

Approved: May 2, 2003  
Date

*Carl Dean Holmes*

## MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:05 a.m. on April 2, 2003 in Room 526-S of the Capitol.

All members were present except: Representative Eric Carter  
Representative Peggy Long  
Representative Judy Showalter  
Representative Roger Toelkes

Committee staff present: Mary Galligan, Legislative Research  
Dennis Hodgins, Legislative Research  
Mary Torrence, Revisor of Statutes  
Jo Cook, Administrative Assistant

Conferees appearing before the committee: None

Others attending: See Attached List

Chairman Holmes explained that the reason for the meeting was to provide additional information to the committee regarding requests that had been made during Conference Committee meetings on **HB 2037**. Mary Galligan, Research Analyst, distributed a bill description in the form of a balloon (Attachment 1) to show the changes that had been made. Kim Gulley, League of Kansas Municipalities, explained language proposed on **Sub SB 153** (Attachment 2). The proposed language could be amended into **HB 2037**, should it be agreed upon by the Conference Committee members. The committee addressed questions to both Ms. Galligan and Ms. Gulley.

Senator Karin Brownlee, Chairman of the Senate Commerce Committee, addressed the committee, sharing some concerns she had regarding both bills. She stated she was aware that the House had not held hearings on **Sub SB 153** and there had already been a tremendous amount of study on the issue of enhanced wireless 911 service. She told the committee that the Senate was very interested in seeing this issue move forward.

Chairman Holmes asked each member of the committee to consider the options available and contact their respective party committee leader with their recommendation.

Representative Dillmore moved to approve the minutes of the February 10, 11, 12, 13, 14, 18, 19, 24, and 25 meetings. Representative Neighbor seconded the motion. Motion carried.

The meeting adjourned at 10:00 a.m.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: April 2, 2003

NAME	REPRESENTING
Andy Shaw	Aetna
Al Cobb	Kcet
Mike Murray	Sprint
Danielle Lee	Johnson County
Cocina HANSEN	KASU
Bruce Graham	KEPCo
Bob Jayroe	SBC
Susan Mahoney	SBC
Randall Allen	Ks. Assn. of Counties
Anne Spiess	ETA
Jane Dottle	KEC
Doug Smith	KLPG
Kim Gullett	2 KM
Dina Fusk	Verizon Wireless
Nike Lee At	AT&T
Mark Schreiber	Westar Energy
Steve Johnson	Kansas Gas Service

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

[As Amended by House Committee of the Whole]

As Amended by House Committee

*Session of 2003*

# HOUSE BILL No. 2037

By Committee on Utilities

1-21

AN ACT concerning public utilities; relating to recovery of certain costs; **concerning certain employee compensation [concerning enhanced wireless 911 service; public safety grant funds];** amending K.S.A. **[12-5301, 12-5302 and]** ~~66-1232 and 66-1233~~ and repealing the existing ~~sections~~ **section sections.**

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

Section 1. K.S.A. 66-1232 is hereby amended to read as follows: 66-1232. ~~(a)~~ [(a)] K.S.A. 66-1231, and amendments thereto, shall affect only such costs and fees which are ~~incurred between on and after~~ **incurred between April 1, 2002, and June 30, 2003, and June 30, 2004 2005, inclusive.**

~~(b) The provisions of this section and K.S.A. 66-1230 and 66-1231, and amendments thereto, shall expire on June 30, 2003.~~

**(b) The provisions of this section and K.S.A. 66-1230 and 66-1231, and amendments thereto, shall expire on June 30, 2004 2005.**

~~Sec. 2. K.S.A. 66-1233 is hereby amended to read as follows. 66-1233. (a) As used in this section:~~

~~(1) "Electric public utility" means any electric public utility, as defined in K.S.A. 66-101a, and amendments thereto.~~

~~(2) "Natural gas public utility" means any natural gas public utility, as defined in K.S.A. 66-1-200, and amendments thereto.~~

~~(b) On and after July 1, 2002, the state corporation commission, upon application and request, shall authorize electric public utilities and natural gas public utilities to recover the utility's prudent expenditures for security measures reasonably required to protect the utility's electric generation and transmission assets or natural gas production and transpor-~~

Bill description for House Utilities Committee 4/2/2003

HOUSE UTILITIES  
DATE: 4-2-03  
ATTACHMENT 1

Senate Committee extended to 2005 the period during which utilities may pass along to customers certain costs and fees imposed by cities. Fees to which this provision would apply are those associated with utilities' use, occupancy, or maintenance of the utilities' facilities in the public right-of-way or extraordinary costs generated by actions of a city governing body.

The Senate Committee amendment would leave unchanged current law regarding recovery of the cost of certain security measures. The House committee would have repealed the sunset of that provision. (NOTE: HB 2374 includes provisions to implement KSA 66-1233, but would not amend that statute.)

2-1

~~1 tation assets by an adjustment to the utility's customers' bills. The~~  
~~2 application and request shall be subject to such procedures and condi-~~  
~~3 tions, including review, in an expedited manner, of the prudence of the~~  
~~4 expenditures and the reasonableness of the measures, as the commission~~  
~~5 deems appropriate. Such application and request shall be confidential and~~  
~~6 subject to protective order of the commission.~~

~~(c) The provisions of this section shall expire on July 1, 2004.~~

**New Sec. 2. (a) As used in this section:**

**(1) "Excessive compensation" shall have the meaning ascribed to such term as provided in rules and regulations adopted by the state corporation commission.**

**(2) "Public utility" has the meaning provided by K.S.A. 66-104, and amendments thereto.**

**(3) "Compensation" has the same meaning as provided by 17 CFR 229.402, as in effect on July 1, 2003, or any later version as established in rules and regulations adopted by the state corporation commission.**

**(b) No public utility providing excessive compensation to any employee shall recover the value of the excess from the utility's ratepayers.**

**(c) The state corporation commission shall allow a public utility to recover from ratepayers only that employee compensation, including compensation of executives and senior management employees, which the commission finds:**

**(1) Benefits ratepayers;**

**(2) is justified by the productivity, cost savings, quality of service, overall performance and financial condition of the utility;**

**(3) is reasonable compensation in comparison to regional norms in the utility industry;**

**(4) was paid within any test period, for work performed during the test period;**

**(5) will not result in unjust or unreasonable rates; and**

**(6) is otherwise not excessive compensation.**

**(d) The state corporation commission shall review compensation of a public utility's employees as a part of any proceeding before the commission which may result in a change of the utility's rates. The commission shall deny recovery from ratepayers that amount of the value of any compensation which the commission finds is excessive compensation or does not meet the conditions stated in subsection (c), by excluding that amount from the utility's cost of service, or otherwise excluding it from rates. Whether shareholders have approved the compensation in question shall not be considered by the commission in determining whether compensa-**

The Senate Committee amended the bill to include provisions of SB 51 as that bill passed the Senate 40-0. The bill was heard in House Utilities and an amendment was adopted. The bill was not reported out of Committee. SB 51 remains in House Utilities Committee.

6-1

1 *tion is excessive compensation. A public utility shall have the bur-*  
2 *den of proving that compensation of current, former and departing*  
3 *employees, including compensation of executives and senior man-*  
4 *agement employees, is not excessive compensation and that such*  
5 *compensation meets the conditions stated in subsection (c) before*  
6 *recovery of such compensation shall be allowed in rates.*

7 *(e) A publicly traded public utility shall file a clear, concise and*  
8 *understandable disclosure statement on or before April 1 of each*  
9 *year with the state corporation commission disclosing the compen-*  
10 *sation ranges of the officers of the public utility for the preceding*  
11 *calendar year. The disclosure statement required to be filed under*  
12 *this subsection shall be open for inspection by any person in ac-*  
13 *cordance with K.S.A. 45-218, and amendments thereto.*

14 *(f) Any federal or state tax liabilities of any employee or public*  
15 *utility for compensation considered excessive under this section*  
16 *shall not reduce the amount that is to be excluded from the utility's*  
17 *cost of service or otherwise excluded from rates.*

18 *(g) The provisions of this section shall apply to any proceedings*  
19 *pending before the state corporation commission on the effective*  
20 *date of this act and to all proceedings filed with the commission on*  
21 *or after that date.*

22 *(h) The state corporation commission may adopt reasonable*  
23 *rules and regulations to implement the provisions of this section.*

24 *[Sec. 3. K.S.A. 12-5301 is hereby amended to read as follows:*  
25 *12-5301. As used in this act, unless the context otherwise requires:*

26 *[(a) "Emergency telephone service" means a telephone system*  
27 *utilizing a single three digit number "911" for reporting police, fire,*  
28 *medical or other emergency situations;*

29 *[(b) "emergency telephone tax" means a tax to finance the op-*  
30 *eration of emergency telephone service;*

31 *[(c) "exchange access facilities" means all facilities provided by*  
32 *the service supplier for the facility which provides local telephone*  
33 *exchange access to a service user;*

34 *[(d) "tariff rate" means the rate or rates billed by a service sup-*  
35 *plier and as stated in the service supplier's tariffs, approved by the*  
36 *state corporation commission which represent the service supplier's*  
37 *recurring charges for exchange access facilities or their equivalent,*  
38 *exclusive of all taxes, fees, licenses or similar charges whatsoever;*

39 *[(e) "public agency" means any city, county, municipal corpo-*  
40 *ration, public district or public authority located in whole or in*  
41 *part within this state which provides or has authority to provide*  
42 *fire fighting, law enforcement, ambulance, emergency medical or*  
43 *other emergency services;*

The Senate Committee of the Whole amended the bill to include provisions of Sub. SB 153 as that bill passed the Senate 26-12. Sub. SB 153 remains in House Utilities. The bill has not been heard. Sub. for SB 153 would provide a funding mechanism for wireless enhanced 911 (e-911) implementation and service.

Under the bill, a total of \$0.75 would be collected monthly from each wireless service user in the state. Of this amount, \$0.25 would be in the form of a fee going to the Public Safety Grant Fund, \$0.25 would be in the form of a surcharge going to the wireless carrier, and \$0.25 would be in the form of a tax going to the local government.

1-1

1 [(f) "governing body" means the board of county commissioners  
2 of a county or the governing body of a city;

3 [(g) "person" means any individual, firm, partnership, copart-  
4 nership, joint venture, association, cooperative organization, cor-  
5 poration, municipal or private, and whether organized for profit or  
6 not, state, county, political subdivision, state department, commis-  
7 sion, board, bureau or fraternal organization, nonprofit organiza-  
8 tion, estate, trust, business or common law trust, receiver, assignee  
9 for the benefit of creditors, trustee or trustee in bankruptcy or any  
10 other service user;

11 [(h) "service supplier" means any person providing exchange  
12 telephone services or wireless service to any service user in this  
13 state;

14 [(i) "service user" means any person who is provided exchange  
15 telephone service or wireless service in this state;

16 [(j) "wireless carrier" means any common, private or other ra-  
17 dio carrier licensed by the federal communications commission to  
18 provide two-way voice or text radio service in this state which pro-  
19 vides interconnection to the public switched telephone network and  
20 access to a 24-hour answering point;

21 [(k) "wireless service" means a two-way voice or text radio serv-  
22 ice provided by a wireless carrier; and

23 [(l) "PSAP" means public safety answering point.

24 [(m) "Fund" means the public safety grant fund established by this  
25 act.

26 [(n) "Municipality" means: (1) Any political or taxing subdivision au-  
27 thorized by law to construct, operate and maintain a public safety an-  
28 swering point system; and (2) two or more such subdivisions jointly con-  
29 structing, operating and maintaining a public safety answering point  
30 system.

Cities and counties under K.S.A. 12-5301, et seq.

31 [(o) "Project" means the development and acquisition of the necessary  
32 improvements in order to facilitate the establishment of enhanced wireless  
33 emergency telephone services.

34 [(p) "Project costs" means all costs or expenses which are necessary  
35 or incident to a project and which are directly attributable thereto.

36 [(q) "Administrator" means the Kansas department of  
37 administration.

38 [(r) "Enhanced 911 service" means an emergency telephone service  
39 that generally may provide, but is not limited to, selective routing, auto-  
40 matic number identification and automatic location identification  
41 features.

42 [(s) "Enhanced wireless 911 service" means a communication service  
43 by which wireless telecommunication carriers can provide automatic

5-1

1 *number identification, pseudo-automatic number identification or wire-*  
2 *less automatic location identification information to a requesting public*  
3 *safety answering point as defined in FCC docket 94-102 which is capable*  
4 *of receiving and utilizing the data elements associated with enhanced*  
5 *wireless 911 service.*

6 ***[New Sec. 4. (a) There is hereby established in the state treas-***  
7 ***ury the public safety grant fund.***

8 ***[(b) Moneys from the following sources shall be credited to the***  
9 ***fund:***

10 ***[(1) Amounts received by the state from the federal government***  
11 ***for the purposes of the fund;***

12 ***[(2) amounts appropriated or otherwise made available by the***  
13 ***legislature for the purposes of the fund;***

14 ***[(3) amounts received by the state pursuant to section 5 and***  
15 ***amendments thereto;***

16 ***[(4) interest attributable to investment of moneys in the fund;***  
17 ***and***

18 ***[(5) amounts received from any public or private entity for the***  
19 ***purposes of the fund.***

20 ***[(c) Subject to the conditions and in accordance with require-***  
21 ***ments of this act, moneys credited to the fund shall be used only***  
22 ***for:***

23 ***[(1) Necessary and reasonable costs incurred or to be incurred***  
24 ***by public safety answering points to implement enhanced wireless***  
25 ***911 service; (2) purchases of equipment and upgrades and modifi-***  
26 ***cation to equipment used solely to process the data elements of en-***  
27 ***hanced wireless 911 service; (3) maintenance costs and license fees***  
28 ***for such equipment and the training of personnel to operate such***  
29 ***equipment including costs of training PSAP personnel to provide***  
30 ***effective service to all users of the emergency telephone system who***  
31 ***have communications disabilities; (4) actual and necessary expenses***  
32 ***incurred by members of the advisory board while performing duties***  
33 ***required by this act; and (5) such costs shall not include expendi-***  
34 ***tures for new or expanded buildings or similar facilities or to con-***  
35 ***struct other capital improvements not expressly authorized by this***  
36 ***act.***

37 ***[(d) Administrative expenses shall not exceed 5% of revenue in***  
38 ***the fund.***

39 ***[(e) On or before the 10th of each month, the director of ac-***  
40 ***counts and reports shall transfer from the state general fund to the***  
41 ***public safety grant fund interest earnings based on:***

42 ***[(1) The average daily balance of moneys in the public safety***  
43 ***grant fund for the preceding month; and***

The bill would create the Public Safety Grant Fund from which grants would be made to municipalities, as defined by the bill, for the implementation of wireless e-911.

The fund also would be the repository for moneys from other sources.

Under the bill, fund moneys could only be used for the following:

1. Necessary and reasonable costs incurred or to be incurred by PSAPs to implement wireless e-911;
2. Purchases of equipment and upgrades and modification to equipment used solely to process the data elements of wireless e-911 services;
3. Maintenance costs and license fees for wireless e-911 equipment and the training of personnel to operate the equipment; and
4. Actual and necessary expenses incurred by members of the advisory board while performing duties required by the act.

Moneys in the fund could not be used for the cost of new or expanded buildings or similar facilities or to construct other capital improvements not expressly authorized by the bill.

Administrative expenses could not exceed 5 percent of the revenue in the fund.

Interest earnings on money in the fund would be credited to the fund.

.nsas Legislative Research Department

April 1, 2003 (4:00pm)

6-1



5-1

1 *[(2) the net earnings rate of the pooled money investment port-*  
2 *folio for the preceding month.*

3 *[(f) All payments and disbursements from the fund shall be*  
4 *made in accordance with appropriation acts upon warrants of the*  
5 *director of accounts and reports issued pursuant to vouchers ap-*  
6 *proved by the administrator or by a person or persons designated*  
7 *by the administrator. All payments and disbursements from the*  
8 *fund, and beginning and ending balances thereof, shall be subject*  
9 *each year to post audit in accordance with article 11 of chapter 46*  
10 *of the Kansas Statutes Annotated, and amendments thereto.*

11 *[New Sec. 5. (a) There is hereby established a public safety fee*  
12 *in the amount of \$.25 per month on each wireless service user.*

13 *[(b) It shall be the duty of each wireless service provider to*  
14 *collect and remit such fee to the administrator quarterly.*

15 *[New Sec. 6. The administrator shall administer the provision*  
16 *of this act and shall be responsible for administration and manage-*  
17 *ment of the fund. The administrator is hereby authorized to:*

18 *[(a) Enter into binding commitments for the provision of grants*  
19 *in accordance with the provisions of this act;*

20 *[(b) review applications of municipalities for grants and select*  
21 *the projects for which grants will be made available;*

22 *[(c) provide the governor and the legislature with an annual*  
23 *report prepared in accordance with section 10, and amendments*  
24 *thereto, and with copies of the audit required under section 12, and*  
25 *amendments thereto; and*

26 *[(d) adopt rules and regulations necessary for effectuation of*  
27 *the provisions of this act.*

28 *[New Sec. 7. There is hereby established the public safety grant*  
29 *fund advisory committee. Such committee shall be comprised of*  
30 *nine individuals familiar with development and implementation of*  
31 *enhanced 911 service appointed by the governor satisfying the fol-*  
32 *lowing constituent groups:*

33 *[(1) One individual recommended by the Kansas association of*  
34 *counties;*

35 *[(2) one individual recommended by the league of Kansas*  
36 *municipalities;*

37 *[(3) one individual representing the wireless carriers industry;*

38 *[(4) one individual representing local exchange service*  
39 *providers;*

40 *[(5) one individual representing local law enforcement;*

41 *[(6) one individual representing local fire/emergency medical*  
42 *services; and*

43 *[(7) one individual representing local PSAP operators;*

All payments and disbursements from the fund would be made in accordance with appropriation acts.

The fund would be subject to an annual audit under provisions of the Post Audit Act.

The bill would create a public safety fee of \$0.25 per month to be paid by each wireless service user. Wireless service providers would collect and remit the fee to the Department of Administration monthly. This revenue would be deposited in the fund in accordance with New Sec. 4.

The fund would be administered by the Department of Administration.

The Department would be authorized, but not required, to provide the Governor and the Legislature with an annual report, along with copies of an annual post audit, describing how the state has met the goals and objectives for the previous year as identified in the intended use plan. The Department also would be authorized, among other things, to adopt rules and regulations necessary to implement the act.

The bill would create a nine-member Public Safety Grant Fund Advisory Committee that would represent a variety of organizations and interests: the Association of Counties; League of Kansas Municipalities; the wireless carrier industry; local exchange service providers; local law enforcement; local fire/emergency medical services; PSAP operators; the Kansas Highway Patrol; and a person with a communication disability.

8-1

1     *[(8) one representative of the Kansas highway patrol;*  
 2     *[(9) one member shall be a person with a communication dis-*  
 3 *ability recommended by the Kansas commission for the deaf and hard*  
 4 *of hearing.*

5     *[New Sec. 8. After providing for public comment and review*  
 6 *each year, the administrator, in conjunction with the advisory coun-*  
 7 *cil, shall prepare a plan identifying the intended uses of the moneys*  
 8 *available in the fund. The intended use plan shall include, but not*  
 9 *be limited to:*

- 10     *[(a) The project priority list;*
- 11     *[(b) a description of the short- and long-term goals and objec-*  
 12 *tives of the fund;*
- 13     *[(c) information on the projects to be financed, including a de-*  
 14 *scription thereof, the terms of grants to be provided and the munic-*  
 15 *ipalities receiving the grants; and*
- 16     *[(d) the criteria and method established for the provision of*  
 17 *grants to be made from the fund.*

18     *[New Sec. 9. (a) Municipalities which desire the provision of a*  
 19 *grant under this act shall submit an application therefor to the ad-*  
 20 *ministrator. Applications shall be in such form and shall include*  
 21 *such information as the administrator shall require and shall be*  
 22 *submitted in a manner and at a time to be determined by the*  
 23 *administrator.*

24     *[(b) The administrator may enter into agreements with any mu-*  
 25 *nicipality for the provision of a grant thereto for payment of all or*  
 26 *a part of project costs and any municipality may enter into such an*  
 27 *agreement and may accept such grant when so authorized by the*  
 28 *municipal governing body. The purposes of the grant to be pro-*  
 29 *vided, a time frame for implementation, and the amount thereof,*  
 30 *which may vary among municipalities, shall be included in the*  
 31 *agreements. All such agreements shall include provisions for repay-*  
 32 *ment of grant if implementation is not completed in accordance with*  
 33 *the terms of the agreement.*

34     *[(c) If a municipality to which a grant is made available under*  
 35 *this act fails to enter into an agreement with the administrator for*  
 36 *the provision of such grant in accordance with the requirements of*  
 37 *this act, the administrator may make the amount of the grant avail-*  
 38 *able for one or more other projects on the priority list.*

39     *[(d) The administrator shall provide any municipality, upon re-*  
 40 *quest, with technical advice and assistance regarding a project or*  
 41 *an application for a grant for the payment of all or part of project*  
 42 *costs.*

43     *[New Sec. 10. The administrator shall prepare an annual re-*

The Department, in conjunction with the Advisory Committee would be required to prepare an annual plan identifying intended uses of the available fund moneys.

Any municipality, as defined by the bill, could apply to the Department for a grant from the fund.

The Department could enter into an agreement with the municipality for the provision of a grant.

All grant agreements would have to include provisions for repayment of the grant if implementation is not completed.

The administrator would be required to provide municipalities with technical advice and assistance regarding a project or an application for a grant.

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1 port describing how the state has met the goals and objectives for  
2 the previous year as identified in the intended use plan prepared  
3 pursuant to section 8, and amendments thereto.

4 [New Sec. 11. The provisions of sections 4 through 10, and  
5 amendments thereto, shall expire effective July 1, 2006.

6 [New Sec. 12. (a) On and after July 1, 2003, pursuant to FCC  
7 rules and orders, each wireless carrier who has a subscriber with  
8 primary place of use as defined in the mobile telecommunications  
9 sourcing act in the state of Kansas shall collect from each subscriber  
10 a surcharge not to exceed \$.25 per month per subscriber telephone  
11 number in the state. The wireless carrier shall add and may state  
12 separately the surcharge on each subscriber's bill.

13 [(b) The surcharge hereunder shall ensure, over a reasonable  
14 period of time the full recovery by wireless carriers of necessary  
15 and reasonable costs associated with developing and maintaining  
16 an emergency telecommunications service on a technologically and  
17 competitively neutral basis. Such costs shall include, but not be  
18 limited to, the portion of the costs for equipment used for providing  
19 enhanced wireless 911 service, costs to lease another vendor's  
20 equipment or services to provided enhanced wireless 911 service,  
21 costs to create or maintain any database or database elements used  
22 solely for enhanced wireless 911 service and other costs of estab-  
23 lishing enhanced 911 wireless service. Only the portion of the costs  
24 of equipment or services used in the wireless carrier's main infra-  
25 structure necessary to implement enhanced 911 service of enhanced  
26 wireless 911 service shall be eligible for funding.

