

**House Bill 33**  
Revise 9-1-1 Emergency Phone System Laws

Proponent Testimony by Jeff Brandt, Deputy Chief Information Officer (CIO)  
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444-3988

**Before the**  
**House Federal Relations, Energy, and Telecommunications Committee**  
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Mr. Chairman, members of the committee, for the record my name is Jeff Brandt. I am the Deputy Chief Information Officer (CIO) of the Information Technology Services Division (ITSD), within the Department of Administration. The Statewide 9-1-1 Program is administered by the Department. I would like to introduce Ms. Becky Berger, the manager of the Statewide 9-1-1 Program.

The proposals before you today are 'housekeeping' in nature and have been reviewed and endorsed by the 9-1-1 Advisory Council. The changes are primarily clarifications to existing statute. In addition, we support the amendment that Representative McNutt has offered to the committee.

The **first** change deals with a sunset clause in the current statute. This bill extends a sunset date benefiting low population rural areas from 2007 to 2011. Current law provides that 84% of the enhanced 9-1-1 fees be distributed to cities and counties on a per capita basis. The remaining 16% is distributed evenly to counties that have 1% or less of the total population of the state. This "16% clause" allows those counties with less than 1% of the population to receive additional fees to help deploy enhanced 9-1-1 services. Costs incurred by rural counties deploying enhanced 9-1-1 are the same or sometimes higher than those incurred by larger counties.

Forty counties in Montana have less than 1% of the state's population. In today's mobile society, it is important that all areas of Montana have enhanced 9-1-1. As our families, friends and co-workers travel Montana for work or pleasure, we have come to expect that if we dial 9-1-1, we will receive assistance. Montana has made major progress in deploying enhanced and wireless 9-1-1; however, rural areas still struggle due to lack of funding and resources. The "16% clause" for rural areas assists in that deployment. Based on the current deployment schedule, one hundred percent deployment is expected by 2011, and the rural 9-1-1 jurisdictions should then be able to meet their monthly recurring costs to provide enhanced 9-1-1.

The **second** change would ensure all 9-1-1 fees are deposited in 9-1-1 special revenue accounts and ultimately distributed to the county 9-1-1 jurisdictions. Under current statute, remittance of 9-1-1 fees and corresponding general fund deposits have outpaced the general fund budget appropriation needed by the department to

administer the program, resulting in 9-1-1 funds being "stranded" in the general fund. As you will see in the Fiscal Note, this change will ensure that 9-1-1 remittances of \$118,049 and \$136,602 in FY08 and FY09, respectively, will be distributed to the county 9-1-1 jurisdictions.

This change is important because recently enacted federal legislation provides that any state or local jurisdiction that diverts 9-1-1 fees will be ineligible for federal funding. In recent years, private grants and federal funding have contributed significantly to the progress of our deployment of enhanced landline and wireless 9-1-1 in Montana. We have received almost \$4 million in federal and private funding for projects currently underway. We want to continue to be eligible for these kinds of funding opportunities.

This proposal would ensure that all 9-1-1 fees collected from citizens go to providing 9-1-1 services and administering the program. We believe that the legislative intent of the original 9-1-1 legislation was that all 9-1-1 fees go to providing 9-1-1 services.

The **third** change addresses the growing use of pre-paid cell phones. A pre-paid cell phone is a pay-as-you-go service that has no monthly billing. This change would provide two options to pre-paid cell phone companies for remitting 9-1-1 fees.

One popular pre-paid cell phone company is TracFone. This is a TracFone that was purchased at a local retailer. There is no contract with a recurring monthly bill. This is my cell phone under contract to Verizon. I get a monthly bill. The TracFone allows me to place and receive calls just like the Verizon phone. I can call 9-1-1 on both phones. On my Verizon phone, I pay 50 cents per month for 9-1-1 services. Some argue that I shouldn't have to pay 50 cents per month on this pre-paid phone. Remember, I can call 9-1-1 from either phone. The 9-1-1 dispatcher reacts to the same information received with the call and dispatches the same emergency responders.

The existing statute imposes the 9-1-1 fee on *"telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services"*. A legal opinion issued by the Department of Revenue has determined that pre-paid cell phones are subject to the fee. A legal opinion issued by our own department also feels the current statute is clear--pre-paid cell phones are subject to the 9-1-1 fee.

I have a survey completed by the National Association of 9-1-1 Administrators (NASNA) showing that 28 states are collecting fees for pre-paid phones; 6 states are working on legislation, and 14 have not addressed pre-paid phones. I will provide a copy of an attachment to a study conducted by the Maine Public Service Commission that documents the results of the states they studied.

This amendment provides two options for pre-paid service providers to collect the 9-1-1 fees for pre-paid services. Under this proposal, a pre-paid wireless telephone service provider will have the option to remit an amount equal to the fee under one of the following options:

Option 1 provides that on a monthly basis, the service provider will remit the fees from each active pre-paid customer whose account balances is equal to or greater than the 50 cent fee specified in current statute. In other words, if an account has more than 50 cents in the account at the end of the month, the monthly fee is assessed.

Option 2 proposes that the pre-paid service provider shall divide the total intrastate monthly revenues by the *average revenue per pre-paid user* (ARPU) of the wireless provider to determine the number of pre-paid subscribers. The number of subscribers would be subject to the monthly 9-1-1 fee. This option does not specify how the fee will be assessed or whether it will be collected at the point of sale or in some other fashion. It simply requires the pre-paid wireless provider to remit the fee.

If the 9-1-1 fees aren't applied to pre-paid phones, two circumstances could result:

- if providers of pre-paid wireless services (typically large out-of-state corporations) are exempt from the 9-1-1 fee, the citizens of Montana will have to pick up the burden of the lost revenue now being remitted by the pre-paid service providers.
- if pre-paid wireless services are exempt from the 9-1-1 fee, we risk the unintended consequence of a wireless provider offering a pre-paid wireless service simply as a means to avoid the requirement to remit the fee.

The **final** amendment clarifies penalty and interest laws so they are consistent with other miscellaneous taxes imposed by the Department of Revenue. Current 9-1-1 statutes are inconsistent or unclear with respect to DOR penalty and interest processes. This amendment will allow consistent enforcement by the department.

I can sum up my testimony in a few short sentences:

- Our goal is to provide 9-1-1 services, state-wide, regardless of whether or not you live in a large city, small town, or out in the country;
- Our goal is to ensure that all 9-1-1 fees collected from our citizens go to providing 9-1-1 services, and not be left stranded in an unrelated fund (the general fund);
- Our goal is to ensure any phone that can place an emergency call by dialing 9-1-1 also contributes 50 cents per month towards the cost of providing these services;
- And finally, our goal is to implement consistent procedures for penalties and interest, regardless of the type of miscellaneous tax in question.

I urge your support for this legislation. I am available to answer any questions you may have.

Thank you.