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## Energy and Telecommunications Interim Committee

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### 63rd Montana Legislature

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SONJA NOWAKOWSKI, Lead Staff  
TODD EVERTS, Staff Attorney  
JOY LEWIS, Secretary

April 24, 2014

**TO:** Energy and Telecommunications Interim Committee (ETIC) members

**FR:** ETIC staff

**RE:** Prepaid Wireless 9-1-1 (Third-party)

During the March 2014 ETIC meeting, committee members learned more about a recent Attorney General's Opinion finding that the Legislature has not authorized the state to collect 9-1-1 fees for prepaid wireless services purchased from independent retail stores. The committee directed Vice-Chairman Regier to work with stakeholders to determine whether a potential legislative solution could be developed and brought back to the ETIC for discussion.

Vice-Chairman Regier met with about a dozen stakeholders on Wednesday, April 23 to discuss areas of agreement, uncertainty, and potential outcomes. Representatives from Verizon, AT&T, TracFone, Montana Independent Telecommunications Systems, CTIA-The Wireless Association, and the Montana Department of Revenue participated in the discussion. The discussion focused on third-party sales for prepaid wireless -- the focus of the Attorney General's opinion.

While there was general agreement that third-party prepaid wireless should pay the 9-1-1 fee, at this time, the stakeholders could not find any middle ground on how to collect that fee. The Department of Revenue supports updating and improving their current rules and potentially placing those rules into statute. Those rules focus on collecting the fee at the wholesale level. Wireless providers disagree with that approach and support a collection of the fee at the point-of-sale by third-party retailers. The Department of Revenue opposes point-of-sale collection.

The Department of Revenue agreed to review House Bill No. 4055, recently enacted by the Oregon Legislature. Oregon is the only non-sales tax state that has enacted a point-of-sale mechanism for collection of third-party, prepaid wireless 9-1-1 fees. Delaware, which doesn't have a sales tax, is contemplating similar legislation.

Vice-Chairman Regier will provide the committee with an update at the May meeting.

Sonja Nowakowski