27 [Sec. 13. K.S.A. 12-5302 is hereby amended to read as follows:  
28 12-5302. (a) In addition to other powers for the protection of the  
29 public health and welfare, a governing body may provide for the  
30 operation of an emergency telephone service and may pay for it by  
31 imposing an emergency telephone tax for such service in those por-  
32 tions of the governing body's jurisdiction for which emergency tel-  
33 ephone service has been contracted. The governing body may do  
34 such other acts as are expedient for the protection and preservation  
35 of the public health and welfare and are necessary for the operation  
36 of the emergency telephone system. The governing body is hereby  
37 authorized by ordinance in the case of cities and by resolution in  
38 the case of counties to impose such tax in those portions of the gov-  
39 erning body's jurisdiction for which emergency telephone service  
40 has been contracted. The amount of such tax shall not exceed \$.75  
41 per month per exchange access line or its equivalent.

42 [(b) Within 60 days of the publication of a resolution by a  
43 county adopted pursuant to subsection (a) there may be filed with

Provisions of the bill relating to the Public Safety Grant Fee and use of those funds would expire on July 1, 2006.

The bill would require wireless carriers to collect a surcharge from each wireless subscriber in Kansas. This surcharge could not exceed \$0.25 per month per subscriber telephone number in the state.

The surcharge would ensure the full recovery by wireless carriers of necessary and reasonable costs associated with development and maintenance of emergency telecommunications service on a technologically and competitively neutral basis. Permissible costs would include, but not be limited to, the following:

1. A portion of the costs for equipment used for providing wireless e-911 service;
2. Costs to lease another vendor's equipment or services to provide wireless e-911 service;
3. Costs to create or maintain any database or database elements used solely for wireless e-911 service; and
4. Other costs of establishing wireless e-911 service.

Under the bill, only that portion of the costs of equipment or services used in the wireless carrier's main infrastructure necessary to implement e-911 or wireless e-911 service would be eligible for funding.

1 *the county election officer of the county a petition signed by not*  
2 *less than 5% of the registered voters of the county, and within 60*  
3 *days of publication of an ordinance adopted pursuant to subsection*  
4 *(a) there may be filed with the county election officer of the county*  
5 *in which the city is located a petition signed by not less than 5% of*  
6 *the registered voters of the city, in either such case requesting that*  
7 *the question of the installation and operation of emergency tele-*  
8 *phone service and imposition of tax therefor be submitted to the*  
9 *qualified voters of the county. Upon determination of the suffi-*  
10 *ciency of such petition and certification thereof by the county elec-*  
11 *tion officer, the proposition shall be submitted to the qualified vot-*  
12 *ers of the county or city as the case may be at the next primary or*  
13 *general election of county officers following by not less than 60 days*  
14 *the certification of such petition. If a majority of the votes cast at*  
15 *such election are for the installation and operation of emergency*  
16 *telephone service and imposition of tax therefor, or if no protest*  
17 *petition is filed within the time hereinbefore prescribed, the gov-*  
18 *erning body may provide for the installation and operation of such*  
19 *service and impose such tax. If a tax is imposed on the effective date*  
20 *of this act or thereafter, any proposed increase in the amount of the*  
21 *tax shall be subject to the protest petition provided in this subsec-*  
22 *tion. The proceeds of the tax shall be utilized to pay for the opera-*  
23 *tion of emergency telephone service as set forth in subsection (b) of*  
24 *K.S.A. 12-5304, and amendments thereto, and may be imposed at*  
25 *any time subsequent to execution of a contract with the provider of*  
26 *such service at the discretion of the governing body. The collection*  
27 *of such tax may begin at the time determined to be necessary to*  
28 *generate revenue in an amount necessary to pay the nonrecurring*  
29 *expenses of establishing the emergency telephone service. Any in-*  
30 *terest earned on revenue derived from such tax shall be used to pay*  
31 *the expenses authorized by K.S.A. 12-5304, and amendments*  
32 *thereto. Such tax shall not be imposed until after the expiration of*  
33 *the protest period or until after approved at an election if a suffi-*  
34 *cient protest petition is filed.*

35 *[(c) As an alternative to the procedure provided in subsection*  
36 *(b), the governing body may submit, on its own initiative, the pro-*  
37 *posal to establish an emergency telephone service to the qualified*  
38 *voters of the city or county for approval. Any such election shall be*  
39 *called and held in the manner provided by the general bond law.*

0 *[(d) Such tax shall be imposed only upon exchange access lines*  
41 *or their equivalent. No such tax shall be imposed upon more than*  
42 *100 exchange access facilities or their equivalent per person per*  
43 *location.*

1 *[(e) Every billed service user shall be liable for any tax imposed*  
2 *under this act until it has been paid to the service supplier. Wireless*  
3 *service users shall be exempt from the emergency telephone tax. Wireless*  
4 *service users shall be taxed pursuant to section 14, and amendments*  
5 *thereto.*

6 *[(f) The duty to collect any tax imposed under authority of this*  
7 *act from a service user shall commence at such time as specified by*  
8 *the governing body. Taxes imposed under authority of this act and*  
9 *required by it to be collected by the service supplier shall be added*  
10 *to and may be stated separately in the billings to the service user.*

11 *[(g) The service supplier shall have no obligation to take any*  
12 *legal action to enforce the collection of any tax imposed under au-*  
13 *thority of this act. The service supplier shall provide annually the*  
14 *governing body with a list of amounts uncollected along with the*  
15 *names and addresses of those service users which carry a balance*  
16 *that can be determined by the service supplier to be nonpayment*  
17 *of any tax imposed under authority of this act.*

18 *[(h) Any tax imposed under authority of this act shall be col-*  
19 *lected insofar as practicable at the same time as, and along with,*  
20 *the charges for the tariff rate in accordance with the regular billing*  
21 *practice of the service supplier.*

22 *[New Sec. 14. (a) The governing body is hereby authorized by*  
23 *ordinance in the case of cities and by resolution in the case of coun-*  
24 *ties to impose a wireless emergency telephone tax in those portions*  
25 *of the governing body's jurisdiction for which such wireless emer-*  
26 *gency telephone service has been contracted. The amount of such*  
27 *tax shall be \$.25 per month per wireless service user within such*  
28 *governing body jurisdiction.*

29 *[(b) The proceeds of the tax shall be utilized to pay for the op-*  
30 *eration of emergency telephone service as set forth in subsection (b)*  
31 *of K.S.A. 12-5304, and amendments thereto, and may be imposed*  
32 *at any time subsequent to execution of a contract with the provider*  
33 *of such service at the discretion of the governing body. In addition*  
34 *to allowable expenditures under 12-5304 and amendments thereto,*  
35 *the proceeds of such tax may be used to implement enhanced wire-*  
36 *less 911 services including but not limited to: (1) Necessary and*  
37 *reasonable costs incurred or to be incurred by public safety an-*  
38 *swering points to implement enhanced wireless 911 service; (2) pur-*  
39 *chases of equipment and upgrades and modification to equipment*  
40 *used solely to process the data elements of enhanced wireless 911*  
41 *service; (3) maintenance costs and license fees for such equipment*  
42 *and the training of personnel to operate such equipment including*  
43 *costs of training PSAP personnel to provide effective service to all*

The bill would repeal the current 911 tax exemption for wireless service users and authorize cities and counties to impose a wireless emergency telephone tax of \$0.25 per month per wireless service user within the taxing jurisdiction.

Any city or county could impose the wireless emergency telephone tax by ordinance or resolution. The tax would be \$0.25 per month per wireless service user within the jurisdiction.

Proceeds of the tax could be used only to pay for the operation of emergency telephone service as defined in current law and as described by the bill. The tax could be imposed at any time after a contract is executed with the wireless carrier to receive wireless e-911 information. The bill would allow, but not restrict, the use of tax proceed, for the following:

1. Necessary and reasonable costs incurred or to be incurred by PSAPs to implement enhanced wireless 911 service;
2. Purchases of equipment and upgrades and modification to equipment used solely to process the data elements of enhanced wireless 911 service; and
3. Maintenance costs and license fees for enhanced wireless 911 equipment and the training of personnel to operate the equipment.

Current law (K.S.A. 12-5304) permits use of tax proceeds for:

- (1) monthly recurring charges billed by the service supplier for the emergency telephone service;
- (2) initial installation, service establishment; nonrecurring start-up charges billed by the service supplier for the emergency telephone service;
- (3) charges for capital improvements and equipment or other physical enhancements to the emergency telephone system; or
- (4) the acquisition and installation of road signs designed to aid in the delivery of emergency service.

21-1

1 users of the emergency telephone system who have communications  
2 disabilities. Such costs shall not include expenditures for new or  
3 expanded buildings or similar facilities or to construct other capital  
4 improvements not expressly authorized by this act. Any interest  
5 earned on revenue derived from such tax shall be used to pay the  
6 expenses authorized by K.S.A. 12-5304, and amendments thereto.

7 [(c) Every billed service user shall be liable for any tax imposed  
8 under this act until it has been paid to the service supplier.

9 [(d) The duty to collect any tax imposed under authority of this  
10 act from a service user shall commence at such time as specified by  
11 the governing body. Taxes imposed under authority of this act and  
12 required by it to be collected by the service supplier shall be added  
13 to and may be stated separately in the billings to the service user.

14 [(e) The wireless service supplier shall have no obligation to  
15 take any legal action to enforce the collection of any tax imposed  
16 under authority of this act. The wireless service supplier shall pro-  
17 vide annually the governing body with a list of amounts uncollected  
18 along with the names and addresses of those service users which  
19 carry a balance that can be determined by the service supplier to  
20 be nonpayment of any tax imposed under authority of this act.

21 [(f) Any tax imposed under authority of this act shall be col-  
22 lected insofar as practicable at the same time as regular billing  
23 practice of the wireless service supplier.

24 [(h) Any tax imposed under authority of this act and the  
25 amounts required to be collected are due quarterly. The amount of  
26 tax collected in one calendar quarter by the service supplier shall  
27 be remitted to the governing body no later than sixty days after the  
28 close of a calendar quarter. On or before the sixtieth day of each  
29 calendar quarter following, a return for the preceding quarter shall  
30 be filed with the governing body in such form as the governing body  
31 and service supplier shall agree. The service supplier required to  
32 file the return shall deliver the return together with a remittance of  
33 the amount of the tax payable to the office of the governing body.  
34 The service supplier shall maintain records of the amount of any  
35 tax collected pursuant to action in accord with this act. Such re-  
36 cords shall be maintained for a period of three years from the time  
37 the tax is collected.

38 [New Sec. 15. The administrator may require an audit of any  
39 wireless carrier's books and records concerning the collection and  
40 remittance of the surcharge pursuant to this act. Any such audit  
41 shall be conducted at the administrator's expense. Information pro-  
42 vided by wireless carriers to the advisory board or to the adminis-  
43 trator pursuant to this act will be treated as proprietary records

Tax revenues could not be used for the cost of new or expanded buildings or similar facilities or to construct other capital improvements not expressly authorized by the bill.

Wireless carriers would be required to collect the wireless emergency telephone tax. The tax could be separately identified on the bill received by the wireless subscriber.

The tax would be remitted to the local governments quarterly along with a tax return agreed upon by the governing body and the wireless carrier.

The wireless carrier would be required to maintain records of the amount of any tax collected and keep these records for three years from the time the tax is collected.

The administrator could require an audit of any wireless carrier's books and records concerning the collection and remittance of the surcharge. This audit would be conducted at the administrator's expense. Under the bill, information provided by wireless carriers to the advisory board or to the administrator would be treated as proprietary records which would be withheld from the public upon request of the party

4-1-1

submitting the records.

1 *which will be withheld from the public upon request of the party*  
 2 *submitting such records.*

3 *[New Sec. 16. The enhanced wireless 911 service described in*  
 4 *this act is within the governmental power and authority of the ad-*  
 5 *ministrator, governing bodies and public safety agencies. Except as*  
 6 *provided by the Kansas tort claims act, in contracting for such serv-*  
 7 *ice and in providing such service, and except for failure to use or-*  
 8 *inary care, or for intentional acts, the administrator, each govern-*  
 9 *ing body, each public agency, each wireless carrier and their*  
 10 *employees and agents shall not be liable for the payment of damages*  
 11 *resulting from the performance of installing, maintaining or pro-*  
 12 *viding enhanced wireless 911 service.*

13 *[New Sec. 17. (a) During calendar year 2005, in accordance*  
 14 *with a scope statement authorized and approved by the legislative*  
 15 *post audit committee, the division of post audit shall conduct an*  
 16 *audit of the books, records, files, documents and correspondence,*  
 17 *confidential or otherwise, of each wireless carrier, and each local*  
 18 *PSAP relating to all payments, disbursements and uses of the funds*  
 19 *authorized by this act. This audit shall be conducted in accordance*  
 20 *with article 11 of chapter 46 of the Kansas Statutes Annotated, and*  
 21 *amendments thereto.*

22 *[(b) The audit authorized in subsection (a) shall include but not*  
 23 *be limited to an audit of: (1) The appropriate uses of funds; (2)*  
 24 *sufficiency of funds collected; (3) status of wireless enhanced 911*  
 25 *implementation; and (4) the need and level of continued funding.*

26 *[(c) Based upon the findings of such audit, the legislature may*  
 27 *impose a moratorium on or reduce the funding source for the col-*  
 28 *lection of such fee, surcharge or tax, or authorize a reduction in*  
 29 *such fee, surcharge or tax.*

30 *[(d) Any such information provided to the division of post audit*  
 31 *shall be treated as proprietary records which will be withheld from*  
 32 *the public upon the request of the party submitting such records.]*

33 *Sec. ~~2~~ [18]. K.S.A. [12-5301, 12-5302 and] 66-1232 ~~and 66-1233~~*  
 34 *~~are~~ ~~is~~ [are] hereby repealed.*

35 *Sec. ~~4~~ [19]. This act shall take effect and be in force from and after*  
 36 *its publication in the Kansas register.*

37  
 38  
 39  
 40  
 41  
 42  
 43

The bill would provide a limitation of tort liability for the administrator, each governing body, each public agency, and each wireless carrier. This would cover the payment of damages resulting from the performance of installing, maintaining, or providing wireless e-911 service but would not cover failure to use ordinary care or intentional acts.

The Legislative Division of Post Audit would be required to conduct an audit of the books, records, files, documents, and correspondence, of each wireless carrier and each PSAP in 2005. The audit would be conducted in accordance with a scope statement authorized and approved by the Legislative Post Audit Committee and would relate to all payments, disbursements, and uses of the funds authorized by the act. Items to be addressed by the audit would include the:

1. Appropriate uses of funds;
2. Sufficiency of funds collected;
3. Status of wireless e-911 implementation; and
4. Need and level of continued funding.

Based on the audit findings, the Legislature could impose a moratorium on or reduce the funding source for the public safety grant fund, wireless carrier surcharge, or wireless emergency telephone tax. Any information provided to the Division of Post Audit would be treated as proprietary records which would be withheld from the public upon the request of the party submitting the records.

The bill would become effective upon publication in the *Kansas Register*.

Proposal  
4/1/03

**Substitute for SENATE BILL No. 153**

By Committee on Commerce

2-26

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AN ACT concerning telecommunications; relating to enhanced wireless 911 service; public safety grant fund; amending K.S.A. 12-5301 and 12-5302 and repealing the existing sections.

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

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

(a) "Emergency telephone service" means a telephone system utilizing a single three digit number "911" for reporting police, fire, medical or other emergency situations;

(b) "emergency telephone tax" means a tax to finance the operation of emergency telephone service;

(c) "exchange access facilities" means all facilities provided by the service supplier for the facility which provides local telephone exchange access to a service user;

(d) "tariff rate" means the rate or rates billed by a service supplier and as stated in the service supplier's tariffs, approved by the state corporation commission which represent the service supplier's recurring charges for exchange access facilities or their equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever;

(e) "public agency" means any city, county, municipal corporation, public district or public authority located in whole or in part within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical or other emergency services;

(f) "governing body" means the board of county commissioners of a county or the governing body of a city;

(g) "person" means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy or any other service user;

(h) "service supplier" means any person providing exchange telephone services ~~or wireless service~~ to any service user in this state;

HOUSE UTILITIES

DATE: 4-2-03

ATTACHMENT 2



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

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

8 (k) "wireless service" means a two-way voice or text radio service  
9 provided by a wireless carrier; and

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

11 (m) "Fund" means the public safety grant fund established by this  
12 act.

13 (n) "Municipality" means: (1) Any political or taxing subdivision au-  
14 thorized by law to construct, operate and maintain a public safety an-  
15 swering point system; and (2) two or more such subdivisions jointly con-  
16 structing, operating and maintaining a public safety answering point  
17 system.

18 (o) "Project" means the development and acquisition of the necessary  
19 improvements in order to facilitate the establishment of enhanced wireless  
20 emergency telephone services.

21 (p) "Project costs" means all costs or expenses which are necessary or  
22 incident to a project and which are directly attributable thereto.

23 (q) "Administrator" means the Kansas department of administration.

24 (r) "Enhanced 911 service" means an emergency telephone service  
25 that generally may provide, but is not limited to, selective routing, auto-  
26 matic number identification and automatic location identification  
27 features.

Wireless enhanced

28 (s) "Enhanced wireless 911 service" means a communication service  
29 by which wireless telecommunication carriers can provide automatic  
30 number identification, pseudo-automatic number identification or wire-  
31 less automatic location identification information to a requesting public  
32 safety answering point as defined in FCC docket 94-102 which is capable  
33 of receiving and utilizing the data elements associated with enhanced  
34 wireless 911 service.

35 New Sec. 2. (a) There is hereby established in the state treasury the  
36 public safety grant fund.

37 (b) Moneys from the following sources shall be credited to the fund:

38 (1) Amounts received by the state from the federal government for  
39 the purposes of the fund;

40 (2) amounts appropriated or otherwise made available by the legis-  
41 lature for the purposes of the fund;

42 (3) amounts received by the state pursuant to section 3 and amend-  
43 ments thereto;

wireless enhanced 911

(t) "Advisory board" means the enhanced wireless 911 public safety board.  
(u) "Subscriber account" means the ten-digit access number assigned to a wireless service customer regardless of whether more than one such number is aggregated for the purpose of billing a service user.  
(v) "Local collection point administrator" means the statewide association of cities as established by K.S.A. 12-1610e and the statewide association of counties as established by K.S.A. 19-2690.  
(w) "Automatic number identification" means a feature by which a person calling a public safety answering point has such person's ten-digit telephone number simultaneously forwarded to the public safety answering point and to the public safety answering point's display and transfer.  
(x) "Wireless automatic location information" means a feature by which information is provided to a public safety answering point identifying the location of a 911 caller within the parameters established by the federal communications commission.  
(y) "Pseudo-automatic number identification" means a feature by which automatic number identification is provided to a public safety answering point of the ten-digit telephone number of the specific cell site or cell site sector from which a wireless call originated.

wireless enhanced 911

2-2

1 (4) interest attributable to investment of moneys in the fund; and  
2 (5) amounts received from any public or private entity for the pur-  
3 poses of the fund.

4 (c) Subject to the conditions and in accordance with requirements of  
5 this act, moneys credited to the fund shall be used only for:

available only to counties with a population of less than 75,000 and funds may be used

- 6 (1) Necessary and reasonable costs incurred or to be incurred by pub-  
7 lic safety answering points to implement enhanced wireless 911 service;
- 8 (2) purchases of equipment and upgrades and modification to equipment  
9 used solely to process the data elements of enhanced wireless 911 service;
- 10 (3) maintenance costs and license fees for such equipment and the train-  
11 ing of personnel to operate such equipment including costs of training  
12 PSAP personnel to provide effective service to all users of the emergency  
13 telephone system who have communications disabilities; (4) actual and  
14 necessary expenses incurred by members of the advisory board while  
15 performing duties required by this act; and (5) such costs shall not include  
16 expenditures for new or expanded buildings or similar facilities or to con-  
17 struct other capital improvements not expressly authorized by this act.

18 (d) Administrative expenses shall not exceed 5% of revenue in the  
19 fund.

20 (e) On or before the 10th of each month, the director of accounts  
21 and reports shall transfer from the state general fund to the public safety  
22 grant fund interest earnings based on:

wireless enhanced 911

23 (1) The average daily balance of moneys in the public safety grant  
24 fund for the preceding month; and

wireless enhanced 911

25 (2) the net earnings rate of the pooled money investment portfolio  
26 for the preceding month.

27 (f) All payments and disbursements from the fund shall be made in  
28 accordance with appropriation acts upon warrants of the director of ac-  
29 counts and reports issued pursuant to vouchers approved by the admin-  
30 istrator or by a person or persons designated by the administrator. All  
31 payments and disbursements from the fund, and beginning and ending  
32 balances thereof, shall be subject each year to post audit in accordance  
33 with article 11 of chapter 46 of the Kansas Statutes Annotated, and  
34 amendments thereto.

a wireless enhanced 911 public safety fee in the amount of \$.25 per month per wireless subscriber account with primary place of use in the state of Kansas as defined by the Mobile Telecommunications Sourcing Act codified at 4 U.S.C. 116-126.

35 New Sec. 3. (a) There is hereby established a public safety fee in the  
36 amount of \$.25 per month on each wireless service user.

37 (b) It shall be the duty of each wireless service provider to collect  
38 and remit such fee to the administrator quarterly.

carrier

39 New Sec. 4. The administrator shall administer the provision of this  
40 act and shall be responsible for administration and management of the  
41 fund. The administrator is hereby authorized to:

42 (a) Enter into binding commitments for the provision of grants in  
43 accordance with the provisions of this act;

2-3

1 (b) review applications of municipalities for grants and select the pro-  
2 jects for which grants will be made available;

3 (c) provide the governor and the legislature with an annual report  
4 prepared in accordance with section 8, and amendments thereto, and with  
5 copies of the audit required under section 2, and amendments thereto;  
6 and

7 (d) adopt rules and regulations necessary for effectuation of the pro-  
8 visions of this act.

wireless enhanced 911 public safety  
grant fund advisory board.

9 New Sec. 5. There is hereby established the ~~public safety grant fund~~  
10 ~~advisory committee~~. Such ~~committee~~ shall be comprised of nine individ-  
11 uals familiar with development and implementation of enhanced 911  
12 service appointed by the governor satisfying the following constituent  
13 groups:

advisory board

14 (1) One individual recommended by the Kansas association of  
15 counties;

16 (2) one individual recommended by the league of Kansas  
17 municipalities;

18 (3) one individual representing the wireless carriers industry;

19 (4) one individual representing local exchange service providers;

20 (5) one individual representing local law enforcement;

21 (6) one individual representing local fire/emergency medical services;  
22 and

23 (7) one individual representing local PSAP operators;

24 (8) one representative of the Kansas highway patrol;

25 (9) one member shall be a person with a communication disability  
26 recommended by the Kansas commission for the deaf and hard of  
27 hearing.

28 New Sec. 6. After providing for public comment and review each  
29 year, the administrator, in conjunction with the advisory ~~council~~, shall  
30 prepare a plan identifying the intended uses of the moneys available in  
31 the fund. The intended use plan shall include, but not be limited to:

board

32 (a) The ~~project priority list~~;

wireless enhanced 911

33 (b) a ~~description of the short- and long-term goals and objectives of~~  
34 the fund;

for the deployment of wireless enhanced 911;

35 (c) information on the projects to be financed, including a description  
36 thereof, the terms of grants to be provided and the municipalities receiv-  
37 ing the grants; and

38 (d) the criteria and method established for the provision of grants to  
39 be made from the fund.

40 New Sec. 7. (a) Municipalities which desire the provision of a grant  
41 under this act shall submit an application therefor to the administrator.  
42 Applications shall be in such form and shall include such information as  
43 the administrator shall require and shall be submitted in a manner and

2-4

1 at a time to be determined by the administrator.

2 (b) The administrator may enter into agreements with any municipi-  
3 pality for the provision of a grant thereto for payment of all or a part of  
4 project costs and any municipality may enter into such an agreement and  
5 may accept such grant when so authorized by the municipal governing  
6 body. The purposes of the grant to be provided, a time frame for imple-  
7 mentation, and the amount thereof, which may vary among municipali-  
8 ties, shall be included in the agreements. All such agreements shall in-  
9 clude provisions for repayment of grant if implementation is not  
10 completed in accordance with the terms of the agreement.

11 (c) If a municipality to which a grant is made available under this act  
12 fails to enter into an agreement with the administrator for the provision  
13 of such grant in accordance with the requirements of this act, the admin-  
14 istrator may make the amount of the grant available for one or more other  
15 projects on the priority list.

16 (d) The administrator shall provide any municipality, upon request,  
17 with technical advice and assistance regarding a project or an application  
18 for a grant for the payment of all or part of project costs.

19 New Sec. 8. The administrator shall prepare an annual report de-  
20 scribing how the state has met the goals and objectives for the previous  
21 year as identified in the intended use plan prepared pursuant to section  
22 6, and amendments thereto.

23 New Sec. 9. The provisions of sections 2 through 8, and amendments  
24 thereto, shall expire effective July 1, 2006.

25 ~~New Sec. 10. (a) On and after July 1, 2003, pursuant to FCC rules  
26 and orders, each wireless carrier who has a subscriber with primary place  
27 of use as defined in the mobile telecommunications sourcing act in the  
28 state of Kansas shall collect from each subscriber a surcharge not to ex-  
29 ceed \$ .25 per month per subscriber telephone number in the state. The  
30 wireless carrier shall add and may state separately the surcharge on each  
31 subscriber's bill.~~

32 ~~(b) The surcharge hereunder shall ensure, over a reasonable period  
33 of time the full recovery by wireless carriers of necessary and reasonable  
34 costs associated with developing and maintaining an emergency telecom-  
35 munications service on a technologically and competitively neutral basis.  
36 Such costs shall include, but not be limited to, the portion of the costs  
37 for equipment used for providing enhanced wireless 911 service, costs to  
38 lease another vendor's equipment or services to provided enhanced wire-  
39 less 911 service, costs to create or maintain any database or database  
40 elements used solely for enhanced wireless 911 service and other costs  
41 of establishing enhanced 911 wireless service. Only the portion of the  
42 costs of equipment or services used in the wireless carrier's main infra-  
43 structure necessary to implement enhanced 911 service of enhanced wire-~~

2-5

1 ~~less 911 service shall be eligible for funding.~~

2 Sec. 11. K.S.A. 12-5302 is hereby amended to read as follows: 12-  
3 5302. (a) In addition to other powers for the protection of the public  
4 health and welfare, a governing body may provide for the operation of an  
5 emergency telephone service and may pay for it by imposing an emer-  
6 gency telephone tax for such service in those portions of the governing  
7 body's jurisdiction for which emergency telephone service has been con-  
8 tracted. The governing body may do such other acts as are expedient for  
9 the protection and preservation of the public health and welfare and are  
10 necessary for the operation of the emergency telephone system. The gov-  
11 erning body is hereby authorized by ordinance in the case of cities and  
12 by resolution in the case of counties to impose such tax in those portions  
13 of the governing body's jurisdiction for which emergency telephone serv-  
14 ice has been contracted. The amount of such tax shall not exceed \$.75  
15 per month per exchange access line or its equivalent.

16 (b) Within 60 days of the publication of a resolution by a county  
17 adopted pursuant to subsection (a) there may be filed with the county  
18 election officer of the county a petition signed by not less than 5% of the  
19 registered voters of the county, and within 60 days of publication of an  
20 ordinance adopted pursuant to subsection (a) there may be filed with the  
21 county election officer of the county in which the city is located a petition  
22 signed by not less than 5% of the registered voters of the city, in either  
23 such case requesting that the question of the installation and operation  
24 of emergency telephone service and imposition of tax therefor be sub-  
25 mitted to the qualified voters of the county. Upon determination of the  
26 sufficiency of such petition and certification thereof by the county elec-  
27 tion officer, the proposition shall be submitted to the qualified voters of  
28 the county or city as the case may be at the next primary or general  
29 election of county officers following by not less than 60 days the certifi-  
30 cation of such petition. If a majority of the votes cast at such election are  
31 for the installation and operation of emergency telephone service and  
32 imposition of tax therefor, or if no protest petition is filed within the time  
33 hereinbefore prescribed, the governing body may provide for the instal-  
34 lation and operation of such service and impose such tax. If a tax is im-  
35 posed on the effective date of this act or thereafter, any proposed increase  
36 in the amount of the tax shall be subject to the protest petition provided  
37 in this subsection. The proceeds of the tax shall be utilized to pay for the  
38 operation of emergency telephone service as set forth in subsection (b)  
39 of K.S.A. 12-5304, and amendments thereto, and may be imposed at any  
40 time subsequent to execution of a contract with the provider of such  
41 service at the discretion of the governing body. The collection of such tax  
42 may begin at the time determined to be necessary to generate revenue  
43 in an amount necessary to pay the nonrecurring expenses of establishing

2-10

1 the emergency telephone service. Any interest earned on revenue derived  
2 from such tax shall be used to pay the expenses authorized by K.S.A. 12-  
3 5304, and amendments thereto. Such tax shall not be imposed until after  
4 the expiration of the protest period or until after approved at an election  
5 if a sufficient protest petition is filed.

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

11 (d) Such tax shall be imposed only upon exchange access lines or their  
12 equivalent. No such tax shall be imposed upon more than 100 exchange  
13 access facilities or their equivalent per person per location.

14 (e) Every billed service user shall be liable for any tax imposed under  
15 this act until it has been paid to the service supplier. ~~Wireless service~~  
16 ~~users shall be exempt from the emergency telephone tax. Wireless service~~  
17 ~~users shall be taxed pursuant to section 12, and amendments thereto.~~

Wireless service users shall be exempt from the emergency telephone tax imposed pursuant to this section; however, wireless service users shall be taxed pursuant to New Section 3 and New Section 12 of this act. (New section 12 will need to be renumbered after we add new section 13)

18 (f) The duty to collect any tax imposed under authority of this act  
19 from a service user shall commence at such time as specified by the  
20 governing body. Taxes imposed under authority of this act and required  
21 by it to be collected by the service supplier shall be added to and may be  
22 stated separately in the billings to the service user.

