



Energy and Telecommunications Interim Committee

64th Montana Legislature

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August 21, 2015

TO: Energy and Telecommunications Interim Committee (ETIC)

FR: ETIC staff

RE: Overview of wireless enhanced 9-1-1 funding

The Montana 9-1-1 Program assists local and tribal governments in the development of 9-1-1 emergency telephone systems throughout the state. The program 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 Department of Administration 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.”

At the September ETIC meeting, the committee will begin its work as outlined in House Joint Resolution No. 7, Study Next-Generation 9-1-1. In June committee members requested the study begin with a review of 9-1-1 funding in Montana, a topic that has received much scrutiny.

As background, 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. The Department of Administration sets criteria to determine if budgetary items are appropriate to the installation, operation, and improvement of an emergency telephone system using 9-1-1 and can be funded from money received from the basic or enhanced 9-1-1 accounts. This report focuses solely on the wireless enhanced fund.

Based on state law, currently in the wireless account 50% goes to 9-1-1 jurisdictions (also referred to as public safety access points or PSAPs) and 50% goes to wireless providers for allowable costs.¹ Allowable costs are 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.

For wireless enhanced 9-1-1 services, each wireless subscriber in the state pays a fee of 50 cents a month. As noted above, half of that amount, or 25 cents, is available to wireless providers. The collection of that 25 cents goes into 53 subaccounts each quarter for wireless providers to access.

¹ 10-4-301, MCA.

The wireless enhanced 9-1-1 services fee and distribution process was established by the 2007 Legislature (Chapter 304, Laws of 2007).

Basic Federal Communications Commission (FCC) 911 rules require wireless service providers to transmit all 911 calls to a PSAP, regardless of whether the caller subscribes to the provider's service or not. Enhanced 911 rules require wireless service providers to provide the PSAP with the telephone number of the originator of a wireless 911 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. Wireless providers that do not meet the FCC rules are out of compliance and can face federal fines.² Regardless of any type of reimbursement, the requirements must be met by a wireless provider.

Over the last two interims, the ETIC has tracked and discussed the use of the wireless enhanced 9-1-1 funds 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 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 reimbursements. Larger providers, or more specifically providers in areas of the state with a larger population, have not provided the information required to access the money in the fund or made any attempt to access the fund. 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. The reimbursement guidelines for enhanced wireless 9-1-1 providers are attached. Over the last five years, three wireless providers have sought reimbursement. One of those providers has now left Montana, leaving only two providers that are expected to seek reimbursement in the next fiscal year. If wireless providers don't seek reimbursement, the money simply reverts back to the subaccounts. Over time, those stranded funds have continued to grow, now totaling more than \$11 million.

In an effort to address these "stranded funds", the 2013 Legislature passed and approved legislation requiring fees collected for wireless enhanced 9-1-1 services be reallocated to 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 \$11 million stranded in the 9-1-1 fund that could be used by other 9-1-1

² <https://www.fcc.gov/guides/wireless-911-services>

related entities or other wireless providers. Only two providers are also now applying for and receiving the money.

The 2013-2014 ETIC requested draft legislation allowing wireless providers to seek the money through October 2015. Any amount left in the account would have been swept, with 1 percent going to each county and the remainder being distributed on a per capita basis. After receiving public comment on the draft, the ETIC did not pursue the legislation. Stakeholders indicated at the time that the distribution needed closer review, and that the appropriate entities would continue to work toward a consensus for use of the stranded funds.

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 broadband. Those efforts did not come to fruition. The account balance continues to grow. The table below was prepared by the Department of Administration and offers an overview of the wireless provider cost recovery fund.

911 Program Wireless Provider Cost Recovery Fund					
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Total Revenues Deposited	3,266,419	3,228,393	3,307,529	3,249,075	3,170,170
Total Provider Disbursements	1,238,364	3,868,586	706,788	2,468,947	1,435,403
HB 575 Transfers				1,142,934	1,102,309
Total Disbursements and Transfers	1,238,364	3,868,586	706,788	3,611,881	2,537,712
Total Annual Excess Revenue	2,028,055	-640,193	2,600,741	-362,806	632,458
SFYE Fund Account Balance	9,230,001	8,589,808	11,190,550	10,827,743	11,460,201

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