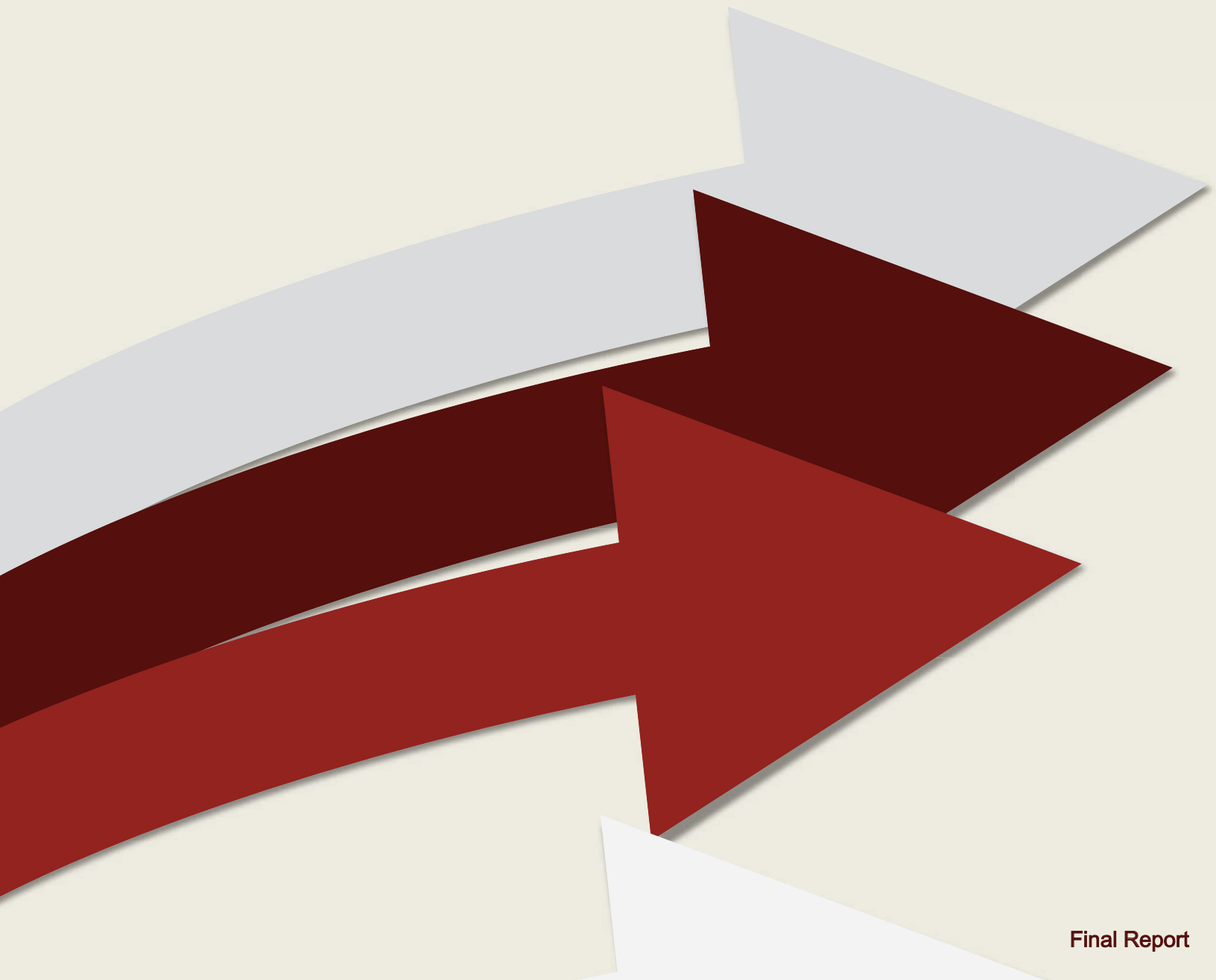


A REPORT TO THE 65TH LEGISLATURE | September 2016

# NEXT-GENERATION 9-1-1

Montana's Efforts to Move Forward



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# Energy and Telecommunications Interim Committee Members

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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 7 (2015). 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 and audio minutes, and exhibits, visit the ETIC website: [www.leg.mt.gov/etic](http://www.leg.mt.gov/etic)

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## Glossary

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**ESInet:** 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 composed 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 nonvoice (multimedia) 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 safety 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.

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# Introduction

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As the Energy and Telecommunications Interim Committee (ETIC), guided by House Joint Resolution 7 (2015), 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 [here](#).

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. The recommendations from both groups are included in [here](#).

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 agreed to a complete overhaul of the 9-1-1 funding statutes. The agreement on changes to the allocation and distribution of 9-1-1 funds was reached by stakeholders in June 2016, and is included in proposed legislation outlined in LCN911. The changes proposed in the legislation do not shift funds from PSAPs, but instead lock in general distributions through 2022.