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

29 (h) Any tax imposed under authority of this act shall be collected  
30 insofar as practicable at the same time as, and along with, the charges for  
31 the tariff rate in accordance with the regular billing practice of the service  
32 supplier.

(a) There is hereby established a local enhanced wireless 911 tax. The amount of such tax shall be \$.25 per month per wireless subscriber account with primary place of use in the state of Kansas as defined by the Mobile Telecommunications Sourcing Act codified at 4 U.S.C. 116-126.

33 New Sec. 12. (a) ~~The governing body is hereby authorized by ordi-~~  
34 ~~nance in the case of cities and by resolution in the case of counties to~~  
35 ~~impose a wireless emergency telephone tax in those portions of the gov-~~  
36 ~~erning body's jurisdiction for which such wireless emergency telephone~~  
37 ~~service has been contracted. The amount of such tax shall be \$.25 per~~  
38 ~~month per wireless service user within such governing body jurisdiction.~~

and any interest earned on revenue derived from such tax

39 (b) ~~The proceeds of the tax shall be utilized to pay for the operation~~  
40 ~~of emergency telephone service as set forth in subsection (b) of K.S.A.~~  
41 ~~12-5304, and amendments thereto, and may be imposed at any time sub-~~  
42 ~~sequent to execution of a contract with the provider of such service at~~  
43 ~~the discretion of the governing body. In addition to allowable expendi-~~

2-7

1 tures under 12-5304 and amendments thereto, the proceeds of such tax  
 2 may be used to implement enhanced wireless 911 services including but  
 3 not limited to: (1) Necessary and reasonable costs incurred or to be in-  
 4 curred by public safety answering points to implement enhanced wireless  
 5 911 service; (2) purchases of equipment and upgrades and modification  
 6 to equipment used solely to process the data elements of enhanced wire-  
 7 less 911 service; (3) maintenance costs and license fees for such equip-  
 8 ment and the training of personnel to operate such equipment including  
 9 costs of training PSAP personnel to provide effective service to all users  
 10 of the emergency telephone system who have communications disabili-  
 11 ties. Such costs shall not include expenditures for new or expanded build-  
 12 ings or similar facilities or to construct other capital improvements not  
 13 expressly authorized by this act. Any interest earned on revenue derived  
 14 from such tax shall be used to pay the expenses authorized by K.S.A. 12-  
 15 5304, and amendments thereto.

New Section 13. Sections (c) - (h) need to be renumbered and set out as a free-standing section which applies to the entire act. All remaining sections will need to be renumbered.

16 (c) Every billed service user shall be liable for any tax imposed under  
 17 this act until it has been paid to the service supplier.

wireless carrier.

18 (d) The duty to collect any tax imposed under authority of this act  
 19 from a service user shall commence at such time as specified by the  
 20 governing body. Taxes imposed under authority of this act and required  
 21 by it to be collected by the service supplier shall be added to and may be  
 22 stated separately in the billings to the service user.

July 1, 2003.

wireless carrier

23 (e) The wireless service supplier shall have no obligation to take any  
 24 legal action to enforce the collection of any tax imposed under authority  
 25 of this act. The wireless service supplier shall provide annually the gov-  
 26 erning body with a list of amounts uncollected along with the names and  
 27 addresses of those service users which carry a balance that can be deter-  
 28 mined by the service supplier to be nonpayment of any tax imposed under  
 29 authority of this act.

carrier

to the local collection point administrator

carrier

30 (f) Any tax imposed under authority of this act shall be collected in-  
 31 sofar as practicable at the same time as regular billing practice of the  
 32 wireless service supplier.

carrier.

33 (h) Any tax imposed under authority of this act and the amounts re-  
 34 quired to be collected are due quarterly. The amount of tax collected in  
 35 one calendar quarter by the service supplier shall be remitted to the  
 36 governing body no later than sixty days after the close of a calendar quar-  
 37 ter. On or before the sixtieth day of each calendar quarter following, a  
 38 return for the preceding quarter shall be filed with the governing body  
 39 in such form as the governing body and service supplier shall agree. The  
 40 service supplier required to file the return shall deliver the return to-  
 41 gether with a remittance of the amount of the tax payable to the office  
 42 of the governing body. The service supplier shall maintain records of the  
 43 amount of any tax collected pursuant to action in accord with this act.

wireless carrier

local collection point administrator

local collection point administrator

local collection point administrator and wireless carrier

wireless carrier

local collection point administrator. The wireless carrier

2-8

(i) The local collection point administrator shall distribute funds collected pursuant to this act to local PSAPs based upon the primary place of use information provided by wireless carriers. The local collection point administrator may retain an administrative fee of up to 2% of the funds collected pursuant to this section.

taxes and fees imposed

Immunity from liability shall exist as set forth in K.S.A. 12-5308, and amendments thereto.

the local collection point administrator

New Section 16. Nothing in this act shall be construed to limit the ability of a wireless carrier from recovering its costs associated with designing, developing, deploying, and maintaining enhanced wireless 911 service directly from its customers, whether itemized on the customer's bill as a surcharge or by any other lawful method.

Renumber: Section 17 and 18.

1 Such records shall be maintained for a period of three years from the  
2 time the tax is collected.

3 New Sec. 13. The administrator may require an audit of any wireless  
4 carrier's books and records concerning the collection and remittance of  
5 the surcharge pursuant to this act. Any such audit shall be conducted at  
6 the administrator's expense. Information provided by wireless carriers to  
7 the advisory board or to the administrator pursuant to this act will be  
8 treated as proprietary records which will be withheld from the public  
9 upon request of the party submitting such records.

10 New Sec. 14. ~~The enhanced wireless 911 service described in this~~  
11 ~~act is within the governmental power and authority of the administrator,~~  
12 ~~governing bodies and public safety agencies. Except as provided by the~~  
13 ~~Kansas tort claims act, in contracting for such service and in providing~~  
14 ~~such service, and except for failure to use ordinary care, or for intentional~~  
15 ~~acts, the administrator, each governing body, each public agency, each~~  
16 ~~wireless carrier and their employees and agents shall not be liable for the~~  
17 ~~payment of damages resulting from the performance of installing, main-~~  
18 ~~taining or providing enhanced wireless 911 service.~~

19 New Sec. 15. (a) During calendar year 2005, in accordance with a  
20 scope statement authorized and approved by the legislative post audit  
21 committee, the division of post audit shall conduct an audit of the books,  
22 records, files, documents and correspondence, confidential or otherwise,  
23 of each wireless carrier, and each local PSAP relating to all payments,  
24 disbursements and uses of the funds authorized by this act. This audit  
25 shall be conducted in accordance with article 11 of chapter 46 of the  
26 Kansas Statutes Annotated, and amendments thereto.

27 (b) The audit authorized in subsection (a) shall include but not be  
28 limited to an audit of: (1) The appropriate uses of funds; (2) sufficiency  
29 of funds collected; (3) status of wireless enhanced 911 implementation;  
30 and (4) the need and level of continued funding.

31 (c) Based upon the findings of such audit, the legislature may impose  
32 a moratorium on or reduce the funding source for the collection of such  
33 fee, surcharge or tax, or authorize a reduction in such fee, surcharge or  
34 tax.

35 (d) Any such information provided to the division of post audit shall  
36 be treated as proprietary records which will be withheld from the public  
37 upon the request of the party submitting such records.

38 ~~Sec. 16.~~ K.S.A. 12-5301 and 12-5302 are hereby repealed.

39 ~~Sec. 17.~~ This act shall take effect and be in force from and after its  
40 publication in the statute book.

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