

Approved: February 12, 2004
Date

Carl D. 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 January 20, 2004 in Room 231-N of the Capitol.

All members were present.

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 asked for bill introductions. Representative Sloan moved to introduce, as committee bills, the items requested by the State Energy Resource Coordination Council. Representative Kuether seconded the motion. The motion carried.

Chairman Holmes announced the joint meetings to be held next week with Senate Utilities on Thursday and Senate Commerce on Friday.

HB 2476 - Wireless enhanced 911 act

Chairman Holmes opened the debate on **HB 2476** with a briefing provided by Mary Galligan, Principal Analyst for the Legislative Research Department. Ms. Galligan provided a side-by-side comparison (Attachment 1) of the e-911 bills heard in committee and the wireless industry proposal shared during testimony. Ms. Galligan responded to questions from the committee.

Representative Sloan distributed a balloon of the bill, which also included amendments proposed by Legislative Post Audit (Attachment 2). Representative Sloan moved to adopt the balloon. Representative Reitz seconded the motion. The motion carried.

Representative Showalter asked that the committee consider the items addressed in an e-mail received from Ron Hoffman, Director of Harvey County Communications Center (Attachment 3), who testified in support of the bill.

Barbara Hinton, Legislative Post Auditor, provided additional explanation of the language proposed in new Section 14 on page 10 of the balloon.

The debate on **HB 2476** was recessed.

The meeting adjourned at 10:20 a.m.

The next meeting will be Wednesday, January 21, 2004.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 20, 2004

NAME	REPRESENTING
Joe Duk	KCBPU
Ed Cross	KIOGA
DINA FISK	VERIZON WIRELESS
Nelson Krueger	Western Wireless
TOM DAