

Approved: February 21, 2001

Carl Dean Holmes

Date

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:07 a.m. on January 24, 2001 in Room 526-S of the Capitol.

All members were present except: Rep. Annie Kuether

Committee staff present: Lynne Holt, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Committee Secretary

Conferees appearing before the committee: Patrick Lawless, E-911 Task Force Member
Tom Sullivan, E-911 Task Force Member
Lisa Durand, E-911 Task Force Member
Keith Fadiss, E-911 Task Force Member
Jason White, Kansas Emergency Medical Services Assn.
Walter Way, Johnson County Sheriff's Department
Bob Lampke, Sedgwick County Emergency Services
Donald Seifert, City of Olathe
Michael Davis, Wyandotte County Emergency Management
Mike Murray, Sprint
John Parisi, Kansas Trial lawyers Association
Joe Schuele, AllTell
Tom Gleason, Independent Telecommunications Group
Bill Singer, Shawnee County Emergency Management

Others attending: See Attached List

Chairman Holmes called on the committee for bill introductions. Rep. Sloan requested the committee introduce three bills. The first bill would provide tax credits for the improvement of energy efficiency for residential and commercial customers, the second would propose changes for utility/municipal right-of-way, and the third would deal with proposed revisions in franchise fee levels and statutes. Rep. Sloan moved to introduce the proposed bills. Rep. Alldritt seconded the motion, motion carried.

HB 2034 - Enhanced emergency ("911") telephone service

Four members of the E-911 Task Force appeared in support of **HB 2034**.

First, Patrick Lawless, Mayor of Osage City and member of the Governing Body of the League of Kansas Municipalities addressed the committee in support of the bill (Attachment 1). Mr. Lawless stated that he believed there was only one controversy in the bill, that being the lack of definition of cost recovery. He also stated that the bill provides a common sense, workable approach to achieve the implementation of enhanced wireless 911 service.

Next, Thomas Sullivan, Barton County Administrator and representing the Kansas Association of Counties, expressed full support of **HB 2034** (Attachment 2). Mr. Sullivan said that, beyond passage of the bill, the remainder of the work to provide enhanced 911 wireless service was a matter of local decision-making.

Third, Lisa Durand, speaking on behalf of the Kansas State Fire Chiefs and the Kansas Emergency Management Association and Chief of the Johnson County Emergency Communications Center, asked for the committee's support of **HB 2034** (Attachment 3). Ms. Durand stated that implementation would give dispatchers another tool to help save lives, wireless caller location.

The final Task Force member, Overland Park Police Department Deputy Chief, Major R. Keith Faddis, appeared in support of **HB 2034** (Attachment 4). Major Faddis stated that, in order to provide the most efficient and effective service to wireless callers, additional funds are necessary to provide the appropriate equipment.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 526-S Statehouse, at 9:07 a.m. on January 24, 2001.

Mr. Jason White, appearing on behalf of the Kansas Emergency Medical Services Association, spoke in support of **HB 2034 (Attachment 5)**. Mr. White stated that the technology is workable and that this bill will start the process to improve the Kansas 911 system.

Major Walter Way, Johnson County Sheriff's Office, appeared as a proponent of **HB 2034 (Attachment 6)**. Major Way explained that the Federal Communications Commission mandated wireless carriers to provide enhanced 911 services. Cost recovery by those carriers was not an entitlement. He stated that local governments need additional revenue to fund the equipment and services necessary to provide enhanced 911 service for wireless callers.

Bob Lampke, Director of Public Safety for Sedgwick County, testified in support of **HB 2034 (Attachment 7)**. Mr. Lampke said that with the rapid advances in wireless communications, it is possible that one day, wired phones could join the ranks of rotary phones as nostalgic museum pieces and that it only makes sense to adapt to changes as early as possible.

Donald Seifert, Policy Development Leader for the City of Olathe, urged the passage of **HB 2034 (Attachment 8)**. Mr. Seifert stated that the Olathe Police Department handled over 55,000 '911' calls last year and 45% of them came from wireless units.

Michael Davis, Director of Emergency Management for the Unified Government of Wyandotte County/Kansas City, testified in support of **HB 2034 (Attachment 9)**. Mr. Davis shared the story of a victim who had called 911 from her wireless phone, but emergency personnel were unable to locate her. He stated that wireless callers should financially support their growing impact on 911 system operations.

Michael Murray, Director of Government Affairs for Sprint, addressed the committee on behalf of a number of wireless carriers (**Attachment 10**). Mr. Murray presented the committee with proposed amendments addressing cost recovery negotiations, spending limitations on E911 funds, commitment to offer wireless E911 service, and the inclusion of a wireless E911 advisory board..

John Parisi, Vice President for Legislation for the Kansas Trial Lawyers Association, appeared in a neutral position regarding the general purpose of **HB 2034 (Attachment 11)**. However, Mr. Parisi did provide a proposed amendment to the bill regarding liability of the carriers in the provision of the 911 service.

Mr. Joe Schuele, Government Relations Manager for ALLTEL's Kansas and Nebraska operations, testified on **HB 2034 (Attachment 12)**. Mr. Schuele expressed a concern as to whether the bill was the best mechanism for achieving the goal of deployment of enhanced 911 wireless service. He expressed support for the proposed amendment regarding cost recovery.

Tom Gleason, Legislative and Regulatory counsel for the Independent Telecommunications Group, appeared in support of **HB 2034 (Attachment 13)**. Mr. Gleason represents many of the rural carriers and they believe there are areas of the bill that need to be addressed further. Mr. Gleason provided proposed amendments.

Bill Singer, Shawnee County Emergency Services Manager, spoke to the committee in support of **HB 2034 (Attachment 14)**. Mr. Singer provided statistics from the county as to the number of 911 calls received in 2000.

The committee also received written testimony from Michael Pepoon, Director of Government Relations for Sedgwick County (**Attachment 15**).

The conferees responded to questions from the committee.

The hearing on **HB 2034** will continue tomorrow.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 526-S Statehouse, at 9:10 a.m. on January 24, 2001.

Chairman Holmes announced that the committee would hold the hearing on HB 2010 tomorrow and would then continue with questions for the conferees on HB 2034. Upon completion of the questioning, the committee will attempt to work HB 2034.

The meeting adjourned at 10:57 a.m.

Next meeting will be Thursday, January 25, 2001.

HOUSE UTILITIES COMMITTEE GUEST LIST

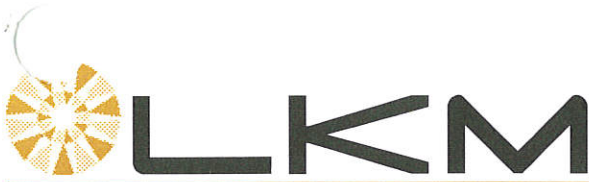
DATE: January 24, 2001

NAME	REPRESENTING
KEITH FADDIS	OVERLAND PARK POLICE
DOY SEIFERT	CITY OF OLATHE
WALTER WAY	JOHNSON COUNTY SHERIFF
LISA DURAND	Kansas State Firefighters/ KE MA
John D. Pingar	Pingar Smith Co.
Judy Moler	KAC
Bob Lamkey	Sedgwick County Public Safety
Bruce Goff	Sedgwick Co 911
Roger Bales	KC PR Consulting
Jon Miles	KCC
Micky Davis	WYANDOTTE County Em. Dept
Whitney Damron	WTCO/ KC, KS
Joe Duck	KCKBP4
Jason White	KEMSA
Kevin Barone	Man/ueir chkd.
Ashley Sheard	Johnson County
Tom Gleason	Independent Telecom Group
TOM DAY	KCC
Sammi Mangus	City of Manhattan
Chief Jim Wajdzia	" " " Fire Dept

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 24, 2001

NAME	REPRESENTING
Jim Yonally	Verizon Wireless
WALKER HENDRIX	CURB
Mike Murray	Sprint / Sprint PCS
Susan Sherwood	Sprint PCS
Jay Mc Donald	KCC-Staff
STEVE KEAVANZY	ALLTEL
Joe Schuele	ALLTEL
KEVIN M. WALKER	American Heart Assn.
MIKE REECHT	AT&T
Pat Lehman	KFSA
Marie Kone	SHAWNEE B.C.C.
Lorelyn Gaster	Sprint
Cynthia Smith	KEPL
Mike Reecht	KEPL
Dave Hothaus	WR
Jerry Humphrey	KTLA



League of Kansas Municipalities

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TESTIMONY
LEAGUE OF KANSAS MUNICIPALITIES
BEFORE THE
HOUSE UTILITIES COMMITTEE

Chairman Holmes and members of the committee:

Thank you for the opportunity to address you regarding House Bill 2034. My name is Patrick Lawless. I currently serve as mayor of the City of Osage City and I served on the Wireless E- 911 Task Force this past summer. I am also a member of the Governing Body of the League of Kansas Municipalities and I appear on their behalf today.

Needless to say, I support HB 2034. When I first reviewed the bill, I was pleased to find the bill contained all of the recommendations contained in the Wireless E-911 Task Force report. I see the bill as a simple way to implement enhanced wireless 911. The bill also addresses the fact that local PSAPs are receiving more and more 911 wireless phone calls, and recognizes and addresses the problem that currently wireless phone users do not contribute revenue to support 911 operations.

Some would say this bill is controversial. I have never understood why a concept that improves response times to life threatening emergencies would be controversial. Cities and counties everyday study systems or tools that improve police, fire, and ambulance response times. If the city or county can afford the system or tool, they budget for the expense, implement the system or tool, and pay for it. That is exactly what cities and counties will do under HB 2034 when they request enhanced wireless 911 service.

In terms of controversies regarding wireless E-911, the notion of "cost recovery" clearly reigns supreme. I firmly believe the only thing controversial about "cost recovery" is the definition of, or a lack of a definition of, "cost recovery." I thought that I could master a simple term such as "cost recovery." However, after two or three meetings of the Wireless E-911 Task Force, I was mired in a technological fog. We heard that wireline phone companies were receiving cost recovery. We heard that wireline phone companies achieved their cost recovery through the \$0.75 fee assessed to wireline phones. We also heard that wireless providers absolutely had to receive a portion of any tax assessed their users in order to provide E-911 service. More information, more testimony and comment, and more debate did not clear this fog. I was willing, and suggested to the task force, all sides agree to disagree on the issue of cost recovery and spell out their respective positions in the task force report.

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DATE: 01-24-01

ATTACHMENT |

As Tom Sullivan of Barton County and I discussed a draft of the "local" position on cost recovery, we began to discuss how currently a county or city pays the "phone bill" for the local PSAP. In the most simple terms, a city or county requests or notifies the wireline phone company it wants E-911 service provided to its PSAP or dispatch center. The wireline phone company tells the city or county how much the charges will be and the city or county makes a decision whether to go forward with E-911. The PSAP then receives a monthly bill from the wireline phone company identifying and billing for charges incurred to transmit or provide 911 data to the PSAP. Tom and I could not find a valid reason why such a process or arrangement would not work for wireless E-911. We both then began to work on language to address cost recovery.

The task force in its report and HB 2034 provide that cost recovery for wireless companies can be negotiated with cities and counties. What this means in simple and practical terms is that cities and counties will pay their wireless "phone bill" for wireless E-911 for the local PSAP just as they do their "wireline" phone bill. This will be done after the wireless company is asked to provide the service, after the wireless company identifies the charges, and after the city or county agrees to the proposed wireless phone bill.

