

Approved: January 29, 1999
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on January 27, 1999, in Room 123-S of the Capitol.

All members were present except: Senator Paul Feleciano

Committee staff present:

Lynne Holt, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

Judy Moler, Legislative Services Director, Kansas Association of Counties
John Foster, Johnson County Sheriffs Department
Keith Faddis, Chief Deputy, Overland Park Police Department
Dorothy Faulkner, Director, Ford County Emergency Communications
Diane Gage, Director, Sedgwick County Emergency Communications
Captain James Purdy, Hays Police Department
Betsy Gwin, Sedgwick County Commissioner
Jason White, Kansas Emergency Medical Service Association
Dean Forster, Chief of Policy, Topeka
Larry Kleeman, League of Kansas Municipalities
Whitney Damron, Unified Government of Wyandotte County/Kansas City,
Kansas
Mike Sells, Kansas Emergency Medical Service
Dave Jones, Garden City, Kansas Emergency Medical Association
Jay Scott Emler, General Counsel, Liberty Cellular, Inc., d/b/a Kansas
Cellular
Beth Canuteson, Sprint PCS

Others attending: See attached list

SB 63 - An act relating to emergency telephone services; emergency phone tax imposed on wireless service.

The Chair distributed to the Committee a copy of the Conclusion and Recommendations of a 1997 Interim Committee on Economic Development Study on this issue. (Attachment 1)

Judy A. Moler, Legislative Services Director, Kansas Association of Counties, appeared in support of **SB 63** stating the extension of the 911 surcharge to wireless users is a matter of both tax equity and uniformity. Ms. Moler stated counties currently collect a tax on hardwired telephone lines for the financing of operation of the emergency telephone service provided through Emergency Communications. The money collected is used for the purchase and maintenance of equipment such as radios, telephones and computer aided dispatch systems. When the current statute was written, there was no way to anticipate the growth in the mobile or cellular telephone industry. **SB 63** also proposes a distribution of the proposed tax through the user's billing zip code, a methodology proposed due to the overlapping area codes within the state. (Attachment 2)

John Foster, Undersheriff of the Johnson County Sheriff's Department, appeared in support of **SB 63**. Mr. Foster stated the Federal Communications Commission (FCC) mandated a two phase implementation of wireless telephone Enhanced 911 technology. Phase I requires that wireless telephone carriers must be able to provide Public Safety Answering Points (PSAPs) with a mobile caller's phone number and the location of the cell site transmitting the call by April 1, 1998 or within six months of the PSAP's request. Phase II requires wireless carriers to be able to identify the location of the mobile caller within 125 meters at least 67% of the time by October 1 2001. Certain conditions must be met before a wireless carrier

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must comply with the FCC order: 1) the PSAP providing emergency services for an area must request wireless E911 services; 2) the PSAP must have the ability to receive and use the E911 information transmitted by the carrier; and 3) a cost recovery mechanism must be in place to pay the carriers for costs incurred in providing E911 services to the PSAPs.

Mr. Foster stated 911 calls made from wireless telephones in the Johnson County area comprise approximately 40% of all 911 calls received by PSAPs, while wireless telephone subscribers do not pay the emergency telephone tax for services and are not paying for the increasing operational costs caused by the proliferation of wireless telephones in our communities. Mr. Foster opposes the existing collection and remittance of tax monies by zip codes because zip code boundaries overlap municipal and county boundaries, and recommends the collection of tax monies from wireless service users located within the jurisdiction of the governing body. (Attachment 3)

Keith Faddis, Deputy Chief for the Overland Park Police Department, appeared in favor of **SB 63**. Mr. Faddis stated the 911 emergency telephone is very complicated for the telephone companies but very simple for the customer. None of the information normally received for a wire line 911 call is displayed in the answering point - no phone number, name or address of the person calling is available and, consequently, no use to emergency responders. Four out of ten callers are using wireless phones, therefore, receiving a lower level of service because of the type of phone they use. Mr. Faddis stated the Police Department is requesting that the emergency telephone tax be extended to wireless users, and recommends the collection of tax monies from wireless service users located within the jurisdiction of the governing body. (Attachment 4)

Dorothy Faulkner, Communications Director, Ford County Communication Center, testified in support of **SB 63**. Ms. Faulkner stated wireless phones help get faster responses to emergencies; however, the rapid expansion of wireless phones has exceeded the capability of many communications centers and left many communities with increased responsibilities and associated liability. Ms. Faulkner stated the proposed tax should have limitations and restrictions and should include a stipulation that allows for training. Ms. Faulkner submitted a statement from the Ford County Commissioners endorsing **SB 63**. (Attachment 5)

Diane Gage, Director of Sedgwick County Emergency Communications, testified in support of **SB 63**. Ms. Gage stated the 911 service was activated in Sedgwick County in 1980. In 1994 Sedgwick County processed 24,111 wireless 911 calls or 6.7% of the total 911 calls. In 1998 the number of wireless calls had increased to 23.2% of the total 911 calls. It is estimated there is one wireless phone for every four residential lines in Sedgwick County, yet none of these access lines financially support the 911 system, which falls entirely on the users of hardwired telephones. If the emergency tax is updated to include wireless telephones, the funding mechanism would be in place to enable communications centers to install the infrastructure needed to receive the Automatic Number Information (ANI) on wireless calls in the immediate future under the FCC Phase I Wireless Implementation. The funding would also be in place for Phase II, which goes in effect in October 2001. Ms. Gage stated, **SB 63** would provide tax equity for all users of telephone systems, and would also provide a means for communication centers to improve services provided to wireless subscribers. (Attachment 6)

James R. Purdy, Support Service Captain, Hays Police Department, testified in support of **SB 63**. Mr. Purdy stated 911 centers provide people a 3 digit number to call in emergencies that provides centers with the name, address, phone number and responsible emergency agencies. The exception to this is wireless 911 calls. Assurance that equipment is reliable to handle these types of calls is essential. A surcharge on all telephones, whether wireline or wireless, is the only viable option for 911 centers to maintain effective and efficient operations. Cellular companies advertise that you can make a Free 911 call, however, in Ellis County, it costs in excess of \$3,000 a month to maintain the equipment alone, without considering the cost of personnel. Ellis County also pays long distance charges on any 911 calls transferred out of Hays. Presently 38% of the wireless calls received, are from outside of Ellis County. The cost for 911 must be born by someone and governmental entities that are up against the state mandated tax lid are the hardest hit by any increase and the least able to afford any changes. Treating wireless phones the same as wireline phones is the only viable option. (Attachment 7)

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MINUTES OF THE SENATE COMMERCE COMMITTEE, Room 123-S of the Statehouse, at 8:00 a.m. on January 27, 1999.

Betsy Gwin, Sedgwick County Commissioner, testified in support of **SB 63** stating the bill does not create a new tax, but extends existing tax to a new technology. Ms. Gwin stated 25% of all 911 calls in Sedgwick County are made from wireless phones. Presently, emergency dispatchers do not receive any information on a wireless caller's location or telephone number. By passing this bill, wireless phones would be paying for the services they currently receive and the funding necessary to provide the necessary upgrades to ensure all emergency equipment would be on a par with wireline. (Attachment 8)

Jason White, Kansas Emergency Medical Services Association (KEMSA), testified in support of **SB 63**. Presently cellular phone owners do not support the 911 emergency system. KEMSA believes that it is fair to distribute the monies based on the zip code of the service user as is provided in **SB 63**. This process will assure that the tax monies will be distributed to the areas where the phone is typically used and not where it may be registered. (Attachment 9)

Marlene Nagel, Community Development Director, Mid-America Regional Council, submitted written testimony to be incorporated in the minutes supporting **SB 63**, (Attachment 10)

Dean Forster, Chief of Police, City of Topeka, testified in support of **SB 63**. Chief Forster stated the Topeka Police Department is a member agency of the Shawnee County Emergency Communications Center (CECC) and is responsible for receiving and dispatching all calls for service, including 911 emergency calls, for all public safety agencies in Shawnee County. CECC was a monumental task to organize and operate. From the beginning, it was intended that the equipment necessary to operate CECC was to be funded via a special 911 tax on telephone service. The current tax revenue received by Shawnee County has fallen short and will continue to fall short of the equipment operating costs by approximately \$10,000. The only available funding to overcome the shortages is an increase in the 911 tax for those who aren't at the statutory maximum, or a broader base for the 911 tax. The 911 tax in Shawnee County is currently at the maximum allowed (\$0.75). Currently, approximately 20% of the 911 calls received are via cellular telephones. Chief Forster supports the removal of the exemption from the 911 tax currently given to wireless service users. (Attachment 11)

Jay Scott Emler, Liberty Cellular, Inc., d/b/a Kansas Cellular, testified in opposition to **SB 63**. Kansas Cellular began contacting various emergency answering points in April 1990, so that a system to answer cellular 911 calls would be in place when the first tower was turned on. At that time, approximately 30 contacts were made with local police departments, sheriff departments and PSAPs to accept 911 calls. Only two agencies were willing to accept calls originating on the Kansas Cellular system, Salina and Great Bend. Other agencies indicated they would accept calls from the Kansas Cellular system, but only for their individual jurisdictions. This is not possible with current technology. The costs associated with the cellular 911 calls, such as long distance charges and airtime charges are completely absorbed by Kansas Cellular. Calls to the Kansas Turnpike Authority, the Kansas Highway Patrol, or the designated answering points are free to users of the Cellular system.

Mr. Emler stated there are still counties that do not provide landline 911 service and there are still counties which do not want to provide service to cellular users. Based upon compromise legislation passed in 1994, however, every county in which a tower is located must make arrangements to have an answering point for such calls. Currently each cell in Rural Service Area (RSA) can cover an area between 20 and 40 miles in radius; coverage is designed to be ubiquitous; and topographical and atmospheric conditions influence which cell site will pick up a call at any given point in time.

