

TESTIMONY BY GEORGINA K. KAWAMURA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
SENATE BILL NO. 2695, S.D. 1

March 17, 2010

RELATING TO NON-GENERAL FUNDS

Senate Bill No. 2695, S.D. 1, authorizes the Director of Finance to transfer an unspecified dollar amount from certain special and revolving funds to the general fund in Fiscal Year 2010. More specifically, funds are to be transferred from the Wireless Enhanced 911 Fund, State Motor Pool Revolving Fund, State Risk Management Revolving Fund, Medicaid Investigations Recovery Fund, and University of Hawaii Housing Assistance Revolving Fund to the general fund in Fiscal Year 2010.

The department strongly supports this Administration bill.

We were recently apprised that the Department of the Attorney General (AG) has a concern with the transfer of funds from the Wireless Enhanced 911 Fund. The AG believes that recent changes to federal law precludes such transfers; as such, we defer to the AG on this issue.

When the Fiscal Year 2011 Executive Supplemental Budget was submitted, the transfer from these special and revolving funds was critical to achieve positive general fund balances at the end of Fiscal Years 2010 and 2011. Transfers from the remaining funds are needed to assist in addressing the severe budget shortfall facing the State and ensuring that the State is operating within a balanced budget.

LINDA LINGLE  
GOVERNOR



RUSS K. SAITO  
Comptroller

SANDRA L. YAHIRO  
Deputy Comptroller

**STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING  
AND GENERAL SERVICES**  
P.O. BOX 119  
HONOLULU, HAWAII 96810-0119

TESTIMONY  
OF  
RUSS K. SAITO, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
HOUSE COMMITTEE  
ON  
FINANCE  
ON  
March 17, 2010

S.B. 2695, H.D. 1

RELATING TO NON-GENERAL FUNDS

Chair Oshiro and members of the Committee, thank you for allowing me to testify on S.B. 2695, S.D. 1.

The Department of Accounting and General Services (DAGS) supports this bill and has information to share on one section of the bill that we were not aware of until recently.

In Section 2, this bill proposes to transfer to the general fund, an amount from the Wireless Enhanced 911 Fund that was established by Hawaii Revised Statutes (HRS) § 138-3. We recently reviewed and now believe that Federal law prohibits such any transfer of funds from the 911 Fund to the general fund. The "New and Emerging Technologies 911 Improvement Act of 2008" authorizes the imposition and collection of 911 fees (such as authorized by HRS § 138-4) but only if such 911 fees are used for the

intended purpose of the fee, and not to be diverted to another purpose that is not authorized by the state statute or regulation establishing that fee. (47 USC 615a-1(f)(1))

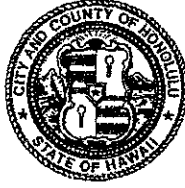
There are also Federal Acts which provide grants for the implementation and operation of 911 services, and require the forfeiture of such grants if the grants are not used for a 911 purpose.

We understand that the Federal government is looking more closely at the collection and use of such 911 fees, would like to be assured that funds are not diverted from the Wireless Enhanced 911 Fund to the general fund, as that could result in the forfeiture of Federal grants, denial of future Federal grants, and possible penalties and fines.

Thank you for the opportunity to testify on this matter.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN  
MAYOR

LOUIS M. KEALOHA  
CHIEF

DELBERT T. TATSUYAMA  
RANDAL K. MACADANGANG  
DEPUTY CHIEFS

OUR REFERENCE MC-LS

March 17, 2010

The Honorable Marcus R. Oshiro, Chair  
and Members  
Committee on Finance  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members:

Subject: Senate Bill No. 2695, S.D. 1, Relating to Non-General Funds

I am Marie McCauley, Major of the Communications Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD strongly opposes Senate Bill No. 2695, S.D. 1. Section 2 of this proposed legislation seeks to move monies collected from wireless customers that were deemed for maintaining and upgrading the infrastructure for emergency services. Also, the public expects the monies collected to be used specifically for their safety.

The cost to maintain our current system is ever increasing, not to mention the upgrade cost for the Next Generation 9-1-1 project. Technology is evolving at an alarming rate, and the Public Safety Answering Points have a responsibility to keep up the pace to protect our communities.

The federal government has clearly affirmed that states that raid wireless funds for use in the general fund may be ineligible for certain federal grant programs.

