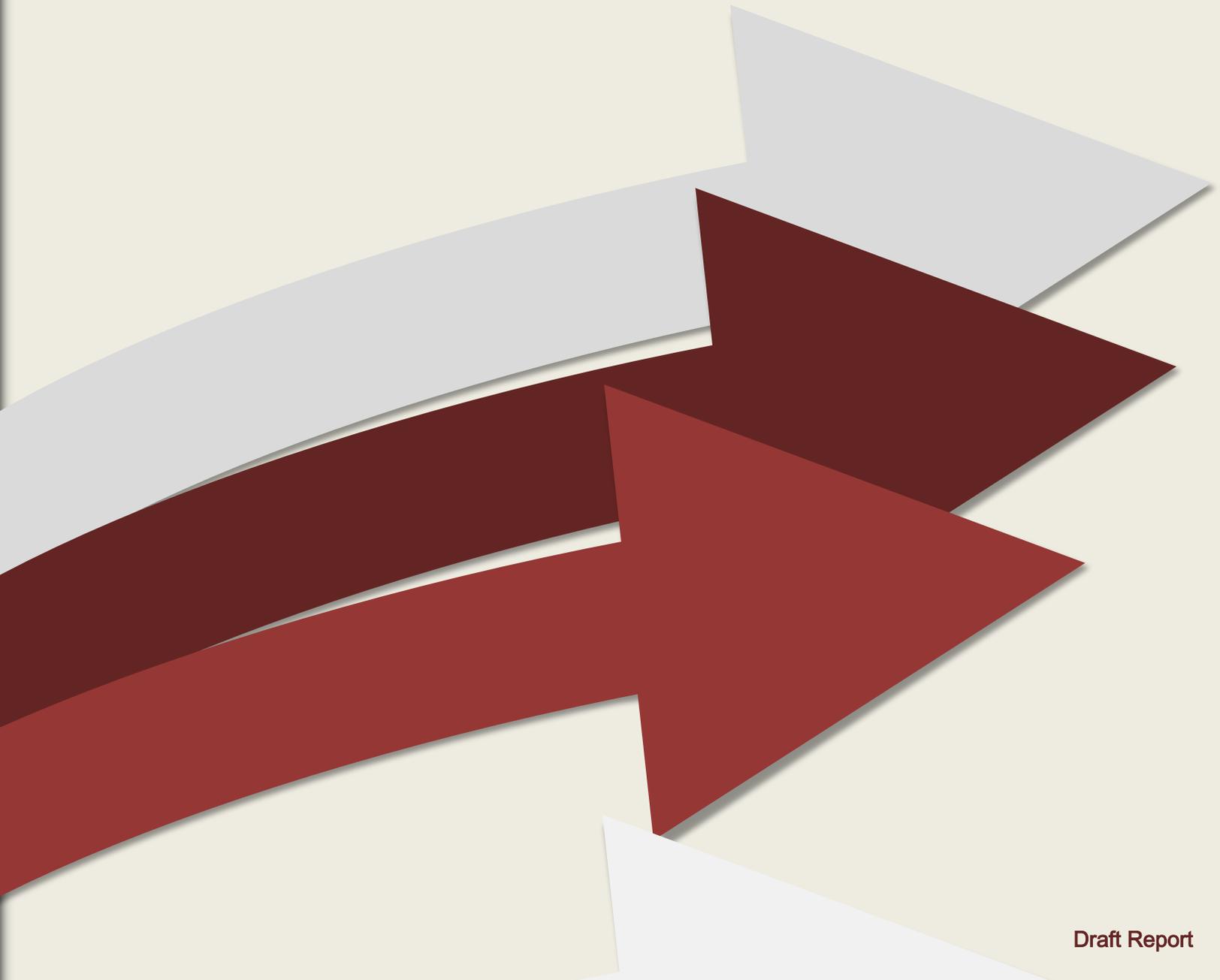


A REPORT TO THE 65TH LEGISLATURE | MAY

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?

