



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC

September 9, 2019

Mike O'Rielly
Commissioner

The Honorable Steve C. Bullock
Governor
State of Montana
State Capitol, Room 204
PO Box 200801
Helena, MT 59620-0801

Dear Governor Bullock:

The ability of all Montanans to reach emergency personnel during emergencies is a public policy imperative. To ensure your citizens have proper access to these critical safety services, 9-1-1 answering centers must be equipped with the latest technology and sufficiently funded to meet public demand. Therefore, 9-1-1 consumer-paid fees cannot be siphoned off for other purposes, no matter how meritorious. Unfortunately, according to 2018 filings provided to the Commission by your Administration, Montana's operating statute allows such diversion, by permitting the Montana Legislature to transfer funds for functions unrelated to 9-1-1 communications and the corresponding answering centers. In 2017, Montana ultimately diverted \$2 million to the state general fund after reports that you and your administration sought to divert even more 9-1-1 fees as part of the state budget process.¹ I write to respectfully request that you initiate a process to reverse this blatant misappropriation of funds and provide a firm commitment that such a practice will not occur again, as it has threatened the long-term safety of Montana citizens.

Reports from the relevant time frame indicate that Montana officials intended to use the 9-1-1 fee diversion to help right-size the number of college professors in the Montana University System, including by pursuing buy-outs for professors close to retirement.² To be clear: 9-1-1 fee diversion is unacceptable under any circumstances. That being said, if reports about how the money was spent are true, Montana's diversion of funds would be one of the most egregious cases that I have come across in my time at the Commission. Perhaps some other, more colorable reason or excuse can be generated, but the simple truth is that 9-1-1 fees are paid by consumers to *preserve, operate, and improve the 9-1-1 public safety network*, not to serve as a piggy-bank that can be raided to fix state budget shortfalls.

¹ Holy Michels, 'Stranded' 911 Funds an Attractive Target in Slim Montana State Budget, MISSOULIAN, February 12, 2017, https://missoulian.com/news/state-and-regional/montana-legislature/stranded-funds-are-an-attractive-target-in-slim-montana-state/article_4dfd679c-cecd-5a33-8bc2-ccf75df183f7.html

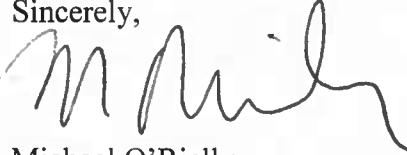
² Ashley Nerbovig, *Funds for University Buyout May Be Taken from 911 Dispatch Funding*, BILLINGS GAZETTE, Apr. 20, 2017, https://billingsgazette.com/news/state-and-regional/govt-and-politics/funds-for-university-buyout-may-be-taken-from-dispatch-funding/article_77468f9d-ba5f-5933-ae22-7c59c98b2d62.html.

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Moreover, it appears that while Montana's diversionary scheme was being devised, state officials made representations that Montana's planned fee diversion was consistent with the FCC's policies and would not jeopardize Montana's eligibility for federal grants to modernize its 9-1-1 systems. Both of these claims are completely inaccurate. Montana was clearly deemed a diverting state or territory by the FCC. As the Commission's 2018 9-1-1 fees report states, "[b]ecause Montana transferred \$2.0 million to the state's general fund, the Bureau concludes that Montana transferred funds for non-911 or E-911 use."³ Further, the diversion scheme has jeopardized Montana's access to federal 9-1-1 grants. The joint 9-1-1 modernization grant program run by the U.S. Departments of Transportation and Commerce recently awarded funds to states, and Montana was effectively ineligible, meaning the state lost out on a portion of the \$109 million program.

Montana has the opportunity to rectify this situation. Specifically, it can return the misappropriated \$2 million to the 9-1-1 account. At a minimum, you can commit, on behalf of the State of Montana, that your state will not divert 9-1-1 funds again.

I look forward to hearing from you on this important matter.

Sincerely,

Michael O'Rielly

³ FEDERAL COMMUNICATIONS COMMISSION, TENTH ANNUAL REPORT TO CONGRESS ON STATE COLLECTION AND DISTRIBUTION OF 911 AND ENHANCED 911 FEES AND CHARGES FOR THE PERIOD JANUARY 1, 2017 TO DECEMBER 31, 2017 43-44 (2018).