In Montana, a \$1 surcharge is levied on all telephone lines to fund 9-1-1. The money is deposited into three 9-1-1 accounts: a basic account, an enhanced account, and a wireless

enhanced account. 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, which is included in the \$1. Half of the 50 cents, or 25 cents, is available to wireless providers for certain costs and 25 cents goes to 9-1-1 jurisdictions. The other 50 cents paid by telephone users goes into the basic and enhanced accounts and are shared among 9-1-1 jurisdictions.

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 agreed to by stakeholders address the allocation, distribution, and expenditure of 9-1-1 funding. The recommendations include allocating 75 cents to local government entities that host public safety answering points and dedicating 25 cents to a grant program overseen by the Department of Administration (DOA) for 9-1-1 purposes. Annual grants would be awarded to private telecommunications providers and local governments. Priority would be given to private telecommunications providers and to local governments working with private 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 “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 culminated in the development of a bill draft – LCN911 available [here](#) or in LAWS as LC 445. The ETIC posted this report and the draft legislation for two rounds of public comment. The 9-1-1 Advisory Council as well as other stakeholders endorsed the legislative proposal, and in September 2016 the ETIC voted unanimously to bring the legislation forward to the 2017 Legislature for consideration.

Stakeholders committed a tremendous amount of time in developing the legislation. While it was 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 members throughout the interim commended the stakeholders on their work.



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## ETIC Findings and Recommendations

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- A statewide ESInet (statewide IP network backbone), including upgrading and/or replacing existing selective routers with IP routers should be completed. 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.
- An overall assessment of the status of geographic information system (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 assessment.
- 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 system plan goals and objectives should include steps for modernization and additional changes necessary (liability, confidentiality, statewide standards, etc.) to accommodate NG911. The DOA should hire a third party to complete the plan for no more than \$350,000. Stranded funds should be diverted from the current account to pay for planning.
- Montana's 9-1-1 statutes should encourage the migration of existing technologies to incorporate and authorize NG911 in Montana. The DOA should be granted rulemaking authority 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.
- Montana's 9-1-1 statutes should continue to support local decisionmaking and operations of primary PSAPs at the local level.
  - Clarify in statute that any local government or 9-1-1 district can host a primary PSAP and provide 9-1-1 services.

- 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.
  - Clarify the department'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.
  - 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 regular updating. Updates should coincide with the decennial census. The department in cooperation with the advisory council should address updates in rulemaking.
- Funds should not be "stranded" in any account, and all funds collected should be used for 9-1-1 purposes.
  - 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.
  - Priority for the grants should be given to private providers and to local governments that have a partnership with private telecommunications providers in Montana to advance all aspects of 9-1-1.

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

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### 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.”<sup>1</sup>

There is no universally agreed-on definition for NG911. The National Emergency Number 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. Its

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<sup>1</sup> [http://www.intrado.com/sites/default/files/documents/Volume%203%20IP-Enabled%20PSAP\\_0.pdf](http://www.intrado.com/sites/default/files/documents/Volume%203%20IP-Enabled%20PSAP_0.pdf)

recommendations were consensus-based. A list of the stakeholders involved in the discussion and development of recommendations is included [here](#).

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 State 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 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 [here](#). The work of the stakeholders group and DOA's advisory council dovetailed to form the current recommendations.

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## 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?

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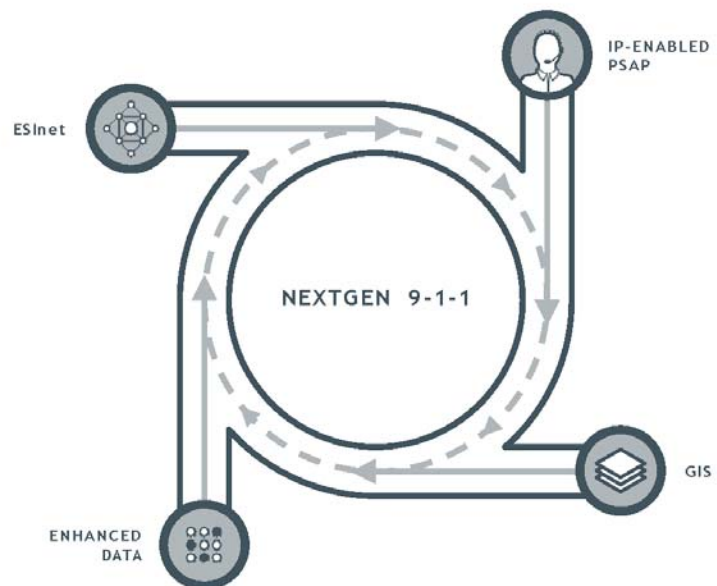
Many states have begun a planning process to transition to a new system of 9-1-1 or NG911, which is estimated to take from five to 10 years. Other states have moved planning efforts forward with pilot programs. Both Kansas and Connecticut, for example, are working on pilot programs or pilot studies. The National 911 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.”<sup>2</sup>

The National 911 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 in which a consumer attempts to send a text message to 9-1-1 in a location where text-to-9-1-1 is not available.<sup>3</sup> The FCC also has adopted measures that require PSAPs to begin planning to accurately identify the location of wireless 9-1-1 callers

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

<sup>3</sup> 47 C.F.R. § 20.18.