Thank you for giving us the opportunity to express our strong opposition to this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Marie A. McCauley", is written over a horizontal line.

MARIE A. MCCAULEY; Major  
Communications Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoa", is written over a horizontal line.  
LOUIS M. KEALOHA  
Chief of Police

DEPARTMENT OF INFORMATION TECHNOLOGY  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 5TH FLOOR  
HONOLULU, HAWAII 96813  
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MUFI HANNEMANN  
MAYOR



GORDON J. BRUCE  
DIRECTOR & CIO

**Testimony to the Senate Committee on Finance  
Wednesday, March 17, 2010, 3:00 p.m.  
State Capitol Conference Room 308**

**RE: Senate Bill 2695, SD1, Relating to Non-General Funds.**

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

My name is Gordon Bruce, and I am the Director for the Department of Information Technology and the Chief Information Officer for the City and County of Honolulu. On behalf of the Department of Information Technology, the city agency that supports the 911 system on the island of Oahu, we recommend that the raid of the Wireless 911 fund NOT occur.

The obvious impacts on the delivery of public safety 911 services are part of the justification to not raid the funds. In addition, there are other reasons. For example, the U.S. Congress is considering 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). At a minimum, such diversion could result in a reduction of the state's federal allocation of highway safety or homeland security funds by the amount that is raided.

Another example is a call to the Federal Communications Commission (FCC) from the U.S. Congress asking the FCC to take additional steps that the Commission can take to prevent the raid practice. 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.

Lastly, but not least, the 111<sup>th</sup> Congress 2D Session is considering H.R. 4829 and a partner Senate Bill to amend the National Telecommunications and Information Administration Organization Act to enhance and promote the nation's public safety citizen activated emergency response capabilities through the use of 9-1-1 service, to further upgrade public safety answering point capabilities and related functions in

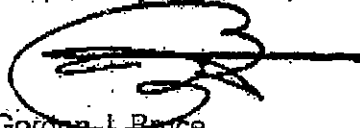
Testimony to the Senate Committee on Finance  
Wednesday, March 17, 2010; 3:00 p.m.  
State Capitol Conference Room 308  
RE: Senate Bill 2695, SD1, Relating to Non-General Funds.  
Page 2

receiving 9-1-1 calls from any type of device or format including voice, text messaging and video.

The state's raid on this fund will prevent the counties statewide from complying with this law when enacted and jeopardize your jurisdictions from providing expected public safety services.

Thank you for the opportunity to testify.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Gordon J. Bruce", written over a horizontal line.

Gordon J. Bruce  
Director and Chief Information Officer



CHARMAINE TAVARES  
MAYOR

OUR REFERENCE  
YOUR REFERENCE

## POLICE DEPARTMENT COUNTY OF MAUI

55 MAHALANI STREET  
WAILUKU, HAWAII 96793  
(808) 244-6400  
FAX (808) 244-6411

March 16, 2010



GARY A. YABUTA  
CHIEF OF POLICE

CLAYTON N.Y.W. TOM  
DEPUTY CHIEF OF POLICE

The Honorable Marcus Oshiro, Chair  
And Members of the Committee on Finance  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Re: **SB 2695, S.D1, Relating to Non-General Funds**

Dear Chair Oshiro and Members:

The Maui Police Department is in strong opposition to SB 2695, which would call for the transfer of at least \$5,000,000 from the Wireless Enhanced 9-1-1 Fund to the general fund.

This fund, and its intended purpose, is for the enhancement and continued maintenance of the existing E9-1-1 system that answers and responds to over 1,149,000 Emergency 9-1-1 calls annually in the State. The funds are important to the continued delivery of enhancements to the 9-1-1 network as devices continue to be introduced to the public, such as for text messaging, video messaging, vehicle telematics, all of which use the 9-1-1 wireless network to request emergency response.

The Enhance 911 Act of 2004 (Public Law 108-494) and the New and Emerging Technologies 911 Improvement Act of 2008 (Public Law 110-283) clearly identify that any communications service provider that imposes the collection of a fee for the support or implementation of 9-1-1 or enhanced 9-1-1 services, that those fees or charges are to be obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services or enhancements of such services, as specified in the provisions of State or local law adopting the fee or charge.