I would suggest to the committee that simpler is better when discussing cost recovery. Under HB 2034 cities and counties can and will pay for additional costs incurred by the wireless carrier to provide Phase II services, if they can be identified. There has been much discussion of cost recovery achieved by paying directly to wireless phone companies a portion of the \$0.75 tax assessed wireless phone users. I urge the committee to reject any such proposals. The "phone bill" system of cost recovery has worked for both cities and counties and wireline phone companies for basic 911, and I see no reason why it will not work for cities, counties, and wireless phone companies for enhanced wireless 911.

HB 2034 really addresses a public safety concern. Although, many have tried to frame wireless E-911 as a "wireless versus local" issue, or a "taxation" issue, or a "rural versus urban" issue, it is really a public safety issue. Local units of government in Kansas are responsible for most all public safety needs. When a Kansan needs to report an accident or fire, or needs an ambulance, he or she does not call a state agency—a PSAP operated by a city or county takes the call and dispatches the necessary help. HB 2034 will provide cities and counties an avenue continue to provide quality E-911 services and will improve response times as enhanced wireless 911 is implemented.

Twenty years ago, cities and counties were entrusted to implement basic 911. I am not aware of any cities or counties that reaped a tax windfall. I am also not aware of any phone companies that were forced into bankruptcy as basic 911 was implemented. Cities and counties should and can be trusted to implement enhanced wireless 911. HB 2034 provides a common sense, workable approach to achieve this.

For these reasons, I encourage your favorable action on HB 2034 and would be happy to answer any questions you might have.

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Courthouse • 1400 Main, Rm 107 • Great Bend, KS 67530 • email: barton.admin@greatbend.com

Honorable Carl D. Holmes
Chairman, House Committee on Utilities,

January 24, 2001

Re: HB 2034: Emergency Telephone Systems: 911 Tax Equity

I would like to thank Chairman Carl Holmes and Members of the House Committee on Utilities for this opportunity to testify on this bill. I am here representing Barton County and the Kansas Association of Counties (KAC) for the purpose of expressing full support for HB 2034 as prepared by the Reviser of Statutes Office. The KAC has worked toward this legislation since 1994 and the Board of Barton County Commissioners are strong supporters of HB 2034.

My name is Thomas A. Sullivan, Barton County Administrator, and I was a member of the E911 Task Force, as recommended by the KAC to Governor Bill Graves. I attended all meetings of the Task Force including the additional subcommittee meeting that met in August 2000. From these meetings I gained an appreciation for the task placed before this Committee on Utilities. Finding common ground on the issue of enhanced wireless emergency services between the local governments that fund the public safety answering points and the wireless carriers is a task worthy of public concern. HB 2034 expresses the consensus that was achieved by the Task Force, the intent of the report and is good public policy.

Beyond the passage of this legislation, the remainder of the work to provide enhanced 911 services for the customers of the wireless carriers is a matter of local decision-making. Local governing officials across Kansas initiated 911 services for customers of the wireline system as prompted by their constituents. Counties and Cities across the state will act in the same manner for the provision of enhanced 911 services for customers of the wireless system. The Board of Barton County Commissioners are good stewards of their responsibilities for the use of 911 funds.

A centrally controlled process and system will not fit all localities across the state, including those along the Interstate 70 corridor from Wyandotte to Sherman Counties. However, the provision of enhanced 911 services for wireless customers at the local level does require the leadership of the state legislature through the passage of HB 2034.

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ATTACHMENT 2

Consistent with the provision of this important public safety service, there are two aspects of the Task Force report, and HB 2034, that I would like to emphasize. These are the matters of tax equity and the ability of the wireless carriers to gain cost recovery. The matter of tax equity is a simple concept expressing that the customers of the wireless carriers should pay for the provision of enhanced 911 services for the wireless system. Wireline customers pay the user tax for their enhanced 911 services and are now also covering the costs for 911 calls made by the customers of the wireless carriers.

Before enhanced 911 services should be provided to customers of the wireless carriers, especially for geographic positioning technology, wireless phone customers should pay for some of the related costs. Why should the citizens of this state that do not use, and likely cannot afford, wireless phones have to pay for enhanced 911 services for the wireless carrier system? This point leads directly to the matter of cost recovery for the wireless carriers.

For all that I have learned from participating on the Task Force, the issue of cost recovery for the wireless carriers was the most perplexing lesson. Cost recovery is also an issue of equity; that is placing the wireless companies on a level playing field with wireline companies. As you know, wireline companies are regulated by the Kansas Corporation Commission (KCC), which sets tariff rates for matters related to cost recovery. The KCC establishes the rate and the period within which the wireline company can charge the tariff.

Wireless carriers are not regulated by the KCC, but they should be able to recover costs. This can be done either by charging their customers or by negotiating recovery of costs with the local governments. Negotiating cost recovery would require the wireless carriers to define their costs that are specifically related to the delivery of enhanced 911 services to the local public safety answering points. Failure to reach agreement on cost recovery for the wireless carriers through negotiations would be subject to arbitration by the Federal Communications Commission, as stipulated by federal law. Local governments will establish the user tax at a level to meet their costs as stipulated by HB 2034.

Members of the Task Force that represented the wireless carriers stated that before they would support a bill that ended their exemption from the 911 tax, they wanted a portion of the local government's 911 revenues. The provision of such unrestricted government entitlement to a for-profit business would undermine the integrity of the work of the Task Force and HB 2034. The

language in the Task Force report on cost recovery for the wireless carriers was a good faith compromise. There will be negotiations with local governments for the wireless carriers recovery of specific costs.

HB 2034, a bill concerning the delivery of emergency communications, is good public policy. The Board of Barton County Commissioners wants to provide enhanced 911 services for customers of the wireless system and will likely request that service at the Phase II stage. Barton County will work with the KAC, and other entities, to ensure an effective and efficient emergency communications system across Kansas.

I want to again thank Chairman Holmes, and the members of this committee, for the opportunity to provide this testimony and I urge the committee to support HB 2034 as written.

To: **House Utilities Committee**

From: **Lisa C. Durand**, E 9-1-1 Task Force Member
Johnson County Emergency Communications
Representing Kansas State Fire Chiefs Association and Kansas
Emergency Management Association (KEMA)

Date: January 24, 2001

Subject: **Testimony in Support of House Bill 2034**

I am here today on behalf of the Kansas State Fire Chiefs and the Kansas Emergency Management Association, asking for your support of House Bill 2034. As a member of the E 9-1-1 Task Force, I ask you all take our recommendations on this very important issue.

I am currently Chief of the Johnson County Emergency Communications Center. Our center handles all calls for fire and ambulance response in Johnson County. I have spent the last 24 years in Public Safety Communications. I was in college in Houston, Texas when I took my first job as a dispatcher. It was 1976 and we had not yet heard of 9-1-1.

In the 1980's, 9-1-1 came to most parts of the United States. Every school child learned about 9-1-1. By 1990, most all metropolitan areas had enhanced 9-1-1. Now dispatchers had another tool in their tool chest to help save lives. CALLER LOCATION!

Technology did not stand still, however, and cell phones came into being. In the 1990's wireless phone sales skyrocketed. Now, instead of one or two 9-1-1 calls reporting an accident on the freeway, dispatchers started receiving 20 or 30 calls. The 9-1-1 call volume increased drastically.

Call volume is not the only problem dispatchers face. Finding the location of wireless 9-1-1 callers becomes a common problem. In many 9-1-1 centers, wireless 9-1-1 calls account for 40 to 50% of all 9-1-1 calls. Routinely, wireless 9-1-1 callers have difficulty giving dispatchers their location. The news media frequently reports tragic stories of callers that can't be found, and lose their lives. This hits home for Kansas residents when a woman in Wyandotte county dies after dialing 9-1-1 on her cell phone. Dispatchers worked frantically to locate this severely injured woman, who ran her car off the road one night. After hours on the phone, they finally lose contact. The next morning her vehicle is located, but she is now dead.

The technology to help locate wireless 9-1-1 callers is now available. House Bill 2034 will allow 9-1-1 centers to acquire the funds for this much needed equipment. This would put a valuable tool back in the dispatchers tool chest and help save lives.

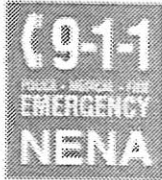
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ATTACHMENT 3

Funding this technology was, of course, the issue most discussed by the Task Force. After much deliberation, research, frustration, and disagreements, I am delighted to report we all came together with the recommendations outlined in this report. We are hopeful the work we've done will be of value.

Attachments



National Emergency Number Association

Wirele

[Home](#)

Wireless 9-1-1 Tragedies

The following bullets are examples of actual events in which 9-1-1 was called from wireless/cellular telephones. These emergencies became tragedies when the callers could not be located:

- **Santa Fe, NM** – Officials were unable to respond promptly to a White Rock woman's request for help after she dialed 9-1-1 from a cell phone. The woman, who had been brutally beaten by her boyfriend, was able to convey the nature of her injuries, but not her location. The dispatcher was forced to keep guessing until he established the exact whereabouts of the woman. In the middle of the call, the angry boyfriend returned and seconds later the phone was disconnected.
- **Fort Lauderdale, FL** – Denise Murray was forced to wait seven minutes and make three separate 9-1-1 calls from her cellular phone before help was dispatched after her daughter was impaled by a three-foot steel rod that had crashed through their windshield. Murray was forced to exit the interstate and find a major intersection in order to give the dispatchers her location.
- **Littleton, CO** – Law enforcement officials wasted valuable time securing a gym during the Columbine High School crisis after a prank caller from outside the school told the dispatcher that a victim there was bleeding to death. Officials were unable to determine which of the dozens of cell phone calls they received during the crisis came from inside the school.
- **Day County, SD** – Karen Nelson spent 40 hours in temperatures that dropped to 30 degrees below zero when a blizzard stranded her in her pickup truck. Although Nelson was able to dial 9-1-1, she was unable to tell her rescuers where she was. While the Day County Sheriff's office was eventually able to locate the car, it took them five hours to place the vehicle within a 35-mile radius.
- **Atlanta, GA** - Esther Green, wife of New York Jets defensive back Victor Green, was abducted with her 10-month-old daughter by carjackers in April of 1999. She was able to call 9-1-1 secretly from her cell phone and drop discreet hints about where she was. It took police twenty minutes to decipher her hints, catch up with the suspects, and free Green and her daughter.
- **Orlando, FL** – A man collapsed on the West Orange Trail and died of a heart attack. A bystander had called 9-1-1 from her cellular phone but was confused about her exact location on the trail. By the time rescuers were able to locate the caller, the man was dead.
- **Lansing, MI** – A woman's 9-1-1 call was punctuated by screams as her ex-husband brutally stabbed her to death. The police were unable to pinpoint the location of the call until after she was dead.
- **San Jose, CA** – After Zoya Moghaddas smashed her car into a tree, she dialed 9-1-1 from her cellular phone. Moghaddas was bleeding so profusely she couldn't see and was unable to tell her rescuers where she was. She was then forced to wait for almost an hour before police were able to locate her.
- **Fort Wayne, IN** – Jon Charleston died after it took authorities two hours to locate his overturned car in a ditch. Charleston had called 9-1-1 from his cellular phone.
- **Rural Michigan** – Shira Levine was rear-ended and suffered minor damages while driving in rural Michigan. While no one was injured, she did call 9-1-1. She informed the dispatcher of her location and then waited 30 minutes for the cruiser to arrive. When he failed to materialize, she called again. The two roads that she had given to the dispatcher to help them locate her actually crossed twice, and the cruiser was looking at the wrong intersection.
- **New Jersey** – Police have been unable to trace a series of false bomb threats in southern New Jersey because they were made from untraceable cell phones.