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.<sup>4</sup>

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 [here](#).

## 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 Committee, created by the Legislature in 2001, to coordinate planning for NG911. In that same year, the committee, 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.



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<sup>4</sup> 47 C.F.R. § 20.18

State Radio, a division of the Department of Emergency Services under the administration of the adjutant general in North Dakota, 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 Committee. 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.<sup>5</sup> 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. NCSL annually tracks 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.<sup>6</sup> 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.

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<sup>5</sup> [http://www.ndaco.org/programs\\_and\\_services/911/](http://www.ndaco.org/programs_and_services/911/)

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

## 2015

State	Link	Overview
Illinois	<a href="#">S 96</a>	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	<a href="#">H 730</a>	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	<a href="#">H911</a>	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	<a href="#">H 479</a>	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	<a href="#">S 1211</a>	Requires the Office of Emergency Services to develop a plan and timeline for testing, implementing, and operating an 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-911 service. Requires providing the Legislature with rate calculations and posting information on its website.
Kansas	<a href="#">S 284</a>	Amends the Kansas 9-1-1 Act, relates to 9-1-1 emergency services, the 9-1-1 coordinating council and a PSAP, provides that a provider may also be a 9-1-1 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	<a href="#">H 2255</a>	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	<a href="#">NE L 595</a>	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	<a href="#">ND H 1202</a>	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	<a href="#">DE S 196</a>	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	<a href="#">MD H 1235</a>	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	<a href="#">OH H 509</a>	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

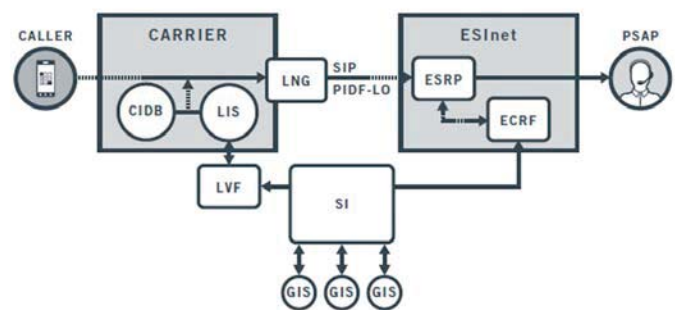
The role of geographic information system (GIS) in 9-1-1 changes profoundly with the migration to NG911. Currently, GIS is used to display the location of an emergency call after the call has been routed to the 9-1-1 call center. However, in NG911 GIS is part of the 9-1-1 call flow itself and is used 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 the next-generation technologies. The sooner 9-1-1 professionals realize this and start preparing, the smoother their transition to a next-generation 9-1-1 system will be, according to panelists at the recent Association of Public-Safety Communications Officials conference."<sup>7</sup>

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.; and
- community boundaries.<sup>8</sup>

The Montana State Library is charged with GIS coordination in Montana.<sup>9</sup> 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 own 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.*

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

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

<sup>9</sup> 90-1-404, MCA.

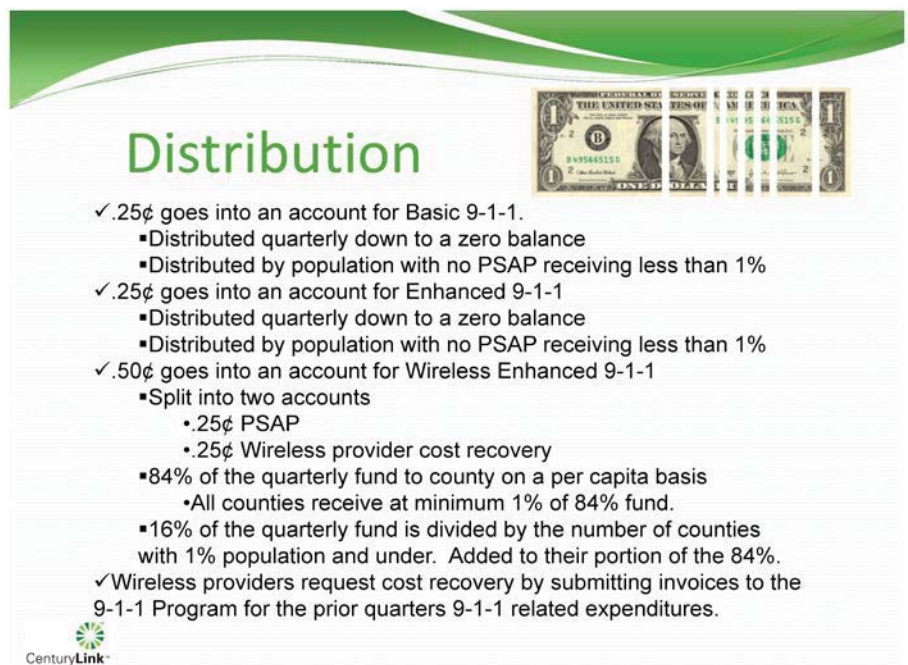
As NG911 advances in Montana, PSAPs and counties still will be responsible for maintaining GIS data, but will no longer be able to work in isolation. GIS data will need to be shared and updates will need to occur in real time, according to stakeholders in Montana.