Mr. Emler stated that in the last 19 months 31% of the 8125 minutes of emergency calls per month statewide were generated by individuals associated with law enforcement and public safety. Consequently, the average minutes of 911 calls per day per tower went down even though Kansas Cellular increased its subscriber base. Mr. Emler testified that an agreement was ratified among the conferees in 1994, and embodied in HB 3055. For the last three years, representatives of some of the answering points have tried to breach the agreement that was reached with the wireless industry. Kansas Cellular has kept its side of the agreement by providing 911 service to the state at no charge to the public answering points or to its customer. Mr. Emler stated **SB 63** has been requested by some of the same agencies that are responsible for allowing Kansas Cellular to be defrauded of revenue by the very people who are charged

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with monitoring the public welfare and preventing such crimes as theft of services. Kansas Cellular requests that this Committee take no action on the proposed legislation, as it is only designed to place further tax burdens on Good Samaritans and the public at large. (Attachment 12)

Beth Canuteson, representing Sprint PCS testified in opposition to **SB 63**, stating studies show that a majority of wireless owners cite safety issues as the primary reason for owning their handset. Sprint PCS wants to cooperate with the PSAPs, and in that endeavor sent copies of wireless E911 bills that recently became law in Iowa and Missouri, which the wireless industry support, to various entities throughout the state and sought further input in the drafting of **SB 63**. To Ms. Canuteson's knowledge, no one from KAC contacted a member of the wireless industry.

Ms. Canuteson referred to a Texas State Auditor's report which cites numerous situations where efficiencies could be obtained through consolidation of PSAPs. An estimated 31% of all 911 revenues could be saved annually according to the audit. Sprint PCS supports the development and implementation of wireless E911; however, the development of the system will provide a challenge to all involved, both in its design and deployment. Technology exists today to provide Phase I of the FCC Order, although modifications and improvements to the current system will be required. The FCC order imposes only an obligation on wireless providers to implement enhanced 911 services where an appropriate cost recovery mechanism is in place. The PSAP within any given jurisdiction must formally request such service and must have the capability to receive and utilize the information transmitted. If a statewide wireless E911 fund is created, it should be used only to pay the costs associated with the implementation of the FCC's Order. Sprint PCS urges the Committee to not advance **SB 63** this year, but to take the opportunity to further understand the implications of the FCC Order on wireless E911 and determine if there is an opportunity for greater efficiency in the current system. (Attachment 13)

Larry Keeman, Assistant General Counsel, League of Kansas Municipalities, testified in favor of **SB 63**, stating the most significant aspect of this bill is that it provides a fairness in taxation. Both cellular and hard-wired phones benefit from emergency 911 systems, and **SB 63** provides a reasonable method for remitting the funds back to the locality providing the PSAP. (Attachment 14)

Mike Sells, Kansas Emergency Medical Association appeared in support of **SB 63**.

Dave Jones, President, Kansas Emergency Medical Association, testified in support of **SB 63**.

Whitney Damron, appeared on behalf of the Unified Government of Wyandotte County/Kansas City, Kansas, as a proponent of **SB 63**. (Attachment 15)

The Kansas Association of Counties was asked to provide the Committee with information relating to revenue, increase in usage and cost of equipment, and also a county by county listing of tax amounts assessed on hard-wired phones.

The hearing on **SB 63** was concluded.

Upon motion by Senator Gooch, seconded by Senator Jordan, the Minutes of the January 26, 1999 Meeting were unanimously approved.

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for January 28, 1999.

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: January 27, 1999

NAME	REPRESENTING
Dorothy Faulkner	Jord County
MIKE SELVES	KEMA
Dave Jones	KEMA
Maria Hess	Sedgwick County
Diane Gage	Sedgwick County
BESSY GWIN	SEDSWICK COUNTY
Judy Nelen	Ks. Union of Counties
DEAN FORSTER	CITY OF TOPEKA
John FOSTER	JOHNSON COUNTY SD
Bernie Koch	Wichita Chamber
JIM PURDY	HAYS POLICE DEPT
John Federico	KS Cable Telecom Assn
JOE BARN	mid-m Lumbermen
Randy Allen	KS. Association of Counties
Jason White	KS EMS ASSO.
Whitney Damon	WYCO/KC,KS
Jim Yacally	cellular one
Mesa Colvin	Cellular One
Jay Scott Emler	Liberty Cellular, Inc.

extending the emergency telephone tax to wireless systems made the following points:

- Callers of wireless services should share in the cost of E-911 service to wireless systems because they benefit from the service.
- Incoming wireless emergency calls:
 - constitute about 35 percent of all 911 calls in Johnson County;
 - are quickly exceeding 160 calls per day in Sedgwick County;
 - numbered over 2,000 in Barton County; and
 - increased from 5.8 percent of all emergency calls in 1994 to 21 percent in 1997 in Ellis County.
- Cost estimates to implement E-911 service to wireless callers are \$2.5 million in the Kansas City Metropolitan-wide area and between \$110,000 and \$198,000 in Hays, Kansas.
- Wireless 911 calls take longer to process than wired systems calls because callers sometimes do not know their location or their telephone number.
- In the future wireless telephones system could replace wired systems.
- The imposition of a Kansas Universal Service Fund surcharge of 9.89 on wireless users has not had an obvious effect on wireless telephone sales.

Conferees representing wireless carriers indicated any E-911 funding related proposal should include:

- a uniform statewide monthly fee on wireless customers administered at the state level;
- a cost recovery mechanism to reimburse carriers and public safety agencies;
- a listing of the surcharge as a separate line item on a customer bill;
- separate accounts for wireless carriers and public safety agencies;
- annual audits of E-911 funds; and
- wireless carrier representation on any board created to oversee E-911 implementation.

Wireless carriers also explained that any surcharge would be an additional tax on E-911 users. The AirTouch conferee pointed out Kansas customers already pay the largest tax of any state in which AirTouch Cellular operates to support universal service. It also was pointed out that wired systems continue to grow 3 to 5 percent annually, and that they show no signs of replacing wireless systems. The AirTouch Cellular spokesperson indicated that wireless service will continue to complement conventional wired telephone service.

Finally, wireless providers stated the technology to implement the second phase of the FCC order is in the developmental stage and will likely be expensive, although no information on costs to implement this phase is available.

CONCLUSIONS AND RECOMMENDATIONS

After hearing testimony from various county officials and wireless providers, the Committee noted that many questions remain unanswered. For example, information on the specific costs associated with the implementation of the first phase, and especially the second phase of the FCC order, is not readily available. It also is unclear whether the state has to comply with this order, which could be construed as an unfunded mandate imposed by the federal government. Although the Committee did receive some information about how other states are implementing E-911, there was inadequate time to explore these options in any depth. Moreover, the Committee did not have sufficient time to review how existing 911 service is being implemented on wired systems in Kansas and the costs associated with that implementation.

Therefore, the Committee recommends that the information received at the meeting on November 5 be referred to the appropriate legislative standing committees addressing telecommunications issues. In their review, these committees should:

- address the policy questions outlined in the Background section of this report;
- examine the implementation and associated costs of existing 911 service on wired systems in Kansas;
- consider all options of funding E-911, using other states' plans and experiences; and
- examine the implementation of the Kansas Universal Service Fund which was established as a result of the 1996 Kansas Telecommunications Act and ensuing orders of

the Kansas Corporation Commission on the telecommunications competition docket.

Finally, the Committee recommends that the Committee Chairman write a letter to the Attorney General requesting an opinion to determine whether the recent FCC order requiring implementation of E-911 to wireless carriers is an unfunded mandate and to determine any consequences to the state and local units of government for noncompliance.

Independent Contractors and Subcontractors—Insurance Coverage and Tort Liability Issues*

SUMMARY: The study calls for the review of the pertinent parts of 1997 H.B. 2011 regarding workers compensation coverage for self-employed contractors performing work for a general contractor. The Committee recommends the introduction of legislation that would repeal the 1997 amendments to sections 2 and 3 of H.B. 2011. A second Committee recommendation includes the introduction of a bill for consideration by the 1998 Legislature that would allow self-employed subcontractors to obtain other insurance instead of workers compensation insurance.

BACKGROUND

During the 1997 Session, the Legislature passed H.B. 2011 which contained several amendments to the Workers Compensation Act. Included in the bill was a change in the application of the Act that expanded coverage to self-employed subcontractors performing work for a contractor. This coverage was excluded under prior case law in *Allen v. Mills*, 11 Kan. App. 2d

415 (1986) and later in *Aetna Life and Casualty v. America Truckway Systems*, No. 74,721. Under these cases, a self-employed subcontractor would not be considered an employee of a contractor and would not be covered by the Act. As a result, the self-employed subcontractor could sue the contractor under the theory of general tort liability.

The pertinent amendments to the Act clarify that a self-employed subcontractor is an employee of the contractor and thus not entitled to sue the contractor. Injuries to the self-employed contractor would be covered under the Act.

Confusion over the interpretation of the 1997 amendments led to the issuance of explanatory articles from the Division of Workers Compensation and two bulletins, Bulletin 1997-10 and Bulletin 1997-10A, from the Kansas Insurance Department. Lingering questions regarding the amendments led to the request for the present study.

COMMITTEE ACTIVITIES

The Committee received testimony from the legislator who sponsored the pertinent changes to the Act, a representative from the Kansas Insurance Department, and the Director of the Division of Workers Compensation. Also testifying before the Committee were a delegate from the Kansas Association of Insurance Agents, an

* H.B. 2591 and H.B. 2592 accompany this report.



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY ON SB 63
Senate Commerce Committee
By Judy A. Moler, Legislative Services Director
January 27, 1999

Senator Salisbury and Members of the Committee, thank you for allowing me to speak to you regarding SB 63. The language of this bill-providing tax equity for the support of 9-1-1 services-has been a priority of the Kansas Association of Counties for the past three years.

The extension of the 9-1-1 surcharge to wireless users is a matter of both tax equity and uniformity. It is also a logical funding method for the federal mandatory technological enhancements necessary to provide full service to wireless users.

Counties currently collect a tax on telephone lines used for the financing of operations of the emergency telephone service provided through Emergency Communications. The money collected is used for the purchase and the maintenance of equipment such as radios, telephones and computer aided dispatch systems. Current statutory language allows for the collection of this tax from hard-wired telephone systems ONLY. Wireless users are exempt.

When the current statute was written, there was no way to anticipate the tremendous growth in the mobile or cellular telephone industry. Wireless phones are now a vital part of quick emergency response calls. Many people...myself included...purchase wireless phones to specifically use in case of an emergency. In fact, many phone companies market their wireless products for use in emergencies.

We have proposed distribution of the tax through the user's billing zip code. I understand that there is some opposition to this distribution method. We are willing to work with others on developing a satisfactory fund distribution system.

The Kansas Association of Counties is not requesting a new tax...we are asking that the current tax prescribed by K.S.A. 12-5302, be levied equitably, and those who use and benefit from the 9-1-1 service contribute to the tax used for Emergency Communications.

Thank you for your consideration of this matter. I would be glad to answer any questions.

700 SW Jackson
Suite 805
Topeka KS 66603
785•233•2271
Fax 785•233•4830
email kac@ink.org

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services as well as a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to the KAC by calling (785) 233-2271.

Senate Commerce Committee

Date: 1-27-99

Attachment # 2

Testimony Of:

Undersheriff John Foster
Johnson County Sheriff's Department

Senate Bill 63

January 27, 1999

Madame Chair, Members of the Committee:

My name is John Foster, Undersheriff of the Johnson County Sheriff's Department. I am appearing in support of Senate Bill 63.

The Federal Communications Commission (FCC) issued rules under Order 94-102 which mandates a two phase implementation of wireless telephone Enhanced 9-1-1 (E9-1-1) technology. Phase I requires that wireless telephone carriers must be able to provide Public Safety Answering Points (PSAPs) with a mobile caller's phone number and the location of the cell site transmitting the call by April 1, 1998 or within six months of the PSAP's request. Phase II requires wireless carriers to be able to identify the location of the mobile caller within 125 meters at least 67% of the time by October 1, 2001.

The FCC Order requires certain conditions to be met before a wireless carrier must comply with the provision of Order 94-102. One, the PSAP providing emergency services for an area must request wireless E9-1-1 services. Two, the PSAP must have the ability to receive and use the E9-1-1 information transmitted by the carrier. Three, a cost recovery mechanism must be in place to pay the carriers for costs incurred in providing E9-1-1 services to the PSAPs.

Johnson County and the other seven Kansas and Missouri counties served by the Kansas City area E9-1-1 system have requested E9-1-1 service from all wireless carriers serving that region. The Kansas City Metropolitan area PSAPs will have the ability in the Summer of 1999 to receive and utilize the ten digit phone numbers transmitted from the wireless carriers, but they do not have the cost recovery mechanism needed to pay wireless carriers for their implementation costs.

9-1-1 calls made from wireless telephones in the Johnson County area may comprise up to 40% of all 9-1-1 calls received by PSAPs. Wireless telephone subscribers do not pay the emergency telephone tax for 9-1-1 services and are not paying for the increasing operational costs caused by the proliferation of wireless telephones in our communities.

Due to the diversity of emergency services delivery systems around the state, it would be appropriate to continue the practice of allowing local governments and regional systems to have the ability to determine the method of service delivery as well as the level of

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Attachment # 3-1 thru 3-2

funding needed to implement FCC Order 94-102. The technical approach to providing phone number information on a wireless caller in the Kansas City area E9-1-1 system will differ from the approach taken in other Kansas communities due to the differences in telecommunications infrastructures, PSAP equipment, telephone switches and other components of local telephone systems. Those differences will require different levels of funding in each area to implement the provisions of the FCC Order

We support the extension of the emergency telephone tax currently authorized by KSA 12-5302 for land-line telephones to wireless telephones. We recommend that local governing bodies continue to set the amount of tax and directly receive the collected tax monies, less the administrative fee allowed the carriers. We would oppose the collection and remittance of tax monies by zip code because zip code boundaries overlap municipal and county boundaries. **We would recommend the collection of tax monies from wireless service users located within the jurisdiction of the governing body.**

W. Jack Sanders Justice Center
12400 Foster
Overland Park, Kansas 66213
(913) 895-6000 • Emergency 911

Testimony Of:

Major R. Keith Faddis
Deputy Chief
Overland Park Police

Senate Bill 63

January 27, 1999

Madame Chair, Members of the Committee:

My name is Keith Faddis, Deputy Chief for the Overland Park Police Department. I am appearing in support of Senate Bill 63.

Since 1990 I have been involved in the emergency communications area of law enforcement. I have served on task forces and committees that were involved in delivering 911 service to the citizens of Johnson, Wyandotte and Leavenworth Counties as well as the greater Kansas City area.

During this hearing and consideration of this bill you will hear many statistics, facts and figures related to wireless telephones. You will also hear information about the Federal Communications Commission and various rule makings and dates of implementation. I know what it can be like to be deluged with waves of data. What I would like to do today is to get to the basics of what those of us involved in Public Safety are facing and exactly what all of this means to the citizens.

The 911 emergency telephone is very complicated for the telephone companies but very simple for the customer. When basic 911 first started the telephone number of the caller was displayed at the answering point. If the caller hung up, the dispatcher would call a special number and obtain the name and address associated with that particular telephone number. As Enhanced 911 was installed that information was displayed automatically on a display in the answering point. The dispatcher no longer had to call the telephone company if the caller hung up. Equipment in the answering point was upgraded to capture that information even before the dispatcher answered the phone.

What did this mean to the caller? If for some reason the call was disconnected help could still be on the way. In medical cases when the caller cannot speak or disturbances

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when the phone is torn out of the wall or burglaries when the caller is too frightened to speak the dispatchers know where to send the assistance.

How does that relate to wireless calls and the reason we are here today? As of this minute, a wireless call to 911 is like going backwards to before basic 911 service. None of the information that we normally receive for a wire line 911 call is displayed in the answering point. No phone number, no name and no address of the person making the call. Certain information appears on the display but it is of no use to emergency responders.

I know I said that I would not deluge you with numbers but there is one exception. In Overland Park nearly 40 percent of the 911 calls coming into our communications center are made from wireless phones. Four out of ten callers are using wireless phones. That is, 4 out of 10 citizens who receive a lower level of service because of the type of phone they use. Public Safety wants to provide the same level of service to anyone who calls 911. That is why we have TDD equipment in our centers. That is why we upgraded equipment to capture those calls when someone hangs up or is disconnected.

That is why we are here today. In Johnson, Wyandotte and Leavenworth counties we have asked the wireless service providers for E911 service. Efforts are underway for the Public Safety Answering Points to receive the telephone number of the wireless caller. That is the first step according to FCC Order 94-102. The second step is to have a cost recovery system in place to pay the wireless carriers for the cost of implementation. Current law applies the 911 tax only to wire line service. There will be costs involved in implementing FCC order 94-102. Both the answering points and the wireless service providers will incur costs to improve the level of 911 service to the wireless callers. Many wireless customers bought the phone for the security it provided by allowing them to call 911 from anywhere. It is only right the wireless callers contribute to the cost of this service.

In Overland Park, the communications center answers thousands of wireless 911 calls each year. In order that we provide the most efficient and effective service to wireless callers we will need to have the necessary funds. We ask that the emergency telephone tax be extended to the wireless users. We would recommend the collection of tax monies from wireless service users located within the jurisdiction of the governing body.

I will be happy to answer any questions from the Committee.

Dispatcher's Make The Difference

Ford County Communication Center

100 Gunsmoke
Dodge City, Ks 67801

Director Dorothy Faulkner

316-227-4575
Fax 316-227-4655

~~ASSESSMENT & TRANSPORTATION:~~

LADIES AND GENTLEMAN, THANK YOU FOR ALLOWING ME THE OPPORTUNITY TO SPEAK ON THE ISSUE OF TAXATION ON WIRELESS PHONES.

AS THE DIRECTOR OF FORD COUNTY COMMUNICATIONS CENTER IN DODGE CITY. I MUST SHARE WITH YOU SOME OF THE CONCERNS I HAVE WITH WIRELESS PHONES AND THE USE OF 911.

I MUST FIRST TELL YOU THAT I'M A GREAT BELIEVER IN TECHNOLOGICAL CHANGES. I FEEL THE WIRELESS PHONES WILL HELP GET FASTER RESPONSES TO THE EMERGENCIES. THIS IS THE GOOD THING ABOUT THE EXPANSION OF THE WIRELESS PHONE SYSTEMS, HOWEVER THE BOOMING EXPANSION OF WIRELESS SYSTEMS HAS EXCEEDED THE CAPABILITY OF MANY COMMUNICATIONS CENTERS THROUGHOUT THE NATION AND LEFT MANY COMMUNITIES WITH AND INCREASED RESPONSIBILITY AND ASSOCIATED LIABILITY.

AS CALLERS, (USERS) OF WIRELESS PHONES DIAL 911 IT MAY CROSS MANY COUNTIES AND WIND UP BECOMING A MANAGEMENT NIGHTMARE FOR THE COMMUNICATIONS PERSONNEL TO FIND THE APPROPRIATE RESPONSE TO GET THE PROPER HELP TO THE SCENE. DOING THE WRONG THING MAY NOT BE WITHOUT LEGAL IMPLICATIONS. MANAGING THESE CALLS PROPERLY TAKES ADDITIONAL EQUIPMENT AND MONIES, THEREFORE IT IS ONLY FAIR THAT THE COMMUNITIES CAN GET REIMBURSEMENT FROM THE WIRELESS PHONE INDUSTRY TO MANAGE A PROBLEM CREATED BY THEIR EXPANSION.

LIKE THE HARD-WIRED PHONE SYSTEMS, THE TAXATION SHOULD HAVE A LIMIT AND RESTRICTIONS. FOR UTILIZATION, HOWEVER I WOULD LIKE TO SEE THE UTILIZATION OF THIS TAX INCLUDE A STIPULATION THAT ALLOWS FOR TRAINING. AS CHANGE OCCURS IN THE TECHNOLOGY OF WIRELESS SYSTEMS THE MANAGEMENT OF 911 CALLS WILL BECOME MORE DEMANDING, THEREFORE TRAINING WILL NEED TO BE ON-GOING AND A SOURCE OF FUNDING WILL NEED TO APPROPRIATED.

THANK YOU FOR YOUR CONSIDERATION IN THIS MOST URGENT MATTER.

SINCERELY,

DOROTHY FAULKNER
COMMUNICATIONS DIRECTOR, FORD COUNTY
100 GUNSMOKE AVE.
DODGE CITY, KS. 67801

Senate Commerce Committee

Date: 1-27-99

Attachment # 5-1 thru 5-2

Dispatcher's Make The Difference

Ford County Communication Center

100 Gunsmoke
Dodge City, Ks 67801

Director Dorothy Faulkner

516-227-4575
Fax 516-227-4655

JANUARY 25, 1999

ASSEMENT AND TAXATION COMMITTEE

We, the County Commissioners, representing the county of Ford, do hereby wish to express our support of SB 6863.

These proposals will allow for the taxation of wireless, and mobile phones for 911 calls similar to the taxation of hard-wired phone systems. With these proposals the use of the taxation can be used by the local PSAF's, those answering centers that have to deal with the calls for services anyway, regardless of the answering point. We feel these proposals need your support in order for the local 911 centers to expand to meet the needs of the communication network that is changing daily.

Sincerely,

Ford County Commissioners

Don W. Wiles, Don Wiles, CHAIRPERSON

B.A. Leonard, B.A. Leonard

Ed Molitor, Ed Molitor



**SEDGWICK COUNTY , KANSAS
DEPARTMENT OF
EMERGENCY COMMUNICATIONS**

Diane M. Gage, Director
525 N Main Ste-B-6
Wichita, KS 67203-3707
(316) 383-7077
(316) 383-8060 (FAX)

**TESTIMONY TO THE SENATE COMMITTEE ON
ASSESSMENT AND TAXATION
REGARDING SENATE BILL No. 63
January 27, 1999**

Chairman Langworthy and members of the Senate Committee on Assessment and Taxation , I am Diane Gage, Director of Sedgwick County Emergency Communications, Sedgwick County's "911" department. Sedgwick County Emergency Communications supports Senate Bill 63, to expand the current emergency telephone tax to include wireless telephones.

Access to emergency services through the use of "911" was activated in Sedgwick County on February 1, 1980, since which time, the emergency telephone tax has been collected from both business and residential hardwire telephone subscribers. At that time, wireless subscribers were very rare, but in recent years they have become a significant user of "911" services.

In 1994, Sedgwick County processed 24,111 wireless "911" calls or 6.7 % of the total "911" calls, by 1998 this had increased to 95,326 wireless "911" calls or 23.2% of the total "911" calls. (see attachment) The growth of wireless phones has been phenomenal. It is estimated there is one wireless phone for every four residential lines. Using this figure, there would be close to 50,000 wireless telephones in Sedgwick County alone. Yet, none of these access lines financially support the "911" system, this falls entirely on the users of hardwired telephones.

Wireless users receive a tremendous benefit by having access through "911" for emergency services. As an example, in March 1998, a young couple was driving through the western part of Wichita. The wife suddenly felt faint and passed out. Her husband recognized she wasn't breathing, called "911" from his wireless telephone. Emergency crews were started to his location and the dispatcher instructed him on CPR. The woman had been in full cardiac arrest. Between the efforts of the husband, dispatcher and emergency crews, she was revived and is anticipated to lead a full life. If her husband had not had a wireless telephone and was forced to look for either a telephone or help, she more than likely would not be with us today.

Should the emergency tax be updated to include wireless telephones, the funding mechanism would be in place to enable communications centers to install the infrastructure needed to receive the ANI (Automatic Number Information) on wireless calls in the immediate future under the FCC Phase I Wireless Implementation. The funding would also be in place for Phase II, which goes in effect in October 2001, where the communications center can receive the location of the wireless caller within 125 meters.

Senate Commerce Committee

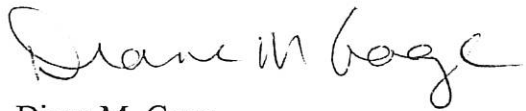
Date: 1-27-99

Attachment # 6-1 thru 6-3

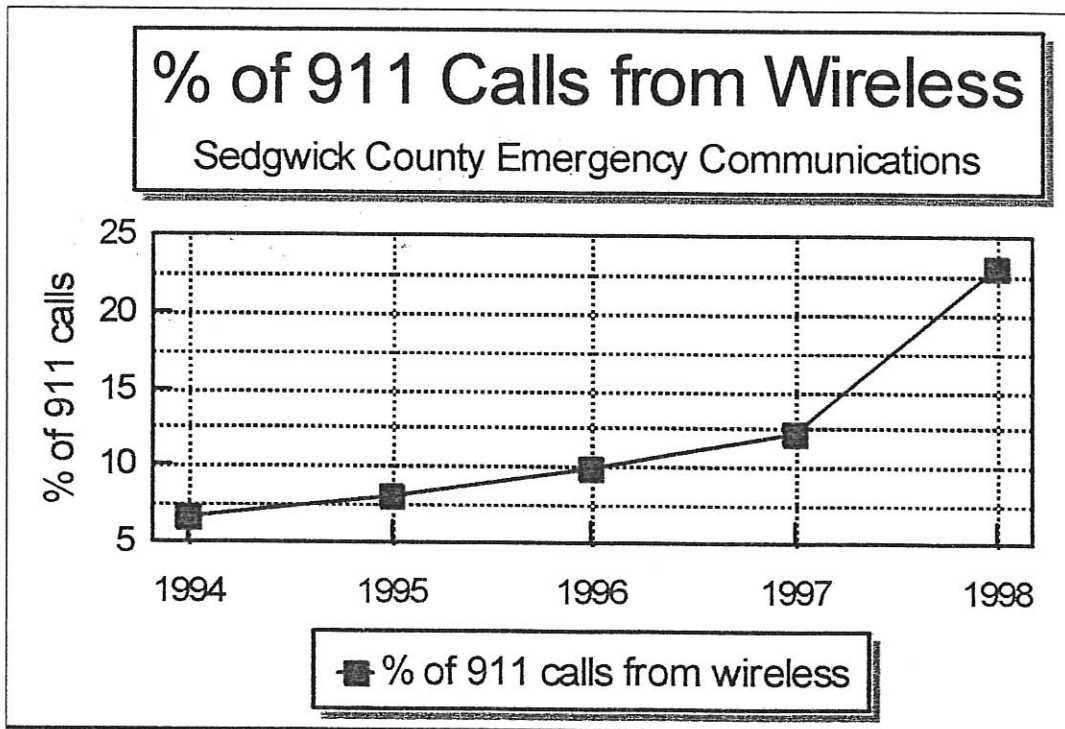
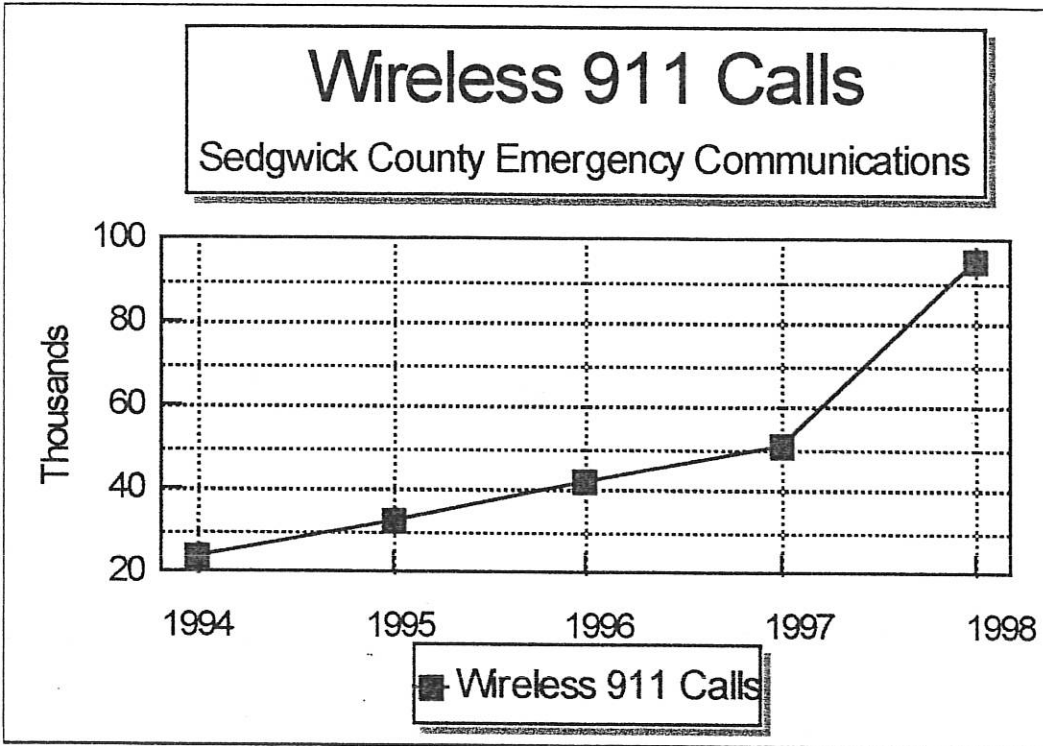
This is a benefit to wireless users, especially since there is a growing trend to replace residential hardwired telephones with wireless. On New Year's Eve, we received a wireless call from inside a residence. The caller was being assaulted and was unable to provide her location before the phone was cut off. Fortunately, she was able to call us back with further information on her location. Otherwise, we had no way to either call her back or respond emergency services to her.

Senate Bill 63 will not only provide tax equity for all users of telephone systems, but will provide a means for communications centers to improve the services provided to wireless subscribers. Thank you for your time and consideration, I would be glad to answer any questions.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diane M. Gage".

Diane M. Gage
Director, Sedgwick County
Emergency Communications





Hays Police Department

105 West 12th St.
HAYS, KANSAS 67601-3648

Lawrence Younger
Chief of Police
Phone (785) 625-1030

James R. Purdy, Support Services Captain
Hays Police Department
Ellis County 9-1-1
105 W 12th
Hays, Kansas 67601-3648
785-625-1030
785-625-1077 (fax)

Ever since the concept of a 3 digit emergency phone number was first initiated for wire line phones in 1937 in Europe it has continued to grow.

Congressional personnel traveled to Europe in 1957 and came back with the idea of a 3 digit emergency number for the United States. In 1967, President Johnson's commission on Law Enforcement as well as the Administration of Justice voted to establish a single nationwide 3-digit number.

In 1968, AT & T, Southwestern Bell and other large telephone companies came up with the idea of 9-1-1 for an easy to remember 3 digit emergency number. AT & T then allocated \$ 50 million dollars to upgrading their central offices to handle the 3 digit number. With that, 9-1-1 was born in America. In 1973 President Nixon issued a national policy endorsing 9-1-1 on a nationwide basis, He did not, however, allocate any funds for this project.

What started as a simple 3 digit number for people to call in emergencies is now a 3 digit number that provides 9-1-1 centers with the name, address, phone number and responsible emergency agencies. The exception to this is wireless phones calling 9-1-1. Caller ID on digital cellular phones and PCS phones is now a standard feature of the receiving phone. Why should 9-1-1 be any different?

Though the Federal Communications Commission has mandated that the calling wireless phone send its 10 digit phone number and eventually send a signal that the phone can be located within 385 meters, that is something that numerous agencies cannot afford to upgrade to at this time. The FCC mandate stated that "A cost recovery mechanism must be in place for these to take effect". Many agencies are facing the fact that the 9-1-1 equipment they currently have is out of date, is no longer being made or is not Year 2000 compatible.



Senate Commerce Committee

Date 1-27-99

Attachment # 17-1 thru 7-5

On any 9-1-1 call time is of the essence. Fires can double every 17 seconds; in certain circumstances a person can bleed to death in 4 seconds; lack of oxygen to the brain for 4 minutes can lead to irreversible brain damage; most intruders commit their crimes in under 5 minutes.

Having reliable equipment to handle these types of calls is an absolute must. A surcharge on ALL telephones, whether wireline or wireless, is the only viable option for 9-1-1 centers to maintain effective and efficient operations.

The value of 9-1-1 is immense and cannot be short changed. The cost of installing and maintaining a 9-1-1 system is also immense and must not be shortchanged, either now or in the future. The biggest draw back to these systems is the cost to install and maintain their operations.

The state of Kansas initiated the 9-1-1 tax as a venue for entities to install and maintain their 9-1-1 systems to their optimum efficiency. At the time the 9-1-1 tax was initiated, wireless was not a factor at all and wireline phones paid the bill for this 3-digit feature. Since that time wireless phones have become a major venture for business and as well as a major factor in the day to day operations of 9-1-1 centers while wireline customers continue to pay for their 9-1-1 service. According to the wireless telephone industry, wireless phones are increasing at a rate of one every 28 seconds, 24 hours a day.

In Ellis County, in 1991, Cellular One had the only cellular tower. Since that time, Kansas Cellular has installed 3 towers, and then initiated 9-1-1 capabilities on December 23, 1995. As to how many cellular phones are in actual operation today is anyone's guess. I do know that Kansas Cellular has in excess of 125,000 phones currently operating on their system today. The one irrefutable fact is the affect wireless phones are having on our 9-1-1 system. When we started tracking wireless 9-1-1 calls in 1994, approximately 5.8 % of our 9-1-1 calls were from wireless phones. Today it is in excess of 30 % (attached is a graph that shows the increase of 9-1-1 wireless phone calls in Ellis County). This equates to a 517 % increase in wireless 9-1-1 calls in 5 years. I am sure that all other 9-1-1 agencies within the state have shown the same increase.

Arguments have been made that adding a further tax on wireless phones will cause people to either drop their service or re consider obtaining the service. I do not see what if any the effect of adding the Kansas Universal Service Fund (KUSA) or the Federal Universal Service Fund (FUSA) added to ALL wireline and wireless telephones has had on their sales of wireless phones. This tax then goes back to the wireline companies so they may install more phone lines. What we are asking for is a "cost recovery mechanism" per phone/per month to maintain what we have (and hopefully improve).

Cellular companies tout that you can make a FREE 9-1-1 call. I submit that though the user pays nothing to make that call, it is far from being free. In Ellis

County alone, it costs us in excess of \$ 3,000.00 per month to maintain the equipment that we have and that does not take into account any costs for the personnel who operate the system. These are ongoing monthly costs for equipment lease, equipment maintenance and data base access. Add into this that we have to pay long distance charges on any 9-1-1 call we transfer outside of Hays and the cost increases even more. At this time 38 % of the wireless calls we receive are placed from outside of Ellis County yet received by us and must be dealt with in a timely and efficient manner. We depend on the 9-1-1-user tax to pay for and upgrade the equipment that we have. The more it is used, the faster it will need to be replaced.

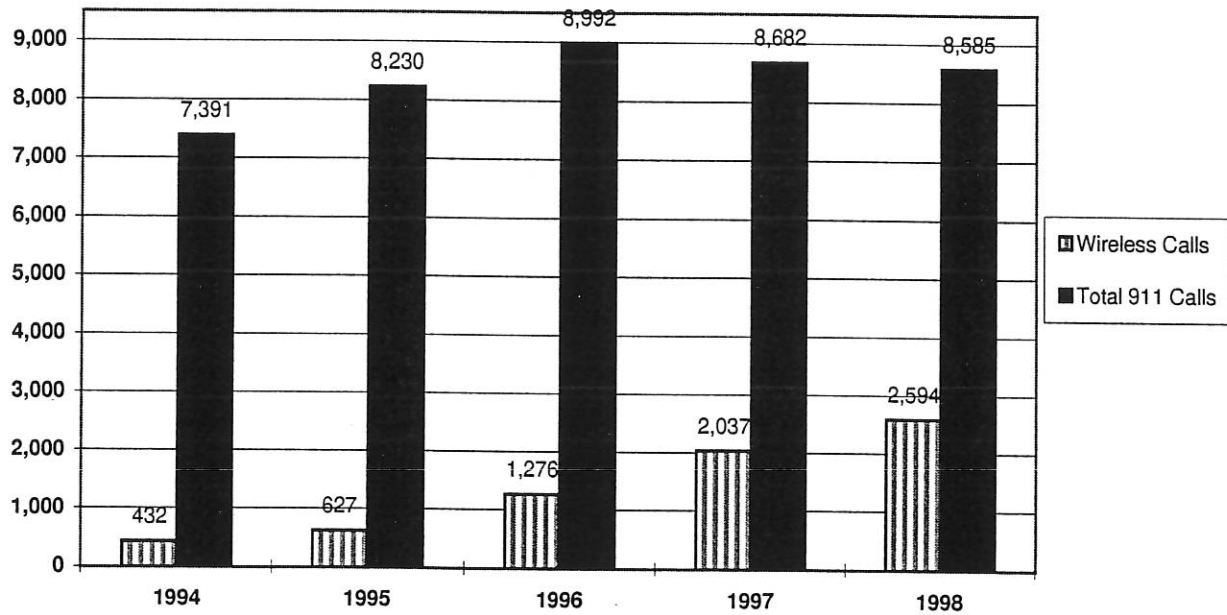
A phone is a phone with the only difference being its operation; however, the end result should be the same when 9-1-1 is called. This cost for 9-1-1 must be born by someone and governmental entities that are up against the state mandated tax lid are the hardest to be hit by any increase and the least able to afford any changes. Treating wireless phones the same as wireline phones is the only viable option.

Other countries feel that having a nationwide emergency number is so important that the cost to the end user is FREE. Iceland is an example of this. All infrastructure costs, maintenance costs, operating costs and personnel costs are paid for IN FULL by private enterprise. The cost to the government or the public is zero. What we are asking for here today is the capability to continue to provide a very valuable service, to whomever needs it, for a negligible cost

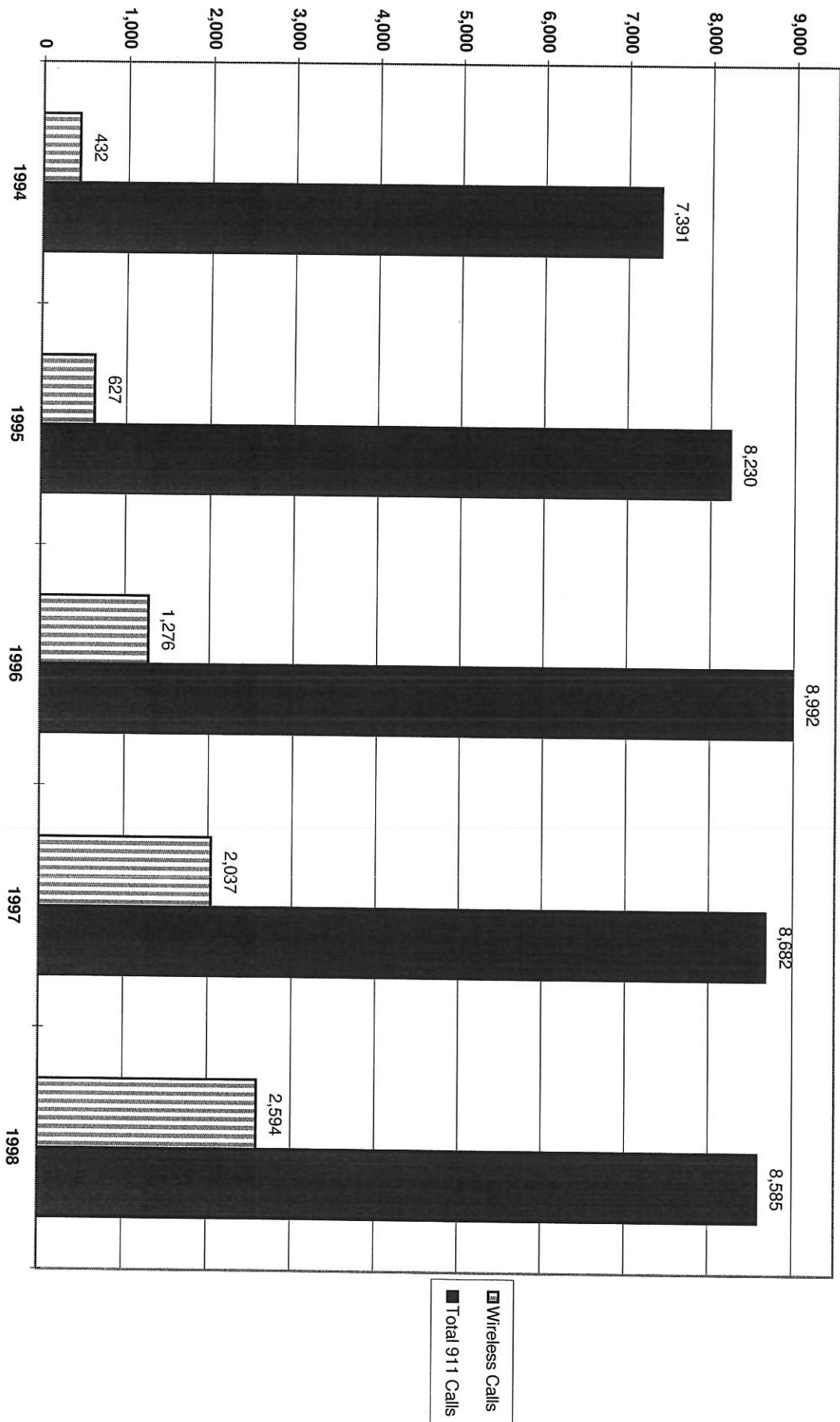
911 Wireless Call Averages Ellis County Kansas

	Wireless Calls	Total 911 Calls	Percentage of Wireless to total 911 calls
1994	432	7,391	5.84%
1995	627	8,230	7.62%
1996	1,276	8,992	14.19%
1997	2,037	8,682	23.46%
1998	2,594	8,585	30.22%

Ellis County Kansas



Ellis County Kansas



**TESTIMONY TO THE SENATE ASSESSMENT AND TAXATION COMMITTEE
REGARDING SENATE BILL No. 63
JANUARY 27, 1999**

Chair ~~Langworthy~~ and members of the Senate ~~Committee on Assessment and Taxation~~, I am Sedgwick County Commissioner Betsy Gwin. Thank you for the opportunity to appear before you today.

Sedgwick County wholeheartedly supports Senate Bill 63 that extends the current emergency telephone tax to include wireless telephones. Last year, the state of Georgia enacted similar legislation, both to ease the burden on wired telephone users and to generate more revenue to enhance 911 equipment.

Vendors market wireless telephones for convenience, enabling the users to stay in contact with business associates and friends, and, more important, to reach 911 in case of an emergency. In my county, 25% of all 911 calls are made from wireless phones. In 1998, that was more than 95,000 calls. Yet, under the current law, only wired telephones pay to support this emergency telephone service.

Presently, emergency dispatchers do not receive any information on a wireless caller's location or telephone number. They need to know the telephone number, in case they're disconnected, and the approximate location so they can dispatch emergency equipment as they do for wired phone calls. However, funding is necessary to provide these upgrades. By passing this bill, wireless phones would be paying for the services they currently receive and for improvements of their 911 services.

Please remember. Senate Bill 63 does NOT create a new tax. This bill extends an existing tax to a new technology. It creates an equitable system to pay for our 911 services - so vital to each and every one of us.

Respectfully submitted,



Betsy Gwin
Commissioner - First District

Senate Commerce Committee

Date: 1-27-99

Attachment # 8



Box 441
Clay Center, Kansas 67432

(785) 632-2166 • FAX (785) 632-6050
HTTP://WWW.KEMSA.ORG

To: Kansas Legislature, Committee of Assessment and Taxation
From: Jason White, Kansas Emergency Medical Services Association
RE: Senate Bill 63
Date: January 26, 1999

The Kansas Emergency Medical Services Association (KEMSA) supports the passage of SB 63.

KEMSA represents many of the paramedics, Emergency Medical Technicians, educators and administrators that serve the citizens and visitors of Kansas by providing critical emergency medical services.

KEMSA recognizes the importance of having a technologically up-to-date emergency phone system. This is only possible when adequate funds are available.

Presently the cellular phone owners in Kansas do not support the 9-1-1 (or emergency phone) system with their tax dollars. SB 63 will correct this issue and thus provide needed funds to support the emergency phone system.

KEMSA believes that SB 63 is fair to distribute the monies based on the zip code of the service user. This process will assure that the tax monies will be distributed to the areas where the phone is typically used and not where it may be registered.

KEMSA supports the passage of SB 63.

Senate Commerce Committee

"UNITY IS STRENGTH"

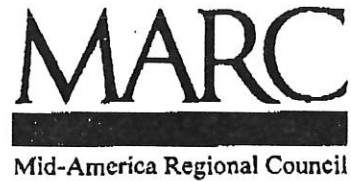
Date: 1-27-99

Attachment #

9

300 Rivergate Center
600 Broadway
Kansas City, Missouri 64105-1554

816/474-4240
816/421-7758 FAX
E-mail: MARC@marc.org



January 26, 1999

Honorable Alicia L. Salisbury
State Senator
Chairman, Senate Commerce Committee
Members, Senate Commerce Committee
State Capitol
Topeka, Kansas 66612
785/296-6718

Dear Senator Salisbury and Members of the Senate Commerce Committee,

The Mid-America Regional Council, an association of city and county governments serving the bistate Kansas City metropolitan area, encourages your **support of S.B. 63** regarding local surcharges on wireless communications services. MARC coordinates the regional 9-1-1 system serving the eight-county Kansas City region, including Johnson, Leavenworth and Wyandotte counties in Kansas.

Our residents are highly supportive of the regional 9-1-1 system, and depend upon it to connect them to vital police, fire and emergency medical services. Currently, only land-line telephone customers contribute to the maintenance and operation of the 9-1-1 system, although a growing proportion of calls come from wireless phones. In fact, the public safety answer points estimate that as much as one-third of all 9-1-1 calls in our region come from wireless phones. And this percentage is growing daily.

We appreciate your consideration of this important bill, and again, urge your support for the passage of S.B. 63.

Sincerely,

Marlene Nagel
Community Development Director

Chair T.A. Stolfus, D.V.M. Mayor Bonner Springs, KS	1st Vice Chair Betty Knight Presiding Commissioner Platte County, MO	2nd Vice Chair Annabeth Surbaugh Commissioner Johnson County, KS	Secretary Irene B. French Mayor Merriam, KS	Treasurer George D. Blackwood, Jr. Mayor Pro Tem Kansas City, MO	David A. Warm Executive Director
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PRINTED ON RECYCLED PAPER

Senate Commerce Committee

Date: 1-27-99

Attachment # 10

Testimony of Chief Dean Forster, City of Topeka, Kansas Police Department.

Senate Bill #63 relating to emergency telephone services and the financing thereof.

Before the Senate Commerce Committee, The Honorable Alicia Salisbury, Chair.
January 27, 1999.

The Topeka Police Department is a member agency of the Shawnee County Emergency Communications Center (CECC). CECC is responsible for the receiving and dispatching of all calls for service, including 911 emergency calls, for all public safety agencies in Shawnee County.

CECC was a monumental task to organize and now operate. From the beginning, it was intended that the equipment necessary to operate CECC was to be funded via a special 911 tax on telephone service.

The current 911 tax revenue received by Shawnee County has fallen short and will continue to fall short of the equipment operating costs of CECC. Estimates are the 911 revenues will fall approx. \$10,000.00 short of operating costs. The only available funding to overcome the shortages in CECC, considering Shawnee County's current tax position, would be an increase in the 911 tax or a broader base for the 911 tax. The 911 Tax in Shawnee is, I believe, currently at the maximum allowed.

Under current law, owners of wireless service, or cellular phones, are exempted from the 911 tax. Wireless service users represent a practical and available source for the 911 tax assessment.

As a Chief of Police, I see the costs of providing public safety increasing each year. With new installation costs, repair costs, termination dates of warranties and increasing numbers of personnel requiring additional equipment, the increasing costs of the operation of CECC will continue to rise. Lack of available funding will seriously jeopardize the ability of CECC to properly and efficiently receive and dispatch the public's calls for service to the proper public safety agency whether it be police or fire.

Topeka and Shawnee County currently receive close to 80,000 911 calls per year. Of this number, approx 20% of the 911 calls are received via cellular telephones. This will only continue to increase as cellular telephones become more and more available to the average citizen.

If a citizens adds an additional telephone in their home, they are subject to the 911 tax but not if they purchase a cellular phone.

As a citizen, and owner of cellular phones, I understand the desire not to remove the exemption from the 911 tax for wireless services users, but as a Chief of Police and a member of the management board of CECC, I fully understand the funding crisis that will only continue to increase and the concern it creates regarding communications among public safety agencies.

I am here to ask you to consider the alternatives available and the interests of public safety providers and remove the exemption from the 911 tax currently given to wireless service users.

Senate Commerce Committee

Date: 1-27-99

Attachment # 11

TESTIMONY ON BEHALF OF

LIBERTY CELLULAR, INC.

SENATE COMMERCE COMMITTEE

JAY SCOTT EMLER

JANUARY 27, 1999

Chairman Salisbury, members of the Committee, thank you for the opportunity to appear before you today. My name is Jay Scott Emler. I am General Counsel for Liberty Cellular, Inc. which does business as **Kansas Cellular**. I will try to briefly explain the history of cellular 9-1-1 service in the rural areas and how it is currently handled.

I. History

A. Liberty Cellular, Inc. ("Liberty")

1. Kansas corporation organized and owned by 25 Kansas independent local exchange companies.
2. There are retail centers in Emporia, Garden City, Great Bend, Hutchinson, Junction City, Manhattan, Ottawa, Pittsburg, Salina, and Winfield.
3. There are currently 335 employees around Kansas.
4. Liberty began providing cellular service on July 11, 1990 from a cell located just outside McPherson.
5. Liberty currently operates 135 sites throughout the state of Kansas.
6. All cell sites are located in what the Federal Communications Commission calls Rural Service Areas (RSAs).
7. Liberty covers approximately 90% of the state of Kansas.

B. 9-1-1 Service for Cellular

1. Beginning in April 1990, **Kansas Cellular** began contacting various emergency answering points so that a system to answer cellular 9-1-1 calls would be in place when the first tower was turned on.
2. It should be noted that contact was made with local police departments, sheriff departments and Public Safety Answering Points (PSAPs).
3. Approximately 30 offices were contacted with a request to accept cellular 9-1-1 calls.
4. Only two agencies were willing to accept calls originating on the **Kansas Cellular** system, Salina and Great Bend.
5. Other agencies indicated they would accept calls from the **Kansas Cellular** system, but only for their individual jurisdictions. This was then and is currently technologically not possible.
6. As the subscriber base increased, customers continued to attempt to make "Good Samaritan" calls, frequently to no avail, and were very concerned that Kansas did not provide a cellular 9-1-1 service.
7. **Kansas Cellular** customer service representatives were relaying calls to the appropriate answering point. This was not required, nor was that service available 24 hours a day. I am certain you can imagine the potential liability, which **Kansas Cellular** voluntarily faced.
8. Since, in the RSAs, the majority of cellular traffic is from vehicles, **Kansas Cellular** elected to approach the Kansas Highway Patrol to assist in answering 9-1-1 calls. That was the proposal which was contained in Senate Bill 645 in 1994.

9. The costs associated with the cellular 9-1-1 calls, such as long distance charges and airtime charges, were and still are completely absorbed by **Kansas Cellular**. Calls to the Kansas Turnpike Authority, the Kansas Highway Patrol, or the designated answering points, are free to users of the **Kansas Cellular** system.
10. There are still counties that do not provide landline 9-1-1 service and there are still counties which do not want to provide service to cellular users. Based upon the compromise legislation that was passed in 1994, however, every county in which a tower is located must make arrangements to have an answering point for such calls.

C. 1994 Legislative Efforts

1. Senate Bill 688:

- a. Placed a charge on cellular users equal to that imposed on landline customers on a county by county basis;
- b. Provided for 9-1-1 service on a county by county basis so that a cellular user would never have known whether that service was available in a particular location; and
- c. Mandated cellular carriers provide 9-1-1 service, but permitted the PSAPs to refuse to accept cellular calls.

2. Senate Bill 645:

- a. Placed a \$.30 per month charge on all wireless users;
- b. Guaranteed 9-1-1 availability statewide; and
- c. Provided for centralized or regionalized answering points for consistency throughout Kansas. Those answering point would have been with the Kansas Highway Patrol.

3. The cellular industry and the Kansas 9-1-1 Providers Group testified repeatedly late into the session.

4. Finally, based upon the testimony of the Kansas 9-1-1 Providers Group that there really was no need for additional funding and that all they really wanted was to assure any 9-1-1 calls would be transmitted to their individual facilities, a compromise bill was passed. That legislation required the cellular industry to make 9-1-1 available to its customers and required counties designate to which answering point the cellular providers in the area would deliver the calls. Additionally, the legislation provided that there would be no assessment against cellular users.
(HB 3055)

II. Current Problems

- A. Where is the call originating?
 1. Each cell in the RSAs can cover an area between 20 and 40 miles in radius.
 2. Coverage is designed to be ubiquitous.
 3. Topographical and atmospheric conditions influence which cell site will pick up a call at any given point in time.
- B. There is a substantial likelihood that a call will have to be relayed to another county or jurisdiction when it is answered.
- C. **Kansas Cellular** averages approximately 8125 minutes of "emergency" calls per month statewide. These minutes include all calls to the designated answering points. The average per day, therefore, is 270.8 minutes spread over 96 counties. Divide that number by 135 towers and the average number of minutes per day per tower is 2.00.
- D. Let me now give you one more interesting statistic about the "volume" of calls. In the last nineteen (19) months, 31% of the minutes I just gave you were generated by individuals associated with law enforcement and public safety. That changes the

minutes of legitimate calls to **5606**, the average minutes per day to **186.87**, and the average minutes per day per tower to **1.38**. Interestingly, that number was **1.391** in November, 1997. So, even though **Kansas Cellular** increased its subscriber base by more than twenty thousand subscribers, the average minutes of 9-1-1 calls per day per tower **went down**.

- E. In calculating the forgoing numbers, I have only used those minutes that I can specifically trace to a particular service. In one instance, I found a customer that had almost 200 minutes of calls to 9-1-1 **per month**. Since I am not certain that customer is with a public safety organization, I **did not include** those minutes in my calculations. I have to ask, however, "What private citizen, no matter how much of a 'Good Samaritan' he or she may be, has 200 minutes of talking to a 9-1-1 provider?"

III. Legislative Request

This Legislature listened to the conferees in 1994, accepted their testimony, and ratified the agreement that was reached among those conferees. That is the legislation that was embodied in HB 3055 in 1994. For the last three years, representatives of some of the answering points have tried to breach the agreement that was reached with the wireless industry, and ratified by the Legislature, by requesting the changes that this Committee is considering today. **Kansas Cellular** has kept its side of the agreement by providing 9-1-1 service to the state of Kansas at no charge to the public answering points or to its customer.

It is interesting to note that the legislation before you has been requested by some of the same agencies that are responsible for allowing **Kansas Cellular** to be defrauded of revenue by the very people who are charged with monitoring the public welfare and preventing such crimes as theft of services.

Kansas Cellular believes that there is a basic question that must be answered, " For what purpose is the public suffering another tax?" The answer certainly is not that it is necessary. The volume is not even as great as it was in 1997. This is a tax for the sake of taxing, not for the benefit of the public.

Kansas Cellular respectfully requests that this Committee take no action on the proposed legislation as it is only designed to place further tax burdens on Good Samaritans and the public at large.

Thank you for your time and attention. I will be happy to answer any questions you may have.

Madam Chair and members of the committee, my name is Beth Canuteson and I am here today representing Sprint PCS. Sprint PCS is a national wireless telecommunications company currently offering digital communication service in over 260 cities throughout the United States including Kansas City, Topeka, Lawrence and Wichita. I would like to thank you for this opportunity to discuss 911 from a wireless perspective.

As you know, since 1968, 911 has served as the universal emergency assistance number for public use throughout the United States. Basic 911 service connects emergency callers with a Public Safety Answering Point (PSAP) which in turn dispatches the appropriate emergency personnel.

Sprint PCS is committed to assisting you in the development of an even better 911 system for your constituents who are also our wireless customers. The spread of wireless services in Kansas, to a mobile public, has enhanced the ability of the public to contact public safety officials in a more timely fashion thereby improving the 911 system in place today. Sprint PCS is proud to provide this newer part of Kansas's 911 system.

CURRENT SITUATION

National studies have shown that a majority of wireless owners cite safety issues as the primary reason for owning their handset. Sprint PCS is well aware that, of all the benefits provided by wireless services, personal security and the ability to receive emergency assistance are two of the most important to our customers.

Understanding our responsibility in this process, we contacted a spokesperson for the Counties upon hearing of this proposal. We sent copies of wireless E911 bills that recently became law in IA and MO which the wireless industry supported and sought further input in the drafting of SB 63. To my knowledge, no one from the Association of Counties contacted a member of the wireless industry to seek our input on this legislation, even though three companies, including Sprint PCS, testified on the issue in November of 1997 before the Joint Committee on Economic Development.

KS currently has 105 counties. I am unsure of the number of PSAPs in the state, however, I would like to point to a Texas State Auditor's report which cites numerous situations where efficiencies could be obtained through consolidation. An estimated 31% of all 911 revenues (\$29.2 million) could be saved annually according to the audit. In Texas:

- 54% of Answering Points reported less than 10 emergency calls per day
- Only 3% of Answering Points reported more than 100 calls per day
- There were duplicative administrative costs of \$4.9 million due to overlaps between regional and local entities.

I bring this study to your attention because the proposed legislation before you is nothing but a tax on wireless customers with no benefits to Kansas citizens. Additional funding should not be approved without a thorough review of the current system.

Senate Commerce Committee

Date: 1-27-99

Attachment # ~~10~~ 1 thru ~~13~~ 4

The wireless industry currently provides basic 911, or a link to a PSAP, to our customers free of charge. If you make a 911 call on the Sprint PCS network, it will not even show up on your bill. Minutes of use, roaming or long-distance fees are not charged. Further, Sprint PCS eats the interconnection fee charged by the landline phone company. We believe we should encourage appropriate use of the 911 system.

Unlike basic 911, enhanced, or E911 wireline, systems automatically provide PSAPs with the street address of the caller as well as the caller's telephone number. These services are known as Automatic Location Identification (ALI) and Automatic Number Identification (ANI). ANI and ALI enable a PSAP to send help quickly even if the caller does not know his or her exact location or is disoriented. This system also allows a PSAP to call the individual back if the call is terminated.

The mobile nature of wireless telephones requires further development of E911 services. ALI transmission provides a challenge because a wireless phone is mobile and the location of the handset can not easily be associated with a specific street address. Moreover, the wireless phone operates through a radio broadcast which does not lend itself to easy location identification. ANI is difficult to provide because wireless callers could be roaming from a different area code and the 911 system may not be capable of transmitting the area code and phone number of a subscriber. Because most 911 systems are not currently capable of passing 10 digits of information to the PSAP, the area code can not be provided.

Wireless phones are used every day for life saving communication and are often the only means of contact available, thus the need for additional development of the 911 system is apparent. National studies have shown more than 90% of the 50,000 wireless 911 calls made each day are made by highway travelers, many of whom can not effectively describe their location.

THE FCC ORDER

Because not everyone is aware of the action taken by the Federal Communication Commission (FCC) concerning this issue, I would like to take a moment to briefly describe the FCC's mandate.

In an attempt to address the concerns related to wireless E911, the FCC issued an order (FCC 94-102) on July 26, 1996, which mandates a two phase implementation of wireless E911 technology. Phase I requires that wireless carriers must be able to provide PSAPs, requesting wireless E911 service, with a caller's telephone number and the location of the cell site transmitting the call by April 1, 1998 or within six months of the PSAP's request, whichever is later. However wireless carriers are required to provide this service only if: a) a cost recovery mechanism is in place; b) a PSAP has made a formal request for such services; and c) the PSAP is capable of receiving and utilizing the data elements associated with the services.

Phase II requires that carriers be able to identify the location of a caller within 125 meters at least 67% of the time by October 1, 2001. Currently it is uncertain which technologies for Phase II will exist at a level that will meet the statistical requirements of the FCC order.

I want to be clear: Sprint PCS supports the development and implementation of wireless E911. However the development of this system will provide a great challenge to all involved, both in its design and deployment. Technology exists today to provide Phase I, although modifications and improvements to the current system will be required. Sprint PCS is committed to partnering in this process.

Let me reiterate that the FCC order only imposes an obligation on wireless providers to implement enhanced 911 services where an appropriate cost recovery mechanism is in place, the PSAP within any given jurisdiction have formally requested such service, and the PSAP has the capability to receive and utilize the information transmitted. As policy makers, you must decide how best to fund the development of wireless E911 services. If you create a statewide wireless E911 fund, it should be used only to pay the costs associated with the implementation of the FCC's Order.

WHERE DO WE GO FROM HERE ?

Sprint PCS recommends that you do not advance SB 63 this year, but instead take the opportunity to further understand the implications of the FCC Order on wireless E911 and determine if there is an opportunity for greater efficiency in the current system. Madam Chair and members of the committee thank you for the opportunity to discuss this important aspect of public safety. We look forward to working with you and the organizations represented here today to create an even more reliable and dependable E911 system for your constituents and our wireless customers. I would be happy to answer any questions you may have.

Kansas Wireless Carriers*

SB 63 Position Paper

The Kansas Wireless Carriers oppose Senate Bill 63.

This legislation would implement an additional \$.75 fee on each wireless customers without providing enhanced services to Kansas citizens.

- In contrast to most landline calls to 911 are typically "Good Samaritan" calls to aid a stranger - wireless customers shouldn't be taxed for helping others.
- Our customers already pay 911 surcharges on their service at home and at the office.
- Wireless companies voluntarily make 911 calls over wireless networks free of charge in spite of the fact that wireless companies still pay the landline company for terminating 911 calls.

Senate Bill 63 does nothing to address the FCC's 1996 order on wireless enhanced 911.

- In an attempt to address the concerns related to wireless E911, the FCC issued an order (FCC 94-102) on July 26, 1996, which mandates a two phase implementation of wireless E911 technology. Phase I requires that wireless carriers must be able to provide PSAPs, requesting wireless E911 service, with a caller's telephone number and the location of the cell site transmitting the call by April 1, 1998 or within six months of the PSAP's request, whichever is later. However wireless carriers are required to provide this service only if:
 - a) a cost recovery mechanism is in place;
 - b) a PSAP has made a formal request for such services; and
 - c) the PSAP is capable of receiving and utilizing the data elements associated with the services.
- A thorough review of the existing 911 service should be conducted to identify opportunities to improve the efficiency and cost effectiveness of the program today, e.g. a Texas State Auditor's report cites many situations where efficiencies could be obtained through consolidation and estimated 31% of all 911 revenues (\$29.2 million) could be saved annually. Similar savings may be achievable in Kansas.

* Aerial Communications, AirTouch Communications, CMT Partners (dba Cellular One), Sprint PCS, US Cellular, Western Wireless



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Legislative Testimony

To: Senate Commerce Committee

From: Larry Kleeman, Assistant General Counsel

Date: January 27, 1999

Re: League Support of SB 63

Thank you for allowing the League to appear today in support of SB 63. The League represents 527 of the 628 cities in Kansas, and we believe this bill helps make all Kansans safer by helping to fund 911 systems, and -- more importantly -- fairly distributes the responsibility of financially supporting such emergency communication systems.

The benefits of a 911 emergency communications system are not in dispute today. Countless lives and property have been saved due to the ease, simplicity, and speed of picking up the phone and being able to dial 9-1-1. The League continues to encourage cities and counties to establish 911 systems where it is technically and financially feasible to do so. Removing the cellular phone exemption from the 911 tax would help to make 911 systems even more feasible for cities and counties. The money from the tax is used by local governments to purchase, upgrade, and maintain their computers, phones, and other equipment needed in emergency situations.

The most significant aspect of this bill, however, is that it finally provides fairness in taxation. Currently, cell phone users are exempt from paying the emergency 911 tax. This may have been a legitimate exception when cell phones were rare and perhaps not able to utilize 911 services. But, today cell phones are becoming commonplace. Here, in the Statehouse, it's probably harder to find someone who doesn't own one. And many people I know find that using a cell phone is even cheaper than using a hard-wired phone and paying land-line long-distance charges.

Simple fairness seems to dictate that cellular phones should not be exempt from the same tax that would be imposed on hard-wired telephone users. Both cellular and hard-wired phones benefit from emergency 911 systems. And the amendment provides a reasonable method for remitting the funds back to the locality providing the PSAP.

For these reasons, we urge favorable passage of SB 63.

Senate Commerce Committee

Date: 1-27-99

Attachment # 14

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MEMORANDUM

**TO: The Honorable Alicia Salisbury, Chair
And The Members Of The
Senate Committee on Commerce**

FROM: Whitney Damron

RE: SB 63 – Emergency Telephone Services; Wireless 9-1-1 Fees.

DATE: January 27, 1999

Good morning Madam Chair Salisbury and Members of the Senate Committee on Commerce. My name is Whitney Damron and I appear before you this morning on behalf of the Unified Government of Wyandotte County/Kansas City, Kansas as a proponent of SB 63 which would allow for the collection of funds from wireless telephone users similar to those collected from traditional telephone line users.

With the promulgation of wireless telephone services in recent years, virtually anyone who desires a cellular, mobile or wireless telephone can now afford one. Many people have simply opted for this newer technology and removed the traditional telephone from their home or office. The affordability of such telephones has led to enhanced reporting of emergencies from motorists and other users of wireless communications systems as well as greater input from the citizenry on everything from serious crimes to dogs running at large. While greater participation from the citizenry is certainly appreciated by local law enforcement agencies, this increased voice from the citizenry has necessarily increased the demands on the technology and personnel of the Emergency 9-1-1 dispatch locations at various service providers, such as those of the Unified Government of Wyandotte County/Kansas City, Kansas.

Senate Commerce Committee

Date: 1-27-99

Attachment # 15-1 then 15-2

A point which is sure to be made by most, if not all of your conferees this morning is the fact that the increased number of wireless telephones has also increased the number of calls to Emergency 9-1-1 call centers. Where in the past a call center might receive one or a relative few calls from a reporting citizen has now increased to the point where a call center might receive virtually dozens of telephone calls regarding a single incident as motorists pass by a particular accident sight. While such calls are appreciated, they also place increased demands upon the call center.

The Unified Government believes SB 63 is an appropriate piece of legislation and brings a certain degree of equity to the emergency telephone tax by expanding its application to include wireless telecommunications users. We also support the provisions of the bill which grant the wireless companies a 2 percent administrative fee to help defray their implementation costs as well as the marketing protections which are contained in the bill to prohibit the dissemination of collection data by the various carriers as an open record.

The implementation of an Emergency 9-1-1 tax to wireless communications will help local units of government and emergency service providers keep pace with the technology of those they serve. SB 63 is an appropriate step in that direction. On behalf of the Unified Government of Wyandotte County/Kansas City, Kansas, we ask for your support for this legislation and thank you for your consideration.