Updated: 09/26/2000 10:22:14 AM -0400

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From WICHITA BUSINESS NEWS

May 24, 1999

Wireless begins its move to the home front

Jerry Siebenmark

Ed and Karie Nelson have "cut the cord" -- a trend that the wireless phone industry hopes will grow until millions of consumers abandon old-fashioned phones that plug into a wall or sit on a desk.

Six months ago, the Nelsons dropped their landline phone service. Now they

use their wireless phones all of the time: at home, in the grocery store, in

the car and on vacation.

And they say they love it.

"It's just a great idea," said Ed Nelson, co-owner of K.C. Hopps, which operates the River City Brewery in Wichita, as well as several brew pubs in

the Kansas City area. "The first reason I signed up with Sprint was to have

just one phone. Everybody knows where to get ahold of me now."

Cutting the cord is a little-known, but growing trend that the wireless industry applauds -- and hopes that more of its 74.4 million wireless customers will follow.

In January, Regent, N.D., population 268, became the first community in the

nation to go totally wireless, according to the Cellular Telecommunications

Industry Association.

Benefits

Karie Nelson admits she was apprehensive when Ed suggested they completely

eliminate their traditional phone service. But she has grown to like it.

"It just kind of gives me more freedom," she said. "There's so many pros to

it. It's just very convenient."

At the top of the Nelsons' plus list was the elimination of telemarketing

calls (wireless phone numbers generally aren't listed in directories).

"I don't get any solicitation," she said.

Other pros the Nelsons say come from going totally wireless are:

No roaming fees in the more than 270 metropolitan areas Sprint PCS serves. So

the Nelsons don't have to pay roaming charges on top of regular service fees

when they are away from home.

An easy transition. People who call the Nelson's former phone number are

directed to Karie Nelson's wireless number.

Comparable costs. The Nelson's wireless and landline phone bills are "pretty

close in cost," Nelson said.

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Privacy. When the Nelsons don't want to take calls, they simply switch their phones off and let their voice mail take messages.

Not convinced

Not everyone is ready or willing to make the all-wireless switch. Britt Hazen, who said he makes 20 to 30 calls a day on his wireless phone as part of his job with his family's Wichita business, Hazen Construction, isn't ready to cut the cord.

"I don't know if I could give up my home phone," he said.

Customers like Hazen lead some competitors to believe that traditional phone service will be around for a long time.

"There are needs for both," said Trent Frager, Southwestern Bell Telephone

Co. spokesman. "There will always be people who will want to have a landline

phone. And there will always be people who want mobility."

And while it may be economically feasible for individual consumers to make

the wireless switch, that's not the case for businesses.

Just to convert to a wireless phone service, a business could be spending

three times the cost of a traditional system, said Dan Burns, an El Dorado

telecommunications consultant and principal of Corporate Telecom Inc.

Bright future

Still, wireless providers believe their product, in one form or another, is the wave of the future.

According to information from Cahners Nin-Stat Group, a publishing and research firm for various industries, the ratio of a businesses employees to

wireless phones will shift from the current figure of 1 to 4, to 1 to 3 by

the year 2000.

And wireless budgets for businesses will increase 50 percent by 2002, the

firm said.

And CTIA officials have said the wireless industry is positioning itself to

be directly competitive with traditional phone companies.

For Ed Nelson, that's good news.

"As competition gets tighter and tighter," he said, "I'm sure (wireless) will

become more and more price competitive."

3-5

Testimony Of:

Major R. Keith Faddis
Deputy Chief
Overland Park Police

House Bill 2034

January 24, 2001

Members of the Committee:

My name is Keith Faddis, Deputy Chief for the Overland Park Police Department. I am appearing in support of House Bill 2034.

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. Most recently I served on the Governor's Task Force on Wireless E 911.

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 at the telephone company and obtain the name and address associated with that particular telephone number. As Enhanced 911 was installed that information appeared 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 if the caller hung up 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 when the phone is torn out of the wall or burglaries when the caller is too frightened to speak, the dispatchers still had the information and knew where to send the assistance. From my own personal experience I can recount stories where a person called 911 from a wirephone and was able to get help

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ATTACHMENT 4

even though they could not speak. There is the case of the elderly woman who lived alone and suffered a stroke. She could not speak clearly but was able to dial 911 so the officers knew where to go. There is the case of the kindergartner whose mother lapsed into a diabetic coma. He knew something was wrong and called 911. He did not know his address or his phone number but the dispatcher did because it was on the 911 display and she was able to order the ambulance and police to help his mother.

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 subscriber phone number, no address of the location the call is coming from. Certain information appears on the display but it is of no use to emergency responders. That means unless the caller has given their phone number and their location (if they know it) the dispatcher has no way to call them back.

I know I said that I would not deluge you with numbers but there is one exception. In Overland Park over 50 percent of the 911 calls coming into our communications center are made from wireless phones. Five out of ten callers are using wireless phones. That means, 5 out of 10 citizens will 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 wish to move to E911 for wireless. Why is Public Safety so concerned about being able to locate a wireless 911 caller? Perhaps some information that appeared in a November 12th, 2000 article in the Kansas City Star may help. According to Ann Shutt, regional marketing director for Verizon wireless there are "100 million wireless users in this country". Ms. Shutt went on to say that "some businesses have cut the cord and are using wireless as their only phone". In the same article Phil Phillips, technology manager for Mobilefone stated "Many young single business people skip having home phones". "Why pay \$40 a month for a wire phone when they are away from the apartment so much anyway?" As more people take this course the ability to locate them when they call 911 becomes more and more important. It is really very simple. If I can't find you I can't help you.

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 are in support of the 911 emergency telephone tax being extended to wireless.

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

4-2



METROPOLITAN AMBULANCE SERVICES TRUST
4521 Metropolitan Avenue, Kansas City, KS 66106-2551
Telephone (913) 384-3911 • Fax (913) 384-7396

Kansas Emergency Medical Services Association (KEMSA) testimony regarding
Committee Bill 2034, January 24, 2001

KEMSA is the professional association representing the 10,000 EMT's and paramedics that currently serve the communities of Kansas. We communicate quarterly with the 10,000 EMS professionals with our newspaper, which has been highlighting the cell phone 9-1-1 issue for the past 2-3 years.

KEMSA was able to attend all but one of the Task Force meetings and the Board of EMS actually had a representative serve on the task force.

EMS professionals are part of the front line of responders with law enforcement and the fire service reacting to emergencies. Our effectiveness is often impacted by the efficiency and effectiveness of the area 9-1-1-communication system.

2034 will start the process to improve the Kansas 9-1-1 system by incorporating cellular phones into the system.

The technology is workable.

We can estimate the costs for the endeavor. The KC region has cost estimates for Phase I and Phase II implementation.

Many other states are already implementing cell phone 9-1-1 services.

The KC region is ready to get started based on identification of a funding stream. Other major cities are also ready and mid sized communities will certainly follow. The implementation of cell phone 9-1-1 services across Kansas will probably follow the method of growth that hardwire 9-1-1 took.

The Task Force was very successful:

Unanimous final report

Compromise between the cell phone companies and the local governments on key issues.

2034 reflects the Task Force report and the Task Force report reflects the conscious decisions of the diverse group created by the Kansas legislature and appointed by the Governor.

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Please support 2034 and reflect on the Task Force report when you are encouraged to change the bill to answer the requests of either the cell phone companies or the local governments.

Submitted by

Jason White
KEMSA Board
C/O 913-384-3911

Testimony of:

Major Walter Way
Johnson County Sheriff's Office
Olathe, Kansas

House Bill 2034

January 24, 2001

Mr. Chairman, Members of the Committee on Utilities:

My name is Walter Way and I am representing both the Johnson County Sheriff's Office and the Kansas City regional E9-1-1 system. I am appearing in support of House Bill 2034.

For those who are not familiar with the Kansas City regional E9-1-1 system, it was formed in 1983 and it is managed under the auspices of the Mid-America Regional Council (MARC) which is a bi-state planning organization that provides a governance structure for county and city governments to further cooperation on mutual service needs. The Kansas City regional system serves 663,000 Kansas citizens residing in Johnson, Wyandotte and Leavenworth Counties and over 1,000,000 people residing in 5 Missouri Counties. Our regional E9-1-1 system serves over 118 cities and it is comprised of 39 Public Safety Answer Points (PSAPs) that received 1,500,000 9-1-1 calls in 1999. The Kansas City region is served by 22 local exchange telephone carriers and 7 wireless telephone carriers. The 2001 operating budget for this system is \$3,776,000 which is cost-shared by 8 counties based upon their percentage of the total regional population.

You have received testimony concerning public safety and local government concerns about the limited and inadequate 9-1-1 services provided to citizens who call for emergency services with a wireless telephone. Those concerns include the possibility that the 9-1-1 call will be sent to the wrong agency, that the public safety agency receiving the 9-1-1 call will not know where the caller is located and that dispatchers will not receive the caller's phone number in the event the call is disconnected. Those deficiencies are of the greatest concern when injured callers and persons experiencing other emergencies can not advise their location so that emergency personnel can respond in a timely manner.

Congress passed the Telecommunications Act of 1996 with the goal promoting the safety of life and property through the use of wire and radio communications throughout the United States. That has led to a series of orders issued by the Federal Communications Commission (FCC) to mandate wireless carriers to provide enhanced 9-1-1 services by specific target dates. Initially, the FCC included a mandate for both PSAPs and wireless carriers to recover their implementation costs, but that mandate was modified in November 1999 when the FCC eliminated any prerequisite for wireless carriers to recover their E9-1-1 implementation costs. The FCC commented that the prerequisite for

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carriers to recover their E9-1-1 implementation costs had been a barrier to E9-1-1 implementation in this country.

The FCC has made it clear that the wireless carriers are not entitled to the recovery of their E9-1-1 implementation costs from local governments, yet, wireless carriers continue to insist on cost recovery as a requirement for providing E9-1-1 services to their customers. I would submit to this committee that there are a number of valid reasons why local governments should not be mandated to pay for the implementation costs of wireless carriers. Those reasons are:

- Access to 9-1-1 services is a basic and essential component of telephone service.

Both wired and wireless telephone carriers have been mandated by the FCC to provide access to enhanced 9-1-1 services. Carriers may not charge for 9-1-1 calls made from coin pay phones or from wireless phones, which supports the idea that access to 9-1-1 services is a basic and integral part of providing telephone service to customers.

- Wireless carriers are not part of the E9-1-1 network

Each local government contracts for E9-1-1 services with a wired telephone company (the 9-1-1 Service Provider) who provides the network, switches, selective routing of 9-1-1 calls, databases, and other components needed to receive 9-1-1 calls from citizens and send those calls to the proper public safety agency within the local E9-1-1 system. The 9-1-1 Service Provider is paid in accordance with tariffs filed with the state and by contractual agreements.

All other telephone carriers, whether wired or wireless, that want to deliver 9-1-1 calls to the local E9-1-1 system are responsible for the cost of delivering their customer's 9-1-1 calls to the demarcation point of the local E9-1-1 system. Local governments pay for the infrastructure to receive and route E9-1-1 calls within the contracted system. Local governments do not contract with other telephone carriers for their customer's 9-1-1 calls any more than they would pay a telephone carrier for routing other types of telephone calls from a citizen to the PBX in their city hall.

- Wireless carriers will provide location services for commercial purposes

Each wireless carrier was required by the FCC to select a location technology by November of 2000 that would be used to locate 9-1-1 callers. The costs of implementing the different location methods will vary considerably in each area of the state and will be phased in over a period of time. The costs of the location technology implemented by the wireless carriers can be controlled more effectively if such costs are incorporated into customer billings for basic telephone service and are amortized into network infrastructure costs.

International Data Corp. stated in a Wall Street Journal article last Fall that location based services are expected to generate \$590 million for wireless carriers in 2001 and \$5 billion dollars by 2004. The point is that wireless carriers will develop location services in the normal course of business and there is no need for local governments to pay for developing these services.

One other issue that needs to be discussed is the assertion that location technology is not yet ready for implementation of enhanced wireless 9-1-1 service. Network based location technologies such as triangulation exist and are in use in several locations in this country to locate wireless 9-1-1 callers. Handsets with Global Positioning System (GPS) chips are not yet on the market but are expected to be commercially available toward the end of 2001. The FCC has issued an order requiring wireless carriers to begin selling such handsets by October 1, 2001 and to gradually increase the number of such handsets in their total customer base through December 2005. There is no reason to believe the technology will not be available in the near future to provide for the location of wireless callers needing emergency services.

The greatest concern is the availability of funds for local governments to equip their dispatch centers so that location information sent with wireless 9-1-1 calls may be used to rapidly locate callers and send needed emergency services to their citizens.

Local governments will need additional revenue to fund the equipment and services necessary to provide enhanced 9-1-1 services for wireless callers. Johnson County government and the elected officials on the MARC Board of Directors have recommended the extension of the existing 9-1-1 tax to wireless telephones to fund the services consumed by wireless callers and have recommended the continued practice of local government authority over the imposition and expenditure of 9-1-1 tax funds.

Thank you for the opportunity to address this important public safety issue before this committee. I would be pleased to answer any questions.



COUNTY MANAGER'S OFFICE

**Sedgwick County Courthouse
525 N. Main, Suite 343
Wichita, KS 67203
Phone: (316) 383-7575
Fax: (316) 383-7946**

**Robert J. Lamkey
Director, Division of Public Safety**

**TESTIMONY REGARDING HB 2034
House Committee on Utilities
By Bob Lamkey, Director of Public Safety
January 24, 2001**

Chairman Holmes and members of the Committee, I am Bob Lamkey, Director of Public Safety for Sedgwick County. I have senior management responsibility for non-law enforcement aspects of public safety in my county, such as the Emergency Communications (911), Emergency Medical Services, Sedgwick County Fire District #1 and Emergency Management departments.

I was fortunate enough, on several occasions, to observe the workings of a thoughtful 911 Task Force led by Mr. Nelson Krueger, who addressed you last week. Two things struck me as I watched and listened to their proceedings. First, the Task Force was a good and diverse mix of interested parties and, second, all relevant issues were honestly discussed in detail. From my perspective, the resultant report and recommendations form the basis for sound policy. The Bill before you reflects those recommendations and I ask you to consider it favorably.

Why is it important to pass this legislation? As Sedgwick County's Public Safety Director, my charge is to provide help to people in need. That help normally begins with a 911 phone call—where effective communication is essential. In the most critical cases, caller stress often creates a significant communications barrier. In a crisis, some people can't cite their location address or even the number from which they are calling. However, existent technology in our wired phone system enables dispatchers to send help while continuing to aid the person in need, and should the caller disconnect we can call back. This capability needs to be extended to wireless phones. I could provide a number of examples where the inability to call back or locate a wireless caller has slowed the arrival of help. Suffice it to say, if a person in trouble does not know where they are or can't give us a callback number, they and we in public safety have a problem. That problem needs fixing.

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"...TO BE THE BEST WE CAN BE." DATE: 01-24-01

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Testimony Regarding HB 2034
House Committee on Utilities
January 24, 2001
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The appropriate technology is at hand, but there are considerable costs to be borne by 911 centers and wireless providers to make it happen. Extending the 911 tax to wireless phones will permit those who use the service to help defray the cost of service enhancements. It will also allow taxing jurisdictions to more equitably distribute the overall cost of 911 services across the served population.

It seems to me that we are just at the forefront of rapid telecommunications advances. In 1996 only 10% of our 400,000 plus 911 calls were from wireless phones. Last year 30%, nearly 125,000, calls were from wireless users. In our community, a very small but growing number of homes and businesses are going "wireless." Technology enhancements, infrastructure expansion and the marketplace have made convenient, affordable wireless communications very competitive with hard line service. Today, my 22-year-old daughter uses her wired phone to connect her computer to the Internet and make local calls at home. Her cell phone is her traveling companion for safety, convenience and long distance service---she has hundreds of "free" minutes.

My point in all of this is that the impact of rapid advances in wireless communications on our society will only increase. Perhaps, the day will come when wired phones join rotary phones as nostalgic museum pieces. It only makes sense for government to adapt to changes we can see as early as possible. We want to deliver fast and effective emergency services, and a responsive, technologically adept 911 operation is essential to that task. A sound base of financial support equitably distributed among **all** telephone users is a fair and sound way to achieve that aim now and in the future.

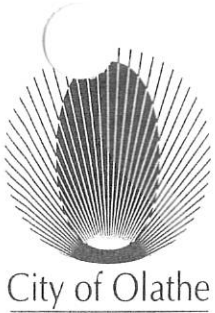
Thank you for allowing me to address you today. Please support HB 2034.

Respectfully,



Robert J. Lamkey
Director of Public Safety
Sedgwick County

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MEMORANDUM

TO: Members of the House Utilities Committee
FROM: Donald R. Seifert, Policy Development Leader *DMS*
SUBJECT: **House Bill 2034; Enhanced Emergency 911 Telephone Service**
DATE: January 24, 2001

On behalf of the city of Olathe, thank you for the opportunity to appear today to add support for HB 2034, recommended by the E911 Task Force. The city appreciates the comprehensive work of the task force in studying the many issues associated with deployment of enhanced 911 services to wireless communications users.

The 911 emergency call system has long been such an integral component of public safety that most Kansans take it for granted. Since 1980, cities and counties in Kansas have been authorized to collect a monthly surcharge on telephone lines to finance operation of the 911 emergency telephone service. The Olathe Police Department operates a busy public safety answering point that handled some 55,000 calls last year. Reflecting the growth of wireless communications in our society, wireless calls to 911 account for a growing portion of total call volume. In Olathe, such wireless calls are now approximately 45% of total emergency calls. However, until the enhanced 911 service mandated by the FCC and contemplated by this bill becomes available, wireless callers cannot receive the same level of emergency service as wire based callers.

The city supports extension of the 911 tax to wireless users for several reasons. First, as noted above, it is logical because wireless calls account for such a large proportion of 911 calls. Second, as a matter of equity, HB 2034 makes sense so wireless users share in the cost of providing emergency service. Finally, HB 2034 offers a means to finance enhanced 911 technology mandated by the FCC without unfairly burdening wire based telephones.

The city of Olathe supports extension of the 911 tax to wireless communications users who will benefit from the enhanced services. The city joins other units of local government in urging the committee to recommend this bill favorably for passage.

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Rep. Carl Holmes, Chairman
and House Utilities Committee Members:
Room 526-S

Testimony of:

Michael "Micky" J. Davis, Director
Emergency Management

House Bill 2034

January 24, 2001

Mr. Chairman and Members of the Utilities Committee:

Thank you for the opportunity to appear before you today. My name is Micky Davis, and I am the Director of Emergency Management for the Unified Government of Wyandotte County/Kansas City, Kansas. I would like to offer you my comments in support of HB2034.

When someone in Wyandotte County calls 9-1-1 from a wired phone, they are connected to one of the dispatchers at our Communications Center. Our current equipment displays the phone number, and address of the caller, which aids in generating an emergency response. However, a 9-1-1 call made from a wireless phone does not display the location or the phone number of the caller. This often causes delays and frustration in getting a location from the caller. Often the caller is in a moving vehicle and does not know exactly where they are. Sometimes the caller is not even in Wyandotte County, which causes a further delay while we transfer the call. Due to the fact that Wyandotte County is located in such close proximity to several other jurisdictions, we receive wireless 9-1-1 calls that need to be transferred to other agencies on a regular basis. Extra time spent handling these calls can also create a delay in answering other incoming emergency calls.

The greatest problem with handling wireless 9-1-1 calls is that if the caller does not know or cannot communicate where they are, we cannot send any help. In November of 1999, we received a 9-1-1 call from a female party who was injured when her car went off the road. The caller was disoriented and unaware of her surroundings. She had called 9-1-1 from her wireless phone, which did not display her location. Our dispatchers talked to her for over an hour, trying to figure out where she was, while emergency search personnel were trying to locate her. Unfortunately, she expired before we could locate her. Similar incidents are occurring more frequently in our area.

Over 54,000 of the total 173,000 9-1-1 calls received in the year 2000 by Wyandotte County dispatchers are wireless calls. This is a 5% increase in the number of wireless 9-1-1 calls we received in 1999. In the above-mentioned case we know at least one person died before help could be sent. How many will it be in 2001? The public expects when

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they call 9-1-1 in an emergency that help will be sent. Without the technology to locate wireless 9-1-1 calls, that expectation is not a reality.

Wireless callers should financially support their growing impact upon the costs of operating our 9-1-1 system. In addition, upgrading to FCC mandated wireless 9-1-1 location technologies is very expensive, and should be paid in part by wireless users. To accomplish this, we request that you extend the existing 9-1-1 Telephone Tax to wireless telephones.

If you have any questions, I would be happy to answer them for you at this time.



BEFORE THE HOUSE UTILITIES COMMITTEE

Wednesday, January 24, 2001

HB 2034

Michael R. Murray

Director of Governmental Affairs, Sprint

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to comment on HB 2034 as you are considering the bill to implement enhanced 911 for wireless telephones.

Sprint PCS participated in the Task Force's deliberations during the interim, and we were pleased that the 911 Product Manager for Sprint PCS, Ms. Susan Sherwood, was able to serve as the Task Force Vice Chair. Susan is here today and is prepared to answer questions from the Committee.

As you know, the Task Force report did not recommend specific legislation, however, the municipalities and other public interests asked that the bill before us today be introduced.

Sprint PCS, along with the other wireless carriers in Kansas, are willing and able to offer wireless E911 service and want to keep the process moving forward. In that spirit, the industry has drafted amendments for your consideration which we believe greatly improve HB 2034. My comments reflect the views of a number of wireless carriers including Western Wireless, AT&T, Verizon, Cingular (formerly Southwestern Bell Mobile Systems), and Sprint PCS. Alltel has its own spokesman present here today.

Cost Recovery

The first amendment on page 4 of the balloon makes it certain that there will be some level of negotiations for cost recovery for wireless carriers in providing wireless E911 services. There was agreement on the Task Force that the wireless carriers' could recover their costs through a negotiation process with the county governing bodies. The proposed amendment changes "may" to "shall" as it pertains to wireless carriers to insure that a governing body comes to the table to negotiate. It does not guarantee a level of reimbursement, but it does guarantee there will be a negotiation. In addition, the amendment calls for the District Court of that jurisdiction to arbitrate any cost recovery disputes between the governing body and the wireless carrier.

Spending Limitations on Wireless E911 Funds

The second amendment on page 5 of the balloon, Section 4 beginning with line 39 and ending on line 41 would delete item (5) which would expand current law as to what these funds could be spent on. Engineering, architectural and construction costs

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attributable to the the emergency telephone system covers a lot of territory, and the industry believes there is sufficient latitude in items (2) and (3) to adequately fund services related to 911 service. We believe it is inappropriate to use such funds for bricks and mortar.

Commitment to offer wireless E911 service

The third amendment on page 6 insures there is a commitment on the part of the governing bodies to implement wireless E911 service, rather than simply use the surcharge on wireless customers to further fund wireline E911.

We believe that our wireless customers should not be taxed to fund wireless E911 service if there is no intent on the part of a county governing body to implement the service. Under current FCC rules, within six months after receiving a valid request from a PSAP, the wireless carrier must be able to transmit the phone number of the wireless phone making the 911 call, and the location of the cell tower receiving the phone's signal. This amendment would allow an additional six months for the governing body to begin collecting an E911 tax on wireless phones so that it has the funds to be able to submit such a valid request. In addition, the amendment would suspend the tax if the governing body did not implement wireless E911 service within one year of enacting the tax.

It should be noted that the second sentence of this amendment calling for a separate accounting of wireline and wireless revenues and costs was part of the Task Force report but was not in the bill draft.

Wireless E911 Advisory Board

The fourth amendment also on page 6 and continuing on page 7 establishes a Wireless E911 Advisory Board. This too was called for in the Task Force report, but was not included in the bill draft.

Conclusion

There are a number of provisions the industry wanted to see in this legislation. Some are there. Some are not, or are not in the precise form we'd like to have them.

If there is a tax on wireless, the industry generally prefers .50 cents. However, we have not made an issue of the .75 tax since that is the limit on wireline.

And, the wireless companies on whose behalf I am speaking would prefer to see a statewide levy as opposed to a locally assessed amount. But, those same companies can live with the local assessment.

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Those same wireless carriers would prefer to see the wireless E911 funds administered and distributed from a centralized fund. However, they can live with the funds being locally administered.

The industry wanted proprietary information protected, and that is in the bill.

The industry asked for the 2% administration fee, and that is in the bill.

The industry sought liability protection and that is in the bill. Even though a liability waiver is in current Kansas law, and even though it is in the recently passed Wireless Communications and Public Safety Act which was passed by Congress and signed into law in October of 1999, we thought such liability protection should be recognized in this bill. No one intends for mistakes to occur either on the public side or the private side. But this is new technology and new territory, and we believe liability protection is warranted.

No one from the industry or from the public sector wanted to mandate a particular technology to provide wireless E911 service, and no such technology mandate is in the proposed bill.

Both the industry and the public sector agreed on an Advisory Board, and that is one of our proposed amendments.

Both the industry and the public sector agreed on separate accounting for wireline and wireless costs and revenues. That is one of our amendments.

We would like to have a more specific mechanism for cost recovery, but we are willing to leave it at a negotiated amount.

With the proposed amendments, the industry is prepared to work cooperatively with the public service answering points, the cities and counties to implement wireless E911.

Thank you, and Susan and I, and the other wireless service providers this testimony represents, would be happy to respond to your questions.

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HOUSE BILL No. 2034

By Committee on Utilities

1-11

9 AN ACT concerning emergency telephone systems; relating to financing
10 thereof; amending K.S.A. 12-5303 and K.S.A. 2000 Supp. 12-5301, 12-
11 5302, 12-5304 and 12-5308 and repealing the existing sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2000 Supp. 12-5301 is hereby amended to read as
15 follows: 12-5301. As used in this act, unless the context otherwise
16 requires:

17 (a) "~~Emergency 9-1-1~~ telephone service" means a telephone system
18 utilizing ~~a~~ the single three-digit number "9-1-1" for reporting police, fire,
19 medical or other emergency situations.

20 (b) "Emergency telephone tax" means a tax to finance the operation
21 of ~~an emergency telephone service;~~ system.

22 (c) "Exchange access facilities" means all facilities provided by the
23 service supplier for the facility which provides local telephone exchange
24 access to a service user.

25 (d) "Tariff rate" means the rate or rates billed by a service supplier
26 and as stated in the service supplier's tariffs, approved by the state cor-
27 poration commission which represent the service supplier's recurring
28 charges for exchange access facilities or their equivalent, exclusive of all
29 taxes, fees, licenses or similar charges whatsoever.

30 (e) "Public agency" means any city, county, municipal corporation,
31 public district or public authority located in whole or in part within this
32 state which provides or has authority to provide fire fighting, law enforce-
33 ment, ambulance, emergency medical or other emergency services.

34 (f) "Governing body" means the board of county commissioners of a
35 county or the governing body of a city.

36 (g) "Person" means any individual, firm, partnership, copartnership,
37 joint venture, association, cooperative organization, corporation, municip-
38 al or private, and whether organized for profit or not, state, county,
39 political subdivision, state department, commission, board, bureau or fra-
40 ternal organization, nonprofit organization, estate, trust, business or com-
41 mon law trust, receiver, assignee for the benefit of creditors, trustee or
42 trustee in bankruptcy or any other service user.

43 (h) "Service supplier" means any person providing exchange tele-

1 phone services or wireless service to any service user in this state.

2 (i) "Service user" means any person who is provided exchange tele-
3 phone service or wireless in this state.

4 (j) "Wireless carrier" means any common, private or other radio car-
5 rier licensed by the federal communications commission to provide two-
6 way voice or text radio service in this state which provides interconnection
7 to the public switched telephone network and access to a 24-hour an-
8 swering point.

9 (k) "Wireless service" means a two-way voice or text radio service
10 provided by a wireless carrier, ~~and~~.

11 (l) "PSAP" means public safety answering point.

12 (m) "Emergency telephone system" means 9-1-1 telephone service
13 and the system for processing reports made by use of such service and for
14 dispatching responders in response to such reports.

15 (n) "Place of primary use" has the meaning provided by and shall be
16 determined in accordance with the federal mobile telecommunications
17 sourcing act (P.L. 106-252).

18 Sec. 2. K.S.A. 2000 Supp. 12-5302 is hereby amended to read as
19 follows: 12-5302. (a) In addition to other powers for the protection of the
20 public health and welfare, a governing body may provide for the operation
21 of an emergency telephone service ~~and may pay for it by imposing an~~
22 ~~emergency telephone tax for such service in those portions of the gov-~~
23 ~~erning body's jurisdiction for which emergency telephone service has~~
24 ~~been contracted. The governing body system and~~ may do such other acts
25 as are expedient for the protection and preservation of the public health
26 and welfare and are necessary for the operation of the emergency tele-
27 phone system. *To pay for the system*, the governing body is hereby au-
28 thorized by ordinance in the case of cities and by resolution in the case
29 of counties to impose ~~such an emergency telephone~~ tax in those portions
30 of the governing body's jurisdiction for which ~~emergency~~ 9-1-1 telephone
31 service has been contracted. *The tax may be imposed either on only*
32 *exchange telephone service or on both exchange telephone service and*
33 *wireless service*. The amount of such tax shall not exceed \$.75 per month
34 per exchange access line or its equivalent *for exchange telephone service*
35 *or \$.75 per month per wireless connection for wireless service*.

36 (b) Within 60 days of the publication of a resolution by a county
37 adopted pursuant to subsection (a) there may be filed with the county
38 election officer of the county a petition signed by not less than 5% of the
39 registered voters of the county, and within 60 days of publication of an
40 ordinance adopted pursuant to subsection (a) there may be filed with the
41 county election officer of the county in which the city is located a petition
42 signed by not less than 5% of the registered voters of the city, in either
43 such case requesting that the question of the installation and operation

1 of an emergency telephone ~~service system~~ and imposition of tax therefor
2 be submitted to the qualified voters of the county. Upon determination
3 of the sufficiency of such petition and certification thereof by the county
4 election officer, the proposition shall be submitted to the qualified voters
5 of the county or city as the case may be at the next primary or general
6 election of county officers following by not less than 60 days the certifi-
7 cation of such petition. If a majority of the votes cast at such election are
8 for the installation and operation of an emergency telephone ~~service sys-~~
9 ~~tem~~ and imposition of tax therefor, or if no protest petition is filed within
10 the time hereinbefore prescribed, the governing body may provide for
11 the installation and operation of such ~~service system~~ and impose such tax.
12 If a tax is imposed on the effective date of this act or thereafter, any
13 proposed increase in the amount of the tax ~~or imposition of the tax on~~
14 ~~wireless service~~ shall be subject to the protest petition provided in this
15 subsection. The proceeds of the tax shall be utilized to pay for the op-
16 eration of ~~the~~ emergency telephone ~~service system~~ as set forth in subsec-
17 tion (b) of K.S.A. 12-5304, and amendments thereto, and may be imposed
18 at any time subsequent to execution of a contract with the provider of
19 ~~such 9-1-1 telephone service~~ at the discretion of the governing body. The
20 collection of such tax may begin at the time determined to be necessary
21 to generate revenue in an amount necessary to pay the nonrecurring
22 expenses of establishing the emergency telephone ~~service system~~. Any
23 interest earned on revenue derived from such tax shall be used to pay the
24 expenses authorized by K.S.A. 12-5304, and amendments thereto. Such
25 tax shall not be imposed until after the expiration of the protest period
26 or until after approved at an election if a sufficient protest petition is filed.

27 (c) As an alternative to the procedure provided in subsection (b), the
28 governing body may submit, on its own initiative, the proposal to establish
29 an emergency telephone ~~service system~~ to the qualified voters of the city
30 or county for approval. Any such election shall be called and held in the
31 manner provided by the general bond law.

32 (d) ~~Such tax~~(1) *The emergency telephone tax on exchange telephone*
33 *service shall be imposed only upon exchange access lines or their equiv-*
34 *alent. No such tax shall be imposed upon more than 100 exchange access*
35 *facilities or their equivalent per person per location.*

36 (2) *The emergency telephone tax on wireless service shall be imposed*
37 *only upon wireless connections for which the place of primary use is*
38 *within the portions of the governing body's jurisdiction for which 9-1-1*
39 *telephone service has been contracted.*

(e) Every billed service user shall be liable for any tax imposed under
this act until it has been paid to the service supplier. ~~Wireless service~~
42 ~~users shall be exempt from the emergency telephone tax.~~

43 (f) The duty to collect any tax imposed under authority of this act

107-01

1 from a service user shall commence at such time as specified by the
2 governing body. Taxes imposed under authority of this act and required
3 by it to be collected by the service supplier shall be added to and may be
4 stated separately in the billings to the service user.

5 (g) The service supplier shall have no obligation to take any legal
6 action to enforce the collection of any tax imposed under authority of this
7 act. The service supplier shall provide annually the governing body with
8 a list of amounts uncollected along with the names and addresses of those
9 service users which carry a balance that can be determined by the service
10 supplier to be nonpayment of any tax imposed under authority of this act.

11 (h) Any tax imposed under authority of this act shall be collected
12 insofar as practicable at the same time as, and along with, the charges for
13 the tariff ~~rate~~ or other rates of the service supplier in accordance with the
14 regular billing practice of the service supplier.

15 Sec. 3. K.S.A. 12-5303 is hereby amended to read as follows: 12-
16 5303. (a) Any tax imposed under authority of this act and the amounts
17 required to be collected are due quarterly. The amount of tax collected
18 in one calendar quarter by the service supplier shall be remitted to the
19 governing body no later than ~~sixty~~ 60 days after the close of a calendar
20 quarter. On or before the sixtieth day of each calendar quarter following,
21 a return for the preceding quarter shall be filed with the governing body
22 in such form as the governing body and service supplier shall agree. The
23 service supplier required to file the return shall deliver the return to-
24 gether with a remittance of the amount of the tax payable to the office
25 of the governing body. The service supplier shall maintain records of the
26 amount of any tax collected pursuant to action in accord with this act.
27 Such records shall be maintained for a period of one year from the time
28 the tax is collected.

29 (b) From every remittance to the governing body made on or before
30 the date when the same becomes due, the service supplier required to
31 remit the same shall be entitled to deduct and retain, as an administrative
32 fee, an amount equal to ~~two percent (2%)~~ 2% thereof. ~~Other costs in-~~
33 ~~curring by the service supplier may be recovered in accordance with:~~
34 ~~(1) Amounts included in the tariff rate of the supplier, in the case of~~
35 ~~exchange telephone service suppliers, and (2) amounts negotiated be-~~
36 ~~tween the service supplier and the governing body, in the case of wireless~~
37 ~~service suppliers.~~

38 (c) At least once each calendar year, the governing body shall estab-
39 lish a tax rate, not to exceed the amount authorized, that together with
40 any surplus revenues carried forward will produce sufficient revenues to
41 fund the expenditures authorized by this act. Amounts collected in excess
42 of that necessary within a given year shall be carried forward to subse-
43 quent years. The governing body shall make its determination of such tax

Costs incurred by service providers, other than costs recovered from the administrative fee, shall be recovered as follows:
(1) In the case of exchange telephone service suppliers, costs may be recovered in the tariff rate of the supplier; and (2) in the case of wireless service suppliers, costs will be recovered in accordance with negotiated agreements between the service supplier and the governing body. The District Court of that jurisdiction will arbitrate any disputed cost recovery issues between the governing body and the wireless carrier.

RQ1

1 rate each year no later than September 1 and shall fix the new rate to
 2 take effect commencing with the first billing period of each customer on
 3 or following the next January 1. Immediately upon making its determi-
 4 nation and fixing the rate, the governing body shall publish in its minutes
 5 the new rate, and it shall notify by registered mail every service supplier
 6 at least ~~ninety (90)~~ 90 days before such new rate will become effective.
 7 The governing body may at its own expense require an annual audit of
 8 the service supplier's books and records concerning the collection and
 9 remittance of the tax authorized by this act.

10 (d) *Nothing in this act shall be construed to prevent a service supplier*
 11 *from contracting with another entity to carry out the service supplier's*
 12 *duties under this act with regard to collection and remittance of any tax*
 13 *imposed pursuant to this act.*

14 (e) *Notwithstanding any other provision of law, no proprietary in-*
 15 *formation submitted to a public agency by a wireless carrier pursuant to*
 16 *this section shall be subject to subpoena or otherwise released to any*
 17 *person other than to the submitting wireless carrier, without the express*
 18 *permission of the wireless service carrier. General information collected*
 19 *from wireless carriers pursuant to this section shall only be released or*
 20 *published in aggregate amounts which do not identify or allow identifi-*
 21 *cation of numbers of subscribers or revenues attributable to a specific*
 22 *wireless carrier.*

23 Sec. 4. K.S.A. 2000 Supp. 12-5304 is hereby amended to read as
 24 follows: 12-5304. (a) Any governing body imposing the tax authorized by
 25 K.S.A. 12-5302, and amendments thereto, may contract directly with the
 26 provider of ~~the emergency 9-1-1~~ telephone service or may contract and
 27 cooperate with any public agency or with other states or their political
 28 subdivisions or with any association or corporation for their political sub-
 29 divisions or with any association or corporation for the administration of
 30 ~~the emergency telephone service system~~ as provided by law.

31 (b) Funds collected from tax imposed pursuant to K.S.A. 12-5302,
 32 and amendments thereto, shall be spent solely to pay for any or all of the
 33 following: (1) The monthly recurring charges billed by the service supplier
 34 for ~~the emergency 9-1-1~~ telephone service; (2) initial installation, service
 35 establishment; nonrecurring start-up charges billed by the service sup-
 36 plier for ~~the emergency 9-1-1~~ telephone service; (3) charges for capital
 37 improvements and equipment or other physical enhancements to the
 38 emergency telephone system; ~~or~~ (4) the acquisition and installation of
 39 road signs designed to aid in the delivery of emergency service; (5) ~~en-~~
 40 ~~gineering, architectural and construction costs attributable to the emer-~~
 41 ~~gency telephone system; or (6) costs of training PSAP personnel to provide~~
 42 ~~effective service to all users of the emergency telephone system, including~~
 43 ~~users who have communications disabilities.~~

(5)

6-01

1 (c) A governing body that imposes an emergency telephone tax on
 2 both exchange telephone service and wireless service may expend the tax
 3 revenue on the emergency telephone system without regard to whether
 4 the source of the revenue is the tax on exchange telephone service or
 5 wireless service.

The governing body shall have 12 months from the date of enactment of an E911 tax on wireless phones to implement Phase 1 wireless E911 service. If after 12 months from the date of enactment of such tax the governing body has failed to implement such service, the tax on wireless phones for E911 service shall be suspended until such time as the governing body implements such service.. The governing body shall maintain a separate accounting of wireline and wireless revenues and costs.

New Section 5. (a) To assist and advise local governments and public safety answering point operators in the implementation and operation of wireless enhanced 911 services including but not limited to policy, training and education, there is established a Wireless Enhanced 911 Advisory Board the members of which shall be appointed by the Governor.

(b) The Board shall consist of nineteen members. One member each shall be recommended by the Kansas Association of Counties, the League of Kansas Municipalities, the Kansas Highway Patrol, the Kansas Association of Fire Chiefs, the Kansas Association of Police Chiefs, and the Kansas Emergency Medical Services Board. One member shall be a person with a communication disability recommended by the Kansas Commission for the Deaf and Hard of Hearing, and three members will be chosen from the public at large. The Board shall also consist of one representative of Southwestern Bell Telephone Company, one representative of Sprint, and one representative from the rural independent telephone companies. There will be one representative from each of six wireless service providers.

(c) The Board shall elect annually one member as chairperson and one member as vice chairperson.

(d) The Board shall meet at least once during each calendar quarter, and at such other times as may be necessary upon call of the chairperson or upon written request of a majority of the members of the Board.

10-10-01

(f) Public records of the Wireless Enhanced 911 Advisory Board shall be subject to the Open Records Act and meetings of the Board shall be subject to the Open Meetings Act.

(g) Terms of members appointed to the Board shall be three years except that:

(h) Of members appointed to the Board, one shall be appointed _____ for a term ending January 15 of the second year following appointment, two shall be appointed for terms ending January 15 of the third year following appointment and two shall be appointed for terms ending January 15 of the fourth year following appointment. Thereafter, each member shall be appointed for a term ending three years after the expiration of the term of the member's predecessor.

(i) If a vacancy on the Board occurs for a reason other than expiration of a term, the vacancy shall be filled by the Governor in the manner provided for original appointments for the remainder of the unexpired term.

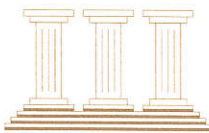
(j) Members shall serve until a successor has been appointed.

Sec. 6. ~~6~~ ~~Sec. 5.~~ K.S.A. 2000 Supp. 12-5308 is hereby amended to read as follows: 12-5308. (a) A public agency ~~or a wireless carrier~~ shall not be liable for any form of damages resulting directly or indirectly from the total or partial failure of any transmission to an emergency telephone service.

(b) *Notwithstanding any other provision of law, in no event shall any wireless carrier, or its officers, employees, assigns or agents, be liable for any form of civil damages or criminal liability which directly or indirectly results from, or is caused by, an act or omission in the development, design, installation, operation, maintenance, performance or provision of 9-1-1 telephone service or other emergency wireless two- and three-digit wireless numbers, unless such act or omission constitutes gross negligence, recklessness or intentional misconduct. Nor shall any wireless carrier, or its officers, employees, assigns, or agents, be liable for any form of civil damages or criminal liability which directly or indirectly results from, or is caused by, the release of subscriber information to any public agency as required to implement the provisions of this act unless the release constitutes gross negligence, recklessness or intentional misconduct.*

Sec. 7. ~~24~~ ~~Sec. 6.~~ K.S.A. 12-5303 and K.S.A. 2000 Supp. 12-5301, 12-5302, 12-5304 and 12-5308 are hereby repealed.

Sec. 8. ~~26~~ ~~Sec. 7.~~ This act shall take effect and be in force from and after its publication in the statute book.



KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the House Utilities Committee

FROM: John Parisi
Vice President for Legislation
Kansas Trial Lawyers Association

RE: 2001 HB 2034

DATE: Jan. 24, 2001

Mr. Chairman and members of the House Utilities Committee, thank you for the opportunity today to comment on House Bill 2034. I am John Parisi, an attorney from Overland Park. I am here today on behalf of the Kansas Trial Lawyers Association as the current vice president for legislation.

KTLA takes no position regarding the general purpose of HB 2034 that addresses funding issues related to emergency 911 services across Kansas. Emergency 911 services are vital to public safety in both rural and urban areas. However, we strongly oppose the portion of new Section 5(b) that broadly provides qualified immunity to any "wireless carrier, or its officers, employees, assigns or agents, for any civil or criminal liability which directly or indirectly results from, or is caused by, an act or omission in the development, design, installation, operation, maintenance, performance, or provision of 9-1-1 telephone service or other emergency wireless two-and three-digit wireless numbers, unless its act or omission constitutes gross negligence, recklessness or intentional misconduct."

This proposed amendment to longstanding Kansas law is unnecessary, unwarranted and jeopardizes public safety. Current state law provides immunity to public agencies and wireless carriers for damages resulting directly or indirectly from a total or partial transmission failure to an emergency telephone service. This is codified in K.S.A. 12-5308 enacted by the legislature in 1994. By its clear terms K.S.A. 12-5308 only applies to the failure of a wireless signal to reach the emergency telephone service. In the view of KTLA no further protection from liability is necessary.

In contrast to the limited scope of K.S.A. 12-5308, new Section 5(b) of H.B. 2034 would create a far broader immunity for wireless carriers protecting them from virtually any liability absent gross negligence, recklessness, or intentional misconduct. As a result, if H.B.2034 is enacted Kansas citizens will be placed at the risk of being injured and left without any means of holding a wireless carrier responsible for their actions or obtaining compensation for bodily injury or property damages. The proposed law would

Terry Humphrey, Executive Director

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E-Mail: triallaw@ink.org

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completely insulate wireless carriers from accountability for injuries or damages caused by their workers, by equipment that is not adequately and safely maintained, or which result from poor workmanship in the design or development of their system.

The proposed "immunity" of Section 5(b) is contrary to the purpose of the 911 emergency system that is, of course, public safety. By eliminating liability for negligence the law provides wireless carriers an incentive to cut corners or use cheaper equipment that is more prone to failure because they would bear no responsibility for the consequences of those decisions. The negligence standard serves an important social function. It mandates that we all act reasonably under the circumstances then prevailing. Nothing less should be expected or required of wireless carriers in charge of the development, design, installation, operation, maintenance, performance, or provision of 9-1-1 telephone service in the state of Kansas.

Importantly, the bill specifically provides funding mechanisms to guarantee the implementation of wireless 911 telephone services for Kansas citizens. Most wireless phone users buy their phones with safety in mind. If such a system is negligently developed, designed, installed, operated or maintained, the company should be accountable to the people who are paying for it with their tax dollars. But this provision would protect, instead, the wireless carrier and anyone with whom it contracts from any negligence unless that negligence rises to the level of gross negligence, recklessness, or intentional misconduct. Clearly such a standard is adverse to the public interest. Such immunity is unwarranted and those working in the wireless telephone industry should be held to the same professional standards of accountability as doctors, lawyers, engineers, and all other Kansans.

Additionally, there is no similar provision for Kansas wireline carriers of emergency service, calling into question why wireless carriers need this protection. The federal law enacted in 1999, provides wireless carriers only the same immunity offered wireline carriers. Thus, the additional immunity granted to wireless carriers in H.B. 2034 is not only too broad but unnecessary.

Section 5(b) of the act also provides qualified immunity for dissemination of subscriber information. KTLA does not oppose the qualified immunity for dissemination of subscriber information, as this provision only applies to the extent necessary to carry out the provisions of the act.

KTLA cannot support the expansion of the immunity provisions contained in Section 5 (b) for wireless carriers, their employees, officers, agents and assigns in the development, design, installation, operation, maintenance, performance, or provision of 911 service. We respectfully request that the committee amend HB 2304 to remove the new portions of Section 5(b) that would provide such a broad, sweeping and unwarranted change to Kansas law.

Thank you for the opportunity to comment and I would welcome any questions that you may have.

11-2

1 (c) A governing body that imposes an emergency telephone tax on
2 both exchange telephone service and wireless service may expend the tax
3 revenue on the emergency telephone system without regard to whether
4 the source of the revenue is the tax on exchange telephone service or
5 wireless service.

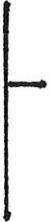
6 Sec. 5. K.S.A. 2000 Supp. 12-5308 is hereby amended to read as
7 follows: 12-5308. (a) A public agency ~~or a wireless carrier~~ shall not be
8 liable for any form of damages resulting directly or indirectly from the
9 total or partial failure of any transmission to an emergency telephone
10 service.

11 (b) ~~Notwithstanding any other provision of law, in no event shall any
12 wireless carrier, or its officers, employees, assigns or agents, be liable for
13 any form of civil damages or criminal liability which directly or indirectly
14 results from, or is caused by, an act or omission in the development,
15 design, installation, operation, maintenance, performance or provision of
16 9-1-1 telephone service or other emergency wireless two and three digit
17 wireless numbers, unless such act or omission constitutes gross negligence,
18 recklessness or intentional misconduct. Nor shall any wireless carrier, or
19 its officers, employees, assigns, or agents, be liable for any form of civil
20 damages or criminal liability which directly or indirectly results from, or
21 is caused by, the release of subscriber information to any public agency
22 as required to implement the provisions of this act unless the release con-
23 stitutes gross negligence, recklessness or intentional misconduct.~~

24 Sec. 6. K.S.A. 12-5303 and K.S.A. 2000 Supp. 12-5301, 12-5302, 12-
25 5304 and 12-5308 are hereby repealed.

26 Sec. 7. This act shall take effect and be in force from and after its
27 publication in the statute book.

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Proposed amendment to delete a portion of Sec. 5(b), lines 14-21

11-3

(b) SUPPORT- The Federal Communications Commission shall encourage and support efforts by States to deploy comprehensive end-to-end emergency communications infrastructure and programs, based on coordinated statewide plans, including seamless, ubiquitous, reliable wireless telecommunications networks and enhanced wireless 9-1-1 service. In encouraging and supporting that deployment, the Commission shall consult and cooperate with State and local officials responsible for emergency services and public safety, the telecommunications industry (specifically including the cellular and other wireless telecommunications service providers), the motor vehicle manufacturing industry, emergency medical service providers and emergency dispatch providers, transportation officials, special 9-1-1 districts, public safety, fire service and law enforcement officials, consumer groups, and hospital emergency and trauma care personnel (including emergency physicians, trauma surgeons, and nurses). The Commission shall encourage each State to develop and implement coordinated statewide deployment plans, through an entity designated by the governor, and to include representatives of the foregoing organizations and entities in development and implementation of such plans. Nothing in this subsection shall be construed to authorize or require the Commission to impose obligations or costs on any person.

* SEC. 4. PARITY OF PROTECTION FOR PROVISION OR USE OF WIRELESS SERVICE.

(a) PROVIDER PARITY- A wireless carrier, and its officers, directors, employees, vendors, and agents, shall have immunity or other protection from liability in a State of a scope and extent that is not less than the scope and extent of immunity or other protection from liability that any local exchange company, and its officers, directors, employees, vendors, or agents, have under Federal and State law (whether through statute, judicial decision, tariffs filed by such local exchange company, or otherwise) applicable in such State, including in connection with an act or omission involving the release to a PSAP, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or trauma care facility of subscriber information related to emergency calls or emergency services.

(b) USER PARITY- A person using wireless 9-1-1 service shall have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under applicable law in similar circumstances of a person using 9-1-1 service that is not wireless.

(c) PSAP PARITY- In matters related to wireless 9-1-1 communications, a PSAP, and its employees, vendors, agents, and authorizing government entity (if any) shall have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under applicable law accorded to such PSAP, employees, vendors, agents, and authorizing government entity, respectively, in matters related to 9-1-1 communications that are not wireless.

(d) BASIS FOR ENACTMENT- This section is enacted as an exercise of the enforcement power of the Congress under section 5 of the Fourteenth Amendment to the Constitution and the power of the Congress to regulate commerce with foreign nations, among the several States, and with Indian tribes.

SEC. 5. AUTHORITY TO PROVIDE CUSTOMER INFORMATION.

Section 222 of the Communications Act of 1934 (47 U.S.C. 222) is amended--

11-4

ALLTEL Communications
Testimony on House Bill 2034
House Utilities Committee
24 January 2001

Chairman Holmes and members of the Utilities Committee:

My name is Joe Schuele, Government Relations Manager for the Kansas and Nebraska operations of ALLTEL. ALLTEL provides wireless communications services to about 204,000 customers throughout Kansas.

ALLTEL does not object in principle to the customer surcharge that is authorized in HB 2034, nor do we oppose the enactment of wireless enhanced 911 legislation this session. As the issue of wireless enhanced 911 moves forward nationwide, Kansas needs to properly prepare for deployment of this service.

ALLTEL questions, however, whether HB 2034 provides the best mechanism for achieving this goal. A variable, locally-assessed surcharge and no centralized cost recovery mechanism are two of the weaknesses that we see in this legislation. We feel that this will lead to sporadic and inconsistent deployment, especially in less-populated areas. Many areas do not have a large population of wireless subscribers, yet their need and demand for wireless enhanced 911 service may be quite intense. This is especially true if the area contains a busy highway corridor or an active tourist area.

ALLTEL strongly supports the amendments that are being presented to the committee today with regard to cost recovery. These amendments ease some of our concerns about HB 2034 and provide greater assurance that wireless enhanced 911 service will be deployed in an adequate and competitively neutral manner.

However, ALLTEL remains concerned that the lack of centrally-administered fund will hinder the effectiveness of this legislation. We are not insensitive to the issue of local control. We understand that sentiment, and we anticipated the resistance to a centralized fund. But this committee needs to look to the experience of neighboring states that have faced the same issue. The Iowa Legislature dealt with this issue early on, and moved forward with legislation in 1999. By our experience, that program worked extremely well for the implementation of Phase I and is gearing up for Phase II. Nebraska, on the other hand, grappled with the dilemma of local vs. centralized surcharge. This significantly slowed progress on the issue. But this year, city and county officials in Nebraska finally determined that a centralized fund was in their best interest. They have advanced legislation to that effect, which has ALLTEL's full support and is very likely to pass in the 2001 legislative session.

Again, it is not ALLTEL's desire to obstruct the implementation of wireless enhanced 911 service. We simply want the issue to be addressed in the most workable and cost-effective manner possible. We encourage you to consider our comments as you move forward with this legislation. Thank you for the opportunity to testify.

HOUSE UTILITIES

DATE: 01-24-01

ATTACHMENT 12

INDEPENDENT TELECOMMUNICATIONS GROUP

POST OFFICE BOX 6
LAWRENCE, KANSAS 66044-0006
TELEPHONE: (785)-842-6800
FAX: (785)-842-6800

BEFORE THE HOUSE UTILITIES COMMITTEE

Testimony of Tom Gleason On House Bill No. 2304

January 24, 2001

Mr. Chairman and members of the Committee:

My name is Tom Gleason. I am privileged to act as legislative and regulatory counsel for twelve of the independent local exchange carriers serving portions of rural Kansas. These carriers provide high quality wireline local service to their communities; they range in size from about two hundred to six thousand six hundred Kansas residence and business customers. I appear today to offer these rural carriers' support for full inclusion of wireless service in the emergency telephone systems established and maintained by local units of government for the health and safety of their citizens.

Independent telephone companies in Kansas often have taken the lead in the establishment and development of 911 services in their communities. As members of their communities and as telecommunications service providers they are well aware of the need for rapid and reliable communications in emergencies. They have long worked and continue to work with local public health and safety providers to provide faster and better coordinated emergency response for their customers. Rural companies have been eager to keep pace with technological developments providing continuing improvements in emergency response.

The advent of wireless and mobile telecommunications has provided increased convenience for many Kansans; it has also provided further enhancement of public safety through the ability to contact emergency services from almost anywhere. For years wireless customers have had access to 911 systems, and we believe it is time that wireless carriers become full and equal partners in advancing public health and safety. The past year's Task Force on wireless 911 reached significant areas of agreement among the interested and affected parties, but some public policy decisions remain to be made. We believe House Bill 2034 is an appropriate vehicle for achieving resolution in the areas remaining.

A number of Kansans view wireless telecommunications as not just a supplement but an alternative to traditional wireline communications. As the emergence of local service competition becomes reality it is critical that public policy not place a heavy thumb on the scale in the marketplace, either intentionally or inadvertently. Public safety is an overriding need, but it can be advanced without creating competitive inequities. To that end rural companies see portions of House Bill 2034 which deserve further attention and refinement.

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We have provided, for your consideration, proposed amendments which are intended to approach more nearly the competitive ideal of the level playing field. All too often business competition can include competition for legislative or regulatory advantage; this is not improper as a business practice, but neither is it often a sound basis for making public policy.

