

March 10, 2010

The Honorable Jay D. Rockefeller, IV
Chairman
Committee on Commerce, Science,
and Transportation
254 Russell Senate Office Building
Washington, DC 20510

The Honorable Kay Bailey Hutchison
Ranking Member
Committee on Commerce, Science,
and Transportation
560 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Henry A. Waxman
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Rockefeller and Waxman and Ranking Members Hutchison and Barton:

On behalf of the undersigned public safety and consumer advocate organizations, we would like to thank you for your strong support of the 9-1-1 system in the past, particularly your efforts to prevent states from diverting 9-1-1 funds for unintended purposes. We write today to seek your further commitment and support on this issue.

We all applaud the federal efforts already taken in an attempt to prevent the diversion of 9-1-1 funds, particularly the enactment of the ENHANCE 911 Act of 2004¹, which prohibits states that misallocate 9-1-1 fees from accessing federal 9-1-1 grant money. Additionally, we strongly support the more direct action taken in the New and Emerging Technologies (NET) 911 Improvement Act of 2008², which authorizes the imposition and collection of 9-1-1 fees, but only to the extent that such 9-1-1 fee revenues are used for the intended purpose of the fee, rather than being diverted to other purposes not authorized by the state statute or regulation. The NET 911 Improvement Act also requires the FCC to submit an annual report to Congress documenting the practices of the states in the collection and use of 9-1-1 fee revenues, including the diversion of 9-1-1 funds contrary to state statutory purposes. However, it is unclear what authority, if any, the Commission has to prevent the practices described in its annual report.

In 2009 several states have ignored Congressional intent and raided or diverted these funds despite the federal restrictions (and the resulting inability to receive federal 9-1-1 grant funds),

¹ Pub. Law No. 108-494.

² Pub. Law No. 110-283.

including Delaware, Georgia, Hawaii, Maryland, Nebraska, New York, Oregon, Rhode Island, and Wisconsin.³

Therefore, we are calling on Congress to do more. We ask you to consider legislation that would withhold additional federal funds from states that divert 9-1-1 funds (such as federal highway safety dollars or homeland security funds). In the current budget climate, the message should be clear that Congress will not provide federal funds for 9-1-1 and homeland security to a state that does not properly spend money already in its coffers. At a minimum, such a diversion could result in a reduction of the state's federal allocation of highway safety or homeland security funds by the amount they have raided in order to create a disincentive for such raids. Our intent is not to limit access to federal dollars to the states. Quite the opposite is true. However, past experience has shown that in many instances, the withholding of federal monies does not deter a state from diverting 9-1-1 revenues for unintended purposes unless the withholding is a significant amount.

Additionally, beyond simply asking the FCC for an annual report on the activities within the states, Congress could require the Commission to share the results of the report with the Office of Management and Budget (OMB) and all federal agencies charged with administering public safety grant programs. This information could then be taken into consideration as a factor when determining eligibility for federal public safety grants. Also, Congress should seek information from the FCC on any additional steps that the Commission can take to prevent this practice within its existing jurisdiction, or steps that could be taken requiring new authority. For example, while the FCC is tasked with enforcing "truth in billing" requirements on commercial licensees, the Commission could also enforce a requirement that states be truthful about the fees they impose on consumers that are collected by carriers.

Thousands of lives are saved every day thanks to America's 9-1-1 system and those who respond to calls for help. Decades of government leadership and steady technological progress have given citizens a reliable 9-1-1 system they can trust. In return, citizens trust their state and local governments to responsibly manage the funds collected to pay for 9-1-1 systems. Misuse of 9-1-1 funds not only puts one of the nation's most critical systems at risk; it also breaks the trust established with the public.

The FCC is in the process of collecting updated information from the states on their use of 9-1-1 funds to follow up on their 2009 report on this issue. We welcome the opportunity to work with the Congress and the FCC to further protect against the practice of raiding 9-1-1 funds.

³ For a list of states that misallocated 9-1-1 funds in 2008, see *Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges*, Jul. 22, 2009; available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-292216A2.pdf.

Sincerely,

Craig Whittington, ENP
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National Emergency
Number Association

George Rice
Executive Director
Association of Public-
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Officials

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Alabama State 9-1-1
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CC: The Honorable Amy Klobuchar (Co-Chair, E9-1-1 Caucus)
The Honorable Richard Burr (Co-Chair, E9-1-1 Caucus)
The Honorable Anna Eshoo (Co-Chair, E9-1-1 Caucus)
The Honorable John Shimkus (Co-Chair, E9-1-1 Caucus)