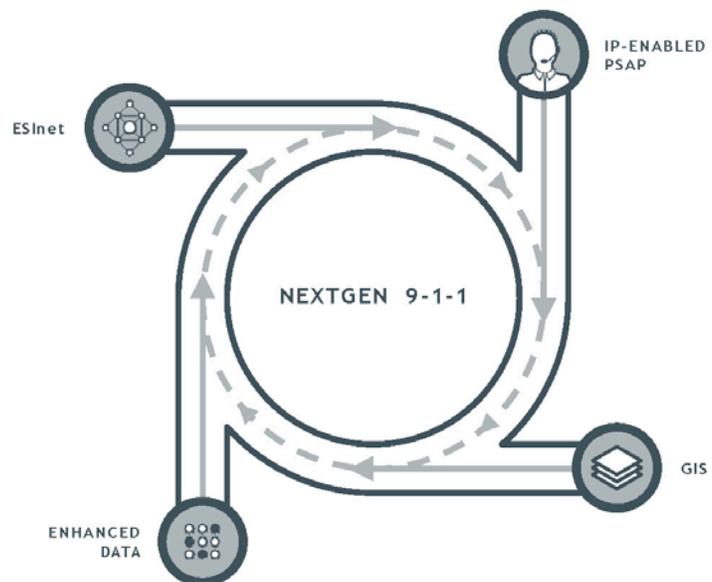
Many states have begun a planning process to transition to a new system of 9-1-1 or NG911, which is estimated to take from five to 10 years. Other states have moved planning efforts forward with pilot programs. Both Kansas and Connecticut, for example, are working on pilot programs or pilot studies. 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

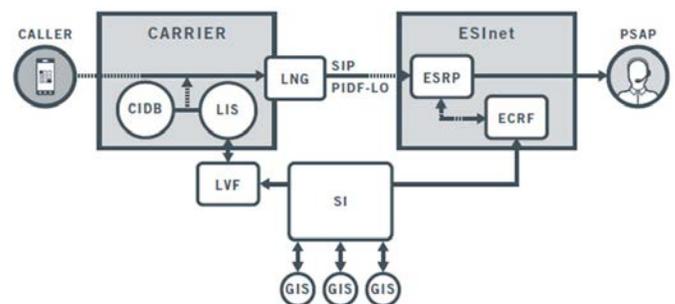
The role of GIS in 9-1-1 changes profoundly with the migration to NG911. Currently, GIS is used to display the location of an emergency call after the call has been routed to the 9-1-1 call center. However, in NG911 GIS is part of the 9-1-1 call flow itself and is used to locate an emergency call, to 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.

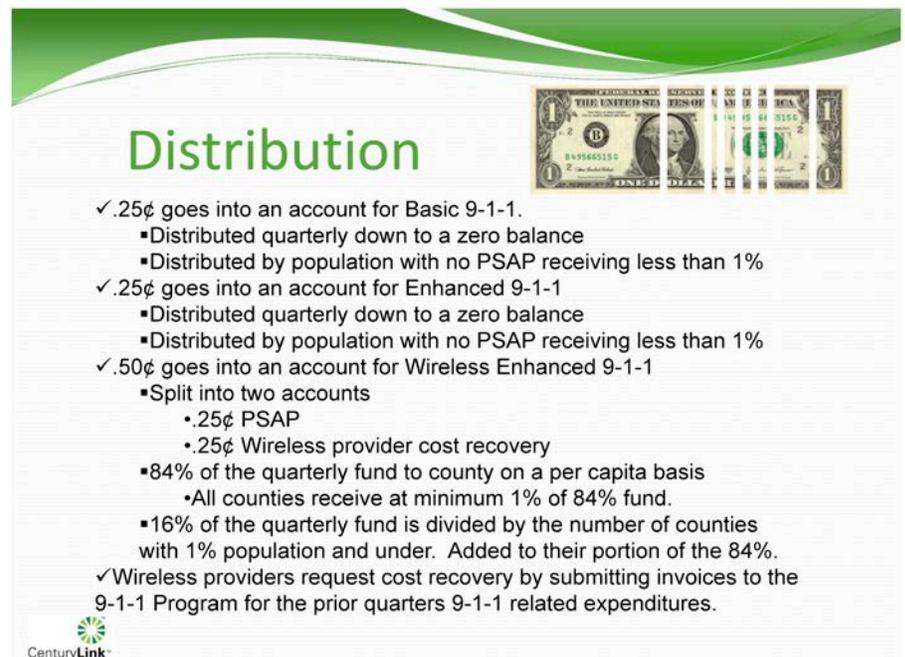
To prepare for the NG911 transition, Montana will need to first work with individual counties to assess the current use of GIS data and determine what data assessments, or layers, are being used. NG911 stakeholders recommend an assessment of the status of GIS adoption and operations in Montana counties. 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.