Our proposals are intended to avoid giving anyone the upper hand while still enhancing the utility and value of 911 to Kansans. While we question as a general matter many of the provisions referring separately to exchange telephone service and wireless service, the amendments we propose would result in more reasonable and equivalent treatment of all suppliers. We hope our suggestions for the bill's improvement will be included in your actions, so that the full inclusion of wireless suppliers and customers in 911 systems will not come at the expense of competitive neutrality.

Thank you for your attention to our concerns, and for your interest in advancing public health and safety without undue advantage or disadvantage to any participant.

13-2

INDEPENDENT TELECOMMUNICATIONS GROUP

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LAWRENCE, KANSAS 66044-0006
TELEPHONE: (785)-842-6800
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PROPOSED AMENDMENTS TO HOUSE BILL 2034

1. Page 2, Lines 31-33: Strike the italicized sentence and replace with the following: "If imposed, the tax shall be applied equally to exchange telephone service and wireless service." For additional clarity add to line 35 "The amount imposed shall be the same for exchange access line and for wireless connection."

DISCUSSION: The current language would encourage carrier efforts to seek competitive advantage from each governing body. A policy of uniformity and evenhanded treatment of all suppliers will keep local units above the fray and able to focus on improving delivery of emergency services.

2. Page 3, Lines 13-14: Delete new language in italics. Add at line 15 after "subsection.": "The extension to wireless service of any tax imposed shall not be subject to such protest petition."

DISCUSSION: The apparent intent of the amendment should be reversed. Suppliers should use their emergency calling resources to enhance services, not to campaign for service exclusion or for divisive and expensive protest proceedings benefiting only one class of 911 users.

3. Strike Page 2, lines 15-17; change page 3, line 37 from "place of primary use" to "customer's billing address."

DISCUSSION: The adoption of an unstated federal definition by reference, subject to amendment by another level of government, is a questionable legislative practice. Also, absent an objective and easily demonstrable standard such as billing address, the system can become unenforceable and arbitrary. Many wireless customers may claim, without possibility of confirmation or fear of contradiction, that their "place of primary use" is whichever jurisdiction has the cheapest 911 tax – or none at all. Billing and collection could become arbitrary and time-consuming, necessitating an increase in the proposed 2% retention by suppliers.

133

4. Page 4, lines 32-37: strike italicized text entirely.

First option - replace with the following: "Other costs incurred by a service supplier not recovered through the local service rates or customer charges of the supplier may, at the discretion of the governing body, be recovered subject to negotiation with the governing body; provided any such recovery shall be made available equally to exchange telephone service suppliers and wireless service suppliers."

Second option: since a wireless supplier can already recover its costs from its customers without statutory or regulatory authority no substitute is necessary.

DISCUSSION: Most rural companies in fact have not increased their local rates to cover these additional costs. When a wireline company does recover its 911 costs through local rates it is charging customers for recovery outside the 911 tax revenue. In any event, if only wireless cost recovery is allowed from the 911 tax wireless carriers are given a competitive advantage in price of service.

911 service is a valuable component of the public health and safety. It is reasonable to impose its costs evenhandedly and allow all suppliers the same opportunities to recover this "cost of doing business" through the same mechanisms.

To the extent wireless carriers' Phase II compliance (including location information) will impose increased expense on PSAPs, wireless carriers have even less justification to deplete the 911 tax revenue for recovery of their own costs.

The interim Task Force was unable to reach consensus on a "may vs. shall" issue of wireless cost recovery from the 911 tax. Even the present use of "may" (at page 4, line 33 implies the wireless supplier has a privilege to recover, and the governing body has a duty to negotiate and agree to such recovery. Clarification of the governing body's discretion would likely avoid unintended claims and litigation.

5. Replace "wireless carrier" with "service supplier" in page 6, lines 12 and 18.

DISCUSSION: While limited immunity from liability is appropriate there is no evident reason to extend it only to wireless carriers as proposed in the present draft.

•POSSIBLE ALTERNATIVE: add to Page 6, line 18, after "intentional misconduct.": "Intentional misconduct includes but is not limited to any action in the operation or management of a wireline or wireless system or in the routing of 911 traffic in any manner which significantly increases the likelihood of a wireless 911 call being delivered to a PSAP other than that of the jurisdiction in which such call is placed."

13-4

• POSSIBLE ALTERNATIVE: a new section, as follows: "Each service provider shall design and operate its 911 service and facilities so as to maximize direct delivery of each emergency call to the PSAP of the jurisdiction in which the emergency call is placed."

DISCUSSION: Recent instances of rerouting of 911 calls by a cellular carrier in south central Kansas show a need to express the priority of safety over supplier convenience.

6. Page 5, lines 15, 17 18, 19 and 22: replace "wireless carrier" and "wireless service carrier" with "service supplier."

DISCUSSION: The current language gives special protection only to wireless carriers for their proprietary information, without justification.

13-5

Bill Singer SHAWNEE CO Ly
PSAP

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. THANK YOU FOR PERMITTING ME TO SPEAK IN SUPPORT OF THE 9-1-1 CELLULAR TELEPHONE FEE. I THINK IT APPROPRIATE TO GIVE YOU STATISTICS FROM SHAWNEE COUNTY YEAR 2000.

- 9-1-1 – 92,232
- Average Answer - 3 Seconds
- Average duration – 1:10 Seconds
- Average Response Time
 - oo Law Enforcement Priority #1 – 1 Minute
 - oo Fire – Under 4 minutes
 - oo First Responder – Under 4 Minutes
- Cellular Calls – 30% (27,669)

THESE DON'T MEAN MUCH IN TERMS OF LIFE AND PROPERTY. PERHAPS REAL EVENTS WILL

(1) "I'M THE SON OF A MOTHER" WHO HAS A WALKER AND ON THE FRONT OF THE WALKER THERE IS A BAG WHICH CONTAINS A CELL PHONE. WE CAN'T GET THE NUMBER OR THE LOCATION AS REQUIRED BY THE FCC. I WOULD COUNTER, IT IS POSSIBLE AND THAT PSAP'S DO THEIR BEST TO IDENTIFY THE CALLER. I TESTED THIS THEORY LAST NIGHT AND A SHIFT SUPERVISOR WAS ABLE TO OBTAIN A BILLING ADDRESS IN ABOUT ONE HOUR. NUMBER 1-817-355-6570 FAX 1-817-355-6571 THE NUMBER CAN ALSO BE TRACED BY IDENTIFYING THE PSAP, TIME AND DURATION OF THE CALL. THIS PROCESS TAKES LONGER, (10 MINUTES).

- (2) DRIVING NORTH FROM OKLAHOMA INTO KANSAS AND ENCOUNTER BAD WEATHER. SEVERAL ACCIDENTS. CALLED KHP WITH NO RESPONSE THEN CALL 9-1-1 AND A PSAP FOUR COUNTIES TO THE NORTH. TRAINING ISSUE
- (3) OSAGE COUNTY TRAIN WRECK 9-1-1 CALL FOR HELP. PEOPLE IN A CAR LAYING ON ITS SIDE. HELP WAS DISPATCHED WITHIN SIX MINUTES. SHAWNEE COUNTY DISPATCHERS PINPOINTED THE LOCATION WITH QUESTIONS TO THE CALLER AND MADE CONTACT WITH AMTRACK.

ARGUMENTS

- I PAY THE TAX ON MY HOME PHONE. DON'T TAX ME TWICE. TWO PHONES, TWO CARS, TWO HOUSES. NO VALID
- 9-1-1 PHONE CALLS ARE FROM GOOD SAMARITAN. PERHAPS THEY ARE WITNESSES, INJURED PARTY, CONCERNED CITIZENS THAT SHOULD NOT PAY THE TAX.

I HAVE LIVED IN SHAWNEE COUNTY FOR FIVE (5) YEARS AND NEVER CALLED 9-1-1 IN AN EMERGENCY. WHY SHOULD I PAY A \$9.00 TAX FOR E-9-1-1?????

IF YOU WANT SOMETHING TO GO AWAY STUDY IT. SPOKEN BY THE HEAD OF A WORLD-RENOWNED ORGANIZATION. IS THIS WHAT THE LEGISLATURE IS DOING. 2 POST AUDIT COMMITTEE STUDIES AND A TASK FORCE.

SHAWNEE COUNTY WILL MOVER FORWARD AND SUPPORT THE FEDERAL GOVERNMENT, STATE OF KANSAS AND CITY OF TOPEKA AND INITIATE A PROGRAM TO IDENTIFY AT THE VERY LEAST THE CELL PHONE NUMBER. COST???????

IN CLOSING IT IS IRONIC THAT SHAWNEE COUNTY SUBSIDIZES THE STATE GOVERNMENT TO THE TUNE OF \$10,000. PER YEAR. THE STATE DOES NOT PAY THE 9-1-1 TAX YET THE COUNTY PAYS THE .07 PER MONTH EXCHANGE ACCESS ARRANGEMENT. THANK YOU...

HOUSE UTILITIES
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GOVERNMENT RELATIONS

Sedgwick County Courthouse
525 N. Main, Suite 365
Wichita, KS 67203
Phone: (316) 383-7552
Fax: (316) 383-7946

Michael D. Pepoon
Director

TESTIMONY ON H.B. 2034
House Utilities Committee
By Michael D. Pepoon, Director of Government Relations
January 22, 2001

Honorable Chair Carl Holmes and members of the committee, please allow me to submit testimony in support of House Bill 2034 on behalf of Sedgwick County. This bill adopts the recommendations of the Wireless E-911 Task Force created during the 2000 legislative session and provides that a tax not to exceed \$.75 per month per wireless service be assessed against wireless carriers to fund 911 services.

Sedgwick County views support of this legislation as vitally important not only to bring a measure of tax equity to the funding of the County's 911 services but, just as important, as a matter of providing for the public safety of the citizens of this state. This is the reason that the Board of County Commissioners last November, during the annual adoption of the County's legislative platform, singled out this legislation as one of our three most important legislative priorities for the 2001 legislative session.

Currently, approximately one-third of the calls coming into our Emergency Communications center are from wireless phones. The wireless industry promotes the use of wireless phones for such emergency situations as a major selling point for owning a wireless telephone. Yet for years, the funding for 911 services has come entirely from the wireline telephone industry. This means that the segment of our population which derives significant benefit from emergency 911 service, and in general is the most likely to be able to afford to pay such a tax (young, upwardly mobile business people and other professionals), escape paying their share of taxes, while the burden is shifted to the persons least able to pay this tax (the poor, elderly and others on fixed incomes).

Sedgwick County also believes that revenue from a tax on wireless telephones is necessary to provide for the public safety of our citizens. In conjunction with the Federal Communications Act of 1996, the Federal Communications Commission (FCC) created rules governing the availability of Basic 911 service and Enhanced 911 service for wireless telephone users. Currently Sedgwick County dispatchers can locate a call coming in on a wireline telephone by address. Similar capabilities for wireless telephones can be achieved as part of Phase II of the FCC regulations. Under timelines

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established as part of these regulations, Phase II wireless E-911 services can be operational by as early as October 1, 2001. But this cannot be done without significant capital investment by Sedgwick County, and the funds needed for such infrastructure costs should be derived through the use of a 911 tax on wireless telephones.

For the above reasons, Sedgwick County strongly supports H.B. 2034. Thank you for your consideration of this matter.