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 in deciding 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 use of funding.”<sup>10</sup>

There are three 9-1-1 accounts, a basic account, an enhanced account, and



### 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

<sup>10</sup> 10-4-102, MCA.

the wireless enhanced account. Money from all three accounts is distributed to a variety of entities including cities, counties, 9-1-1 jurisdictions, telephone providers, and wireless providers.

## Wireless Account

Based on current state law, 50% of the money in the wireless account goes to 9-1-1 jurisdictions (PSAPs) and 50% goes to wireless providers for allowable costs.<sup>11</sup> Allowable costs are associated with upgrading, purchasing, programming, installing, testing, operating, and maintaining data, hardware, and software necessary to comply with FCC 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.<sup>12</sup>

Basic 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.<sup>13</sup> 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 account 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

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<sup>11</sup> 10-4-301, MCA.

<sup>12</sup> Chapter 304, Laws of 2007.

<sup>13</sup> <https://www.fcc.gov/guides/wireless-911-services>

recovery to seek its portion of the money. However, not all providers have sought money from the account for 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 account. 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 account. Over the last five years, money in that account has not been fully accessed by wireless providers and has grown to about \$10 million. The account 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 account.

During the 2015 legislative session, however, multiple efforts were made to “sweep” or use the funds 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.

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## Statewide Solution

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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 June 2016 reached an agreement to change the overall funding of 9-1-1 in Montana and to request that the ETIC allow for further public comment. Information prepared by

the DOA that accompanies the legislation and provides information about the allocation is available [here](#).

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 accounts and shows the balance or “stranded” funds.

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

The basic 9-1-1 account (25 cents) and the enhanced 9-1-1 account (25 cents), the second and third column in the chart, are distributed to Montana counties, with the accounts cleared quarterly. The fourth column, or the wireless enhanced account (25 cents) that goes to PSAPs, is also cleared. The only balance, or money stranded in an account, is the money in the wireless enhanced provider account.

The distribution of funds to the 9-1-1 jurisdictions or counties also has raised some questions. Some jurisdictions 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.

The state's 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, is 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. Stakeholders are optimistic that the changes proposed in LCN911 will address this issue.

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 agreed that the multiple 9-1-1 accounts were not needed, and the ETIC supported that recommendation. 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 recommendation by the advisory council and the ETIC eliminates the need for the DOA to maintain four different accounts—three of which are often for the same purposes and directed to the same entities.

The agreement and LCN911 allow for 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 DOA. The department, in consultation with the advisory council, would award grants to private telecommunications providers and to local governments for 9-1-1 purposes. Priority would be given to private providers and local governments working directly with private providers.

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, however, would be able to use the 25% grant fund.

The allocation of 9-1-1 funding also could change in 2022. LCN911 sets out how the 75% account is distributed to the local government entities. It provides that through July 1, 2018, the

distribution stays the same as it is currently distributed – coming from four different accounts. From July 2018 through July 2022 local government entities that host PSAPs would receive their same share or percentage of the fund. Beginning in FY 2023 a new funding formula, established in DOA rule, would begin.

Before January 1, 2022, the DOA is required to adopt rules for the allocation and distribution of funds in the 75% account to local government entities that host public safety answering points. The rules adopted for allocation must be based on the official final decennial census figures and ensure that each local government entity that hosts a public safety answering point receives funding. The allocation also must account for historic allocations provided to a local government entity that hosts a public safety answering point; the population of counties, cities, or other government entities served by the public safety answering point; population trends; and other factors determined by the department, in consultation with the 9-1-1 Advisory Council, critical to the funding allocation. The department's allocation may not distribute funds in a manner that discourages public safety answering points from consolidating or combining. LCN911 also requires the DOA to adopt rules in accordance with the Montana Administrative Procedure Act in order to provide for a public process and public participation in the rulemaking.