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December 18, 2008

Governor's Office
Attn: Joe O'Leary, Senior Policy Advisor for Public Safety
254 State Capitol
Salem, OR 97310

RE: Governor's Proposed 2009-2011 Budget

Dear Mr. O'Leary:

As you know the Governor's proposed 2009-2011 budget recommends a budget transfer of \$8.1 million of 9-1-1 Tax and interest revenues to the General Fund due to General Fund revenue constraints.

Since the inception of the 9-1-1 tax (1981), revenues have traditionally not been diverted to fund the state's general fund needs. In fact, the current administration and the Kitzhaber administration specifically exercised their veto authority with respect to the purity of this tax (once for General Fund purposes and once for Oregon Wireless Interoperability Network funding).

In 2002, our state faced a serious budget crisis that prompted five "special sessions". Despite the serious budgetary issues that the state faced during those special sessions, former Governor Kitzhaber rejected the legislature's attempt to raid the 9-1-1 fund by exercising his line-item veto in HB 4030 which would have transferred \$14 million in 9-1-1 funds to the state's General Fund.

In August of 2007, Governor Kulongoski exercised his line-item veto in SB 994/SB 5549 which would have transferred \$9 million in 9-1-1 funding to the OWIN project. In his veto message he stated, "*I have vetoed the transfer of \$9 million because it is important that funds collected from telecommunications customers for enhancements to the 9-1-1 emergency response system to be used for the purposes established in the applicable statutes.*"

APCO/NENA wholeheartedly agrees with Governor Kulongoski. 9-1-1 funds should be collected and used for their intended purpose. It is also clear that the federal government feels strongly about this issue. As you may know the NET 911 Improvement Act that was passed and signed into law in 2008 contains language expected to act as a deterrent to 9-1-1 tax diversions.

HR 3404 (see attached) amended the "The Wireless Public Safety Act of 1999" by creating a new section of law.

“SEC. 6. DUTY TO PROVIDE 9-1-1 AND ENHANCED 9-1-1 SERVICE. “(f) STATE AUTHORITY OVER FEES.— AUTHORITY.—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.”

It is estimated that approximately 50% of revenue generated by the 9-1-1 tax is generated from either VOIP or wireless telephones. Therefore, we estimate that the state and local governments in combination would lose approximately \$40 million in the 2009-2011 biennium in exchange for the state's General Fund gain of \$8.1 million.

Finally, as you are likely aware, the state is currently slotted to receive \$500,000 (and potentially more at a future date) in federal funds through the E9-1-1 grant program. If the state were to divert 9-1-1 funds we would become ineligible to receive grant funding from the program (see attachment).

Oregonians expect basic 9-1-1 service for emergencies. This expectation is justifiable and should be met. Across the state, citizens and businesses pay for it, through a 75-cent surcharge on their monthly phone bills that is specifically earmarked for 9-1-1 service.

We believe that diverting 9-1-1 funds is a short-term accounting maneuver that will put our citizens' safety and well being at risk. The telecommunications industry has invested millions of dollars on behalf of Oregon citizens to locate 9-1-1 callers. In order for the volume of calls received to be connected, answered in a timely manner, and to allow dispatchers to locate the callers, Oregon will be required make ongoing investments in the public safety communications infrastructure. Draining the 9-1-1 fund for uses other than its intended purpose will only cause further delay in the statewide availability of critical public safety communications services. We respectfully request that the administration reexamine its budget proposal to divert 9-1-1 excise tax funds in light of the information contained in this letter.

Respectfully,

Tami Atkinson, APCO/NENA President

cc: Hasina E. Squires, Government Relations Strategies
Paul Evans, Policy Advisor for Public Safety, Governor's Office
General Mike Caldwell, Oregon Military Department