Simply stated, all monies collected on a consumer's bill identified for the purposes of a 9-1-1 or E9-1-1 must be expended only for 9-1-1 or E9-1-1 as provided for in the two (2) Public Laws that govern the States' authorization to collect fees for the purposes of 9-1-1 or E9-1-1.

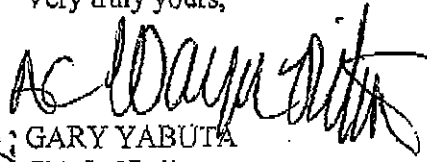
In addition, the Public Law requires that States must report yearly on their compliance to the law. Failure to comply will exclude the States from any Federal Grant money as described within this Public Law. Public Law 108-494 has met its five-year life span for the program (and remains active under special conditions) and it does not remove the mandate, which requires that collected 9-1-1 monies be used for that purpose.

The Honorable Marcus R. Oshiro, Chair  
And Members of the Committee on Finance  
March 16, 2010  
Page 2

To further clarify the Federal Government's position on using 9-1-1 monies for other than its intended use, Congress enacted the New and Emerging 911 Improvement Act of 2008 (Public Law 110-283). Senator Daniel Inouye, as the Commerce Committee Chairman, along with the sponsors Senator Stevens, Clinton, Stowe, and Lautenberg, worked tirelessly to ensure the passage of this legislation. This law continues to reinforce the States' authority and responsibility to only expend the fees in support of 9-1-1 and Enhanced 9-1-1 services.

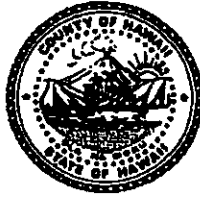
The Maui County Police Department humbly asks for your support in opposing Senate Bill 2695.

Very truly yours,

  
For: GARY YABUTA  
Chief of Police



William P. Kenoi  
Mayor



Harry S. Kubojiri  
Police Chief

Paul K. Ferreira  
Deputy Police Chief

March 15, 2010

## County of Hawai`i

### POLICE DEPARTMENT

349 Kapi`olani Street • Hilo, Hawai`i 96720-3998  
(808) 935-3311 • Fax (808) 961-2389

The Honorable Marcus R. Oshiro  
Chair and Members  
Committee on Finance  
State Capitol  
415 South Beretania Street, Conference Room 308  
Honolulu, Hawai`i 96813

**Re: SENATE BILL 2695, SD 1, RELATING TO NON-GENERAL FUNDS**

Dear Representative Oshiro and Members:

The Hawai`i Police Department strongly opposes Senate Bill 2695, SD 1, Relating to Non-General Funds, seeking to transfer "excess funds" from the Wireless Enhanced 911(E911) Fund to the general fund.

The Wireless E911 Fund was established exclusively for the purposes of ensuring adequate cost recovery for the deployment of Phase I and Phase II Wireless E911 services in the State of Hawai`i. Due to the ever-changing enhancements in wireless technologies and expanding consumer base, ensuring the deployment of Phase I and Phase II Wireless E911 services in the State is an on-going project for all of the Public Safety Answering Points (PSAPs). Noting that statistics indicate that throughout the State of Hawai`i at least 60% of the emergency calls received by PSAPs are wireless calls and this number is continuously increasing.

There is concern that the raid of the Wireless E911 fund, as proposed by this measure, will result in the PSAPs inability to support current emergency needs for public safety as funds will not be available to maintain our current systems that support wireless technology. Additionally, that the raid of the funds will thwart the PSAPs ability to procure new equipment to meet Next Generation 911 (NG911) deployment plans that support wireless technologies over the next 5 years.

It is our understanding that in December 2009, the Wireless E911 Board adopted a 5-year spending plan in support of program activities currently underway or planned by all of the PSAPs throughout the State of Hawai`i, to maintain and enhance their current 911 infrastructure relating to wireless technology. The plan calls for the use of the 911 funds up to the appropriations cap of \$9 million dollars for the current fiscal year and up to a desired spending cap of \$15 million dollars for FY2011. The transfer of any funds from the wireless 911 fund will jeopardize the availability of monies to support these activities.

For these reasons, we urge this committee to reject this legislation. Thank you for allowing the Hawai`i Police Department to testify on S.B. No. 2695, SD 1.

Sincerely,

Handwritten signature of Harry S. Kubojiri in black ink.  
HARRY S. KUBOJIRI  
POLICE CHIEF



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Finance  
March 17, 2010 at 3:00 p.m.

by

Howard Todo

Vice President for Budget & Finance/CFO, University of Hawai'i

### SB 2695 SD1 – RELATING TO NON-GENERAL FUNDS

Chair Oshiro, Vice Chair Lee and Members of the Committee:

Thank you for the opportunity to testify on this measure.

The purpose of the University of Hawai'i Housing Assistance Revolving Fund (HARF) is to provide financial assistance and rental housing units to faculty and staff of the University of Hawai'i. This is crucial for the recruitment and retention of the qualified faculty required in order for the University to continue to be the global university system that the state needs it to be.

As reported to your committee in the University's budget briefing, as of November 2009, there was \$4,590,642 in the HARF. These funds support two primary functions: 1) the operations of the Kau'iokahaloa Iki (K-Iki) faculty housing facility and 2) providing funds to assist faculty in financing the purchase of housing.

#### K-Iki

The funds for operating K-Iki consist of 3 accounts totaling \$2,474,775 as of November 2009. The State Real Estate Commission requires a Condominium Maintenance Fee Reserve equal to 100% of estimated replacement costs of the cash flow plan approved by the commission, which will need to be \$2,081,200 by fiscal year 2015. At this point there is only \$1,186,141 in this account, which also funds annual repairs and replacements of furniture and equipment. In addition, a reserve of \$600,000 is required to repurchase one remaining K-Iki unit which currently owned by a faculty member. In the past year, one unit was repurchased by the UH for \$648,000, leaving only one unit not owned by the University. After these two requirements, the remaining \$688,000 is needed to fund the operating expenses of K-Iki.

#### Housing Assistance

In the past year, the University implemented a program to assist faculty in financing the purchase of housing. \$1.5 million was expended to fund this program, which has been

very well received by the faculty. With the success of this program, the balance of \$2,115,868 for this purpose is critical for the continuation and expansion of the program. Especially in these difficult economic times, this program, which provides funds to guarantee loans by high performing faculty is critical for the recruitment and retention of highly qualified faculty to achieve the goals for increasing the number of educated citizens in the state of Hawai'i, contributing to the workforce and the economy, and advancing the University of Hawai'i's reputation for excellence and its ability to build the state's capacity as set forth in President MRC Greenwood's state of the University address.

In summary, taking funds from the Housing Assistance Revolving Fund would severely impair the Faculty Housing Program's ability to be self-sustaining. It would cripple the Faculty Housing Program's ability to meet its immediate financial obligations such as property management fees, routine maintenance costs, and utilities, placing its financial health in jeopardy. Deferring repair and replacement projects would end up costing the University more in the long-run, and would likely create safety issues.

We ask you not to take these critical funds from the University of Hawai'i.

Thank you for the opportunity to present our concerns with regard to this measure.

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Transfer of non general funds

BILL NUMBER: SB 2695, SD-1

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Provides that the legislature determines that there are excess amounts in the following funds and authorizes the director of finance to transfer such excess amounts to the general fund for fiscal 2010:

Wireless enhanced 911 fund	\$ _____
State motor pool revolving fund	_____
State risk management revolving fund	_____
Medicaid investigations recovery fund	_____
UH housing assistance revolving fund	_____

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: This was an administration measure submitted by the department of budget and finance BUF-17(10). The original measure would have transferred \$10 million in non general funds that are determined to be in excess of what is needed in the fund, to the general fund. The current draft inserted blank dollar amounts. Due to the state budget shortfall, lawmakers are searching for moneys to cover that shortfall and are tapping the various non general funds of the state.

In a report prepared by the state auditor, the report noted that, "Special funds give agencies full control of these unappropriated cash reserves, provide a way to skirt the general fund expenditure ceiling, and over time erode the general fund. Many experts say that special funds are likely to hamper budget administration. And from a legislative perspective, they are less desirable because they are not fully controlled by the appropriation process."

Given the findings of the auditor and the current financial crisis, it is quite clear that the creation of numerous special funds has eroded the integrity of state finances. Moneys in special funds are neither subject to the general fund expenditure limitation nor to the close scrutiny that general funds are subject to in the budgeting process. Special funds which earmark general fund revenues cannot be justified as they restrict budget flexibility, create inefficiencies, and lessen accountability.

There is no doubt that carving out portions from the general fund has created the lack of funds lawmakers face each year. Such a shortfall will inevitably lead to a call for tax increases even though money abounds in these special funds. One only has to review the measures introduced each year which set up numerous new special funds or add new fees or charges, the receipts of which are earmarked for special funds, to see the prolific establishment of special funds. The result is what this measure proposes to do, to raid these special funds.

As has been consistently noted, these fees were increased or approved and earmarked for totally irrelevant programs. The result has been this mismatch of either not enough funds to carry out the program or, as in this case, an excess of funds that then become the target for a raid like this. Lawmakers should learn a lesson and repeal many of the earmarked sources and their special funds and cease from creating any more new special funds or earmarking any more revenues for such worthy causes.

That being said, it should be noted that when the measure allowing the raid of the 911 fund bill was under consideration last session, the public safety community pointed out that raiding these earmarked funds for purposes other than those designated by the state statute would jeopardize any matching federal funding to develop next generation technology under the Public Safety Answering Point program (PSAP) that would develop a system that would accept text messaging, video streaming, and other forms of developing telecommunication technologies. It was reported that the National E-9-1-1 Implementation and Coordination Office was about to release grant information regarding the implementation of a \$43.5 million PSAP grant program. Officials were cautioned that any state that has diverted E-9-1-1 fees for purposes not authorized by the statute . . . would not be eligible to apply for grant funding. Whether or not the state actually took the \$16 million authorized by Act 79, SLH 2009, has not been confirmed, but if it was transferred to the general fund, then it appears Hawaii is no longer eligible for these federal grants.

Rather than merely raiding these funds, lawmakers need to bring all of these special fund financed programs back to the table along with their funding sources and then set priorities among the many programs given what limited dollars there may be and fund those programs deemed of highest priority and close those for which no funding is available.

Digested 3/16/10



94-450 Mokuola Street, Suite 106, Waipahu, HI 96767  
808.675.7300 | www.ohanahealthplan.com

March 17, 2010

To: The Honorable Marcus R. Oshiro  
Chair, House Committee on Finance

From: 'Ohana Health Plan

Re: Senate Bill 2695, Senate Draft 1-Relating to Non-General Funds

Hearing: Wednesday, March 17, 2010, 3:00 p.m.  
Hawai'i State Capitol, Room 308

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Since February 2009, 'Ohana Health Plan has provided services under the Hawai'i QUEST Expanded Access (QExA) program. 'Ohana is managed by a local team of experienced care professionals who embrace cultural diversity, advocate preventative care and facilitate communications between members and providers. Our philosophy is to place members and their families at the center of the health care continuum.

'Ohana Health Plan is offered by WellCare Health Insurance of Arizona, Inc. WellCare provides managed care services exclusively for government-sponsored health care programs serving approximately 2.3 million Medicaid and Medicare members nationwide. 'Ohana is able to take the national experience in providing an 'Ohana care model that addresses local members' healthcare and health coordination needs.

We appreciate this opportunity to submit our comments on Senate Bill 2695, Senate Draft 1-Relating to Non-General Funds.

'Ohana Health Plan (OHP) is one of the five health care plans contract under the QUEST program through the Department of Human Services (DHS). As a new plan, operating largely with the support of government funding from the State of Hawai'i, we are deeply concerned about the potential for a three to four month payment deferral. This deferral may impact our ability to pay our contracted providers in a timely manner and could cause a disruption in services to our members, which are low-income, aged, blind and disabled residents of our State. As a contracted provider of services for the State of Hawai'i, we take out federally mandated responsibility to make covered services available and accessible through a sufficient delivery network very seriously.

We greatly appreciate this measure that would address the fiscal year's 2009-2010 budget shortfall by transferring the excess balances from certain special funds into the general fund. We remain concerned with the larger issue regarding the funding and sustainability of the overall Medicaid program, thus ensuring our ability to serve our most vulnerable members' health needs. For this reason we would respectfully request that the Legislature direct the excess funds from the Medicaid Investigations Recovery Fund under Section 5 of this bill into HMS 401 budget in order to avoid the DHS payment deferral option.

Thank you for the opportunity to provide these comments on Senate Bill 2695, Senate Draft 1.

**HOUSE COMMITTEE ON FINANCE  
TESTIMONY SUBMITTED ON SB 2695 BY  
THE NATIONAL EMERGENCY NUMBER ASSOCIATION (NENA)  
THE 9-1-1 INDUSTRY ALLIANCE  
CTIA – THE WIRELESS ASSOCIATION®**

March 16, 2010

On behalf of the wireless industry and the national 9-1-1 community, CTIA<sup>1</sup>, the 9-1-1 Industry Alliance (9IA)<sup>2</sup> and the National Emergency Number Association (NENA)<sup>3</sup> submit the following testimony in opposition to SB 2695, the “Transfer of Non General Funds”. This funding is extremely critical to our nation’s 9-1-1 systems, ensuring that wireless 9-1-1 callers can be quickly and accurately located in emergency situations. These wireless emergency calls help to save lives, locate missing children, mitigate property damage by allowing timely response, and prevent numerous crimes. NENA, the 9IA and CTIA are very cognizant of the critical budget issues that currently face Hawai’i. However, in the interest of public safety, this fund needs to be used for its intended purpose. We consider this particularly important given the fact that the Hawai’i legislature already took \$16 million from the fund at the start of this fiscal year.

Wireless carriers annually collect nearly \$2 billion dollars of dedicated taxes, fees and surcharges from wireless consumers for the express purpose of supporting and upgrading the capabilities of the 6,174 Public Safety Answering Points (PSAPs) that exist across the U.S. In addition to the nearly \$2 billion dollars annually collected from consumers and remitted to state and local governments, wireless service providers have also expended billions to modify their networks to enable them to identify and locate wireless 911 callers.

This significant investment of capital provided in good faith by wireless consumers through 9-1-1 fees or surcharges has been and continues to be extremely critical in supporting public safety in any given state, including Hawai’i. However, the taxes and fees collected from wireless consumers at the state and local level under the auspices of E9-1-1 deployment need to be solely dedicated to the advancement of E9-1-1 deployment and not used for other revenue purposes. Not only is this the appropriate policy in the best interest of Hawai’i’s citizens and the visitors that depend on an effective 9-1-1 system, but also it is consistent with the direction of the United States Congress.

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<sup>1</sup> CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, and AWS, as well as providers and manufacturers of wireless data services and products.

<sup>2</sup> 9IA is a national industry association of over two dozen public safety emergency communications companies which advocates for the development of emergency communications technology and infrastructure and policy, for the good of public safety and the public it serves. (See [www.911alliance.org](http://www.911alliance.org) for more information.)

<sup>3</sup> NENA is *The Voice of 9-1-1*™. NENA promotes implementation and awareness of 9-1-1 as North America’s universal emergency number and the advancement of Next Generation 9-1-1 systems. NENA is the leading professional non-profit organization dedicated solely to 9-1-1 emergency communications issues. NENA serves its nearly 7,000 members in 48 chapters across the U.S., Canada and Mexico through policy advocacy, establishment of technical and operational standards, certification programs and a broad spectrum of educational offerings. Find out more at [www.nena.org](http://www.nena.org).

As a result of other states diverting money from their 9-1-1 funds, the U.S. Congress has taken several steps to prevent this practice from occurring. First, through the ENHANCE 911 Act of 2004 (Pub. Law 108-494), Congress made clear that states are ineligible for federal 9-1-1 grant money if the state has misallocated 9-1-1 fees for unintended purposes. The National 9-1-1 Office, which will administer the federal 9-1-1 grant program, has incorporated this requirement into its regulations for administration of these grants. If Hawai'i diverts their 9-1-1 funds as directed by SB 2695, the state will be automatically ineligible to apply for such funds in the future.

More recently, Congress passed the NET 9-1-1 Improvement Act (Pub. Law 110-283) that also highlights the need to keep 9-1-1 fees protected for the purposes intended. This law addresses the issue of state 9-1-1 fund diversions in two important respects. First, the law makes clear that state and local governments have the authority to impose 9-1-1 fees on wireless and voice over-IP (VoIP) providers only if the fees are used for their intended purpose:

*Nothing in this Act, the Communications Act of 1934 (47 U.S.C. 151 et seq.), the New and Emerging Technologies 911 Improvement Act of 2008, or any Commission regulation or order shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State, political subdivision thereof, Indian tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act, as amended (85 Stat. 688) for the support or implementation of 9-1-1 or enhanced 9-1-1 services, provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge. For each class of subscribers to IP-enabled voice services, the fee or charge may not exceed the amount of any such fee or charge applicable to the same class of subscribers to telecommunications services.*

Second, the law also requires the Federal Communications Commission (FCC) to monitor the practice of state implementation and collection of 9-1-1 fees:

*To ensue efficiency, transparency, and accountability in the collection and expenditure of fees for the support or implementation of 911 or E-911 services, the Commission[FCC] shall submit a report within 1 year after the date of enactment of the 911 Modernization and Public Safety Act of 2007, and annually thereafter, to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives detailing the status in each State of the collection and distribution of 911 fees, and including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any fee or charges are specified. (H.R.3403 Sec 6(f)(20).*

The wireless industry and the national 9-1-1 community are committed to working together with states to ensure emergency 9-1-1 services is a coordinated and collaborative operation between the public and private sectors and provided at a reasonable cost. The capital provided to state governments by wireless consumers through taxes, fees or surcharges is extremely critical in supporting the acquisition of the necessary tools to receive and act on wireless calls in order to save a life, locate a missing child or prevent a crime.



In short, in addition to being contrary to federal law, diverting revenues away from the 9-1-1 fund at this time is not in the best interest of the citizens of Hawai'i who have come to rely on an effective and dependable 9-1-1 system. Therefore, the wireless industry, the 9-1-1 Industry Alliance and the National Emergency Number Association urge the Hawai'i Senate to oppose SB2695 and not divert critical public safety funds for general revenue purposes.

Patrick Halley  
Government Affairs Director  
National Emergency Number Association



Paul Fahey  
Executive Director  
9-1-1 Industry Alliance



K. Dane Snowden  
Vice President of External and State Affairs  
CTIA- The Wireless Association



**HOUSE COMMITTEE ON  
FINANCE**

March 17, 2010

Senate Bill 2695, SD 1 Relating to Non-General Funds

Chair Oshiro and members of the House Committee on Finance, I am Rick Tsujimura, representing T-Mobile USA, Inc.

T-Mobile opposes section 2 of Senate Bill 2695, SD 1, which would take money from the wireless enhanced 911 fund (E911 fund) to finance the general fund. It must be clearly noted that the monies collected for the E911 fund come from consumers as a fee for the use of their cellular phones. It is a fee intended to benefit cellular phone users by being able to determine their location for first responders. The diversion of monies to the general fund will not benefit cellular phone users. This diversion then will turn a legal regulatory fee into an arguably unconstitutional tax as determined in the decision by the Hawaii Supreme Court in HIC v Lingle and undermines the purpose of those funds – public safety.

Forcing only cellular phone users to pay for a tax which serves the general public is not only legally suspect but as a matter of public policy unfair and an unjustified tax on a certain population for the benefit of the larger society. The legislature must exercise discipline in avoiding raids of funds which exist for one purpose for the benefit of society as a whole. On behalf of our customers who have paid this fee and continue to pay this fee into the E911 fund we respectfully request that this committee consider some other funding source.

Thank you for the opportunity to present this testimony.

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Associate Director  
State Public Policy, West Area



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March 17<sup>th</sup>, 2010

The Honorable Representative Marcus Oshiro  
Chair, House Committee on Finance

***RE: Opposition to Senate Bill 2695***

Dear Representative Oshiro and Members of the Committee:

On behalf of Verizon Wireless, I am writing this letter of strong opposition to Senate Bill 2695, legislation that would inappropriately divert Wireless E9-1-1 funds from their intended use to ensure availability of E9-1-1 services to wireless users and to provide critical support to Public Safety, and instead divert monies for the second consecutive year, to the General Fund.

While Verizon Wireless recognizes that the state of Hawaii is currently faced with a serious budget deficit, and policymakers are seeking ways to meet the state's fiscal needs, we do not believe that diverting funding resources essential to Public Safety to maintain, support and upgrade critical emergency 911 systems is warranted or justified.

Verizon Wireless specifically requests SB 2695 be amended, to remove "Section 2" in its entirety, leaving the wireless E9-1-1 fund intact. Failure to do so, risks jeopardizing the safety of Hawaii residents and visitors, who use wireless Enhanced 911 services to save lives, locate missing children and prevent numerous crimes.

Verizon Wireless customers are billed with a line item description "*HI State 911 Surcharge*" applied to their account every month, under the assumption that monies collected would be used for Wireless E-911 services. It would be unfair to wireless customers to bill them for a purpose for which the money is not used. The diversion of wireless 911 funds for purposes outside of wireless emergency services is therefore inappropriate.

Emergency 911 calls are increasingly placed by wireless users to report life-threatening emergencies. Today, 911 services are limited to voice calls however future technologies will allow PSAP's to receive text messaging and possibly picture and video communications. Such advanced service capabilities, will allow operators to more efficiently manage emergency communications received from wireless users and to more

accurately assess the kind of emergency, the appropriate equipment, personnel or expertise first responders will need to best deal with the emergency. For this reason, Local Public Safety agencies will need additional funding beyond Phase I and Phase II implementations to accommodate the deployment of essential Next Generation of 9-1-1 (NG9-1-1) services in the very near future.

The wireless E-911 fund supports the deployment wireless 9-1-1 infrastructure and emergency services essential to the safety of the public. It provides a reliable funding resource for operators who accept emergency calls, Public Safety Answering Points (PSAPs), to ensure their emergency systems are maintained and upgraded appropriately. Currently, PSAPs have a long lead-time in the procurement process for the counties to proceed with acquisition of equipment and services, so it is important for the fund to maintain adequate reserves. There is concern that a subsequent raid of the E9-1-1 fund, as proposed by SB 2695, will result in the PSAPs inability to support current emergency needs for public safety and will thwart access to procure new equipment to meet Next Generation 9-1-1 (NG9-1-1) deployment plans over the next 5 years. During these trying economic times, city and county budgets are also under siege, making the Wireless E9-1-1 fund increasingly important to ensure local government public safety agencies have access to resources needed to support critical emergency services, today and in the future.

Verizon Wireless is committed to our support of Public Safety needs in the state of Hawaii to ensure the ongoing availability, maintenance and upgrade of Wireless Enhanced 9-1-1 services as well as future Next Generation technologies that will expand the availability of emergency services assisting both the public and first responders. We believe that the legislature must move forward with its goals to address the gap in the state budget, without risking weakening the state's emergency E9-1-1 system by diverting funds for yet a second consecutive year. To this end, we respectfully ask Chairman Oshiro and Members of the Committee to NOT pass Senate Bill 2695 in its current form, and instead remove Section 2 that would transfer emergency wireless 9-1-1 fund revenues into the General Fund.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Joyce Masamitsu". The signature is written in a cursive, flowing style.

Joyce Masamitsu



Dan Youmans  
President - Washington/Hawaii  
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March 17, 2010

The Honorable Representative Marcus Oshiro  
Chair, House Committee on Finance  
Hawaii House of Representatives

*RE: Opposition to Wireless E911 Fund Raid in Senate Bill 2695 SD1  
March 17, 3 p.m. Hearing  
House Committee on Finance*

Dear Rep. Oshiro and Members of the Committee on Finance:

AT&T opposes the provisions in Senate Bill 2695 SD1 that would sweep potentially millions of dollars from the Wireless E911 Fund to the General Fund. We understand that the state faces a substantial budget deficit, however, we respectfully submit that this raid of Wireless E911 surcharges would be a misuse of funds intended for public safety.

Each month our wireless customers pay into the Wireless E911 Fund with the knowledge that these monies will be used to support the E911 system. Thanks to the investment made by our customers, public safety agencies can now provide the ability to call back a cell phone customer who has dialed 911 and determine the approximate location of that customer.

In Hawaii, wireless E911 service is critical, especially when a person does not have access to a landline phone, which is the case in many emergencies involving both residents and tourists.

The state's budget problems should not be resolved through the use of funds intended for this very important public safety purpose. If the Wireless E911 Fund will have an ongoing surplus that cannot be used for the 911 system, then a more appropriate action would be to reduce the monthly surcharge on wireless consumers.

We urge you to preserve the funds dedicated to wireless E911 so that investments can continue in this life-saving technology.

Respectfully Submitted,

Dan Youmans  
AT&T