

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-2927  
Minority (202) 225-3641

July 23, 2018

The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Dear Chairman Pai:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce is examining the diversion of 9-1-1 fees by some states and territories. According to annual reports submitted to Congress by the Federal Communications Commission (FCC), some states divert 9-1-1 fees for unrelated purposes, raising questions about how this practice impacts public safety.<sup>1</sup>

The New and Emerging Technologies 9-1-1 Improvement Act of 2008 (NET 911 Act) requires the FCC to submit annual reports to Congress detailing the collection and distribution of 9-1-1 fees by state.<sup>2</sup> Each state imposes a surcharge on cell phone bills to fund implementation of wireless Enhanced 911 (E911) and reports to the FCC how these funds are spent.<sup>3</sup> Since 2009, 21 states and one territory have reported diverting 9-1-1 funds for other purposes.<sup>4</sup> Moreover, ten states, six territories, and the District of Columbia failed to report expenditure information at least once, raising concerns that 9-1-1 fee diversion may be more prevalent than the FCC's reports indicate.<sup>5</sup> Currently, States are not required to report information about 9-1-1 expenses to the FCC, including how much money, if any, is diverted.

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<sup>1</sup> See Federal Communications Commission Report, *Ninth Annual Report to Congress, On State Collection and Distribution of 911 and Enhanced 911 Fees and Charges*, Dec. 29, 2017, available at <https://www.fcc.gov/files/9thannual911feereportpdf>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> See Remarks by Hon. Michel O'Rielly, FCC Commissioner, Rhode Island E911 Summit, Mar. 19, 2018, available at [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-349797A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-349797A1.pdf).

<sup>5</sup> *Id.*

Since 2009, over \$1 billion dollars of 9-1-1 funds have been diverted by states and territories for purposes other than 9-1-1.<sup>6</sup> During 2016, five states diverted almost \$130 million dollars for other purposes, while seven states and territories failed to submit information about 9-1-1 expenses to the FCC.<sup>7</sup> Similarly, in 2015, eight reporting states and one territory diverted over \$220 million dollars in 911 fees, while one state and two territories failed to report any information.<sup>8</sup> In the last two reporting periods alone, at least \$350 million dollars collected for 9-1-1 has been used for other purposes.<sup>9</sup> A recent update provided by FCC Commissioner Michael O’Rielly shows efforts to end 9-1-1 fee diversion have had “mixed results” and there is still significant work to be done.<sup>10</sup> However, some progress has been made, including two states correcting filing errors from the last reporting period showing they are not diverters and other states committing to end the practice of diverting.<sup>11</sup>

The amount of 9-1-1 funds that have been diverted for nearly a decade is troubling. When critical moments occur, all Americans rely on 9-1-1 to provide emergency services. Diverting 9-1-1 fees may result in understaffed calling centers, training issues, longer wait times during an emergency, and inhibit the transition to Next Generation 9-1-1 systems so 9-1-1 call centers can flourish with digital age technologies to pinpoint the location of mobile device user.<sup>12</sup> In order to learn more about 9-1-1 fee diversion, including how it impacts public safety and what may be done to curtail this practice in the future, we request that FCC staff provide Committee staff with a briefing on the matter. Please make arrangements to schedule this briefing no later than July 30, 2018.

Your assistance is greatly appreciated. If you have any questions, please contact Lamar Echols of the Committee Staff at 202-225-2927. Thank you for your attention to this matter.

Sincerely,

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<sup>6</sup> See Letter from Hon. John Shimkus, Member of Congress, to Hon. David Redl, Asst. Secretary for Communications and Information and NTIA Admin., NTIA, Dec. 15, 2017, available at <https://www.documentcloud.org/documents/4334659-NTIA-Letter.html>.

<sup>7</sup> FCC *supra* note 1.

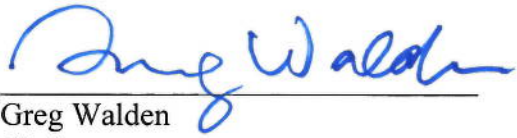
<sup>8</sup> See Federal Communications Commission Report, *Eighth Annual Report to Congress, On State Collection and Distribution of 911 and Enhanced 911 Fees and Charges*, Dec. 30, 2016, available at <https://www.fcc.gov/files/eighthannual911feereport1217.pdf>.

<sup>9</sup> *Id.*; see also *supra* note 1.

<sup>10</sup> Hon. Michael O’Rielly, Commissioner, FCC, *Status Update: Fixing 9-1-1 Fee Diversion*, FCC BLOG, Jun. 8, 2018, available at <https://www.fcc.gov/news-events/blog/2018/06/08/status-update-fixing-9-1-1-fee-diversion>.

<sup>11</sup> *Id.*

<sup>12</sup> See Hon. Michael O’Rielly & Jessica Rosenworcel, *States Are Stealing Funds from 9-1-1 Emergency Services—Now They’ll Be Punished*, THE HILL, Feb. 9, 2018, available at <http://thehill.com/opinion/technology/373043-states-are-stealing-funds-from-9-1-1-emergency-services-now-theyll-be>.



Greg Walden  
Chairman



Gregg Harper  
Chairman  
Subcommittee on Oversight  
and Investigations



Marsha Blackburn  
Chairman  
Subcommittee on Communications  
and Technology

cc: The Honorable Frank J. Pallone, Jr., Ranking Member  
Committee on Energy and Commerce

The Honorable Diana DeGette, Ranking Member  
Subcommittee on Oversight and Investigations

The Honorable Michael Doyle, Ranking Member  
Subcommittee on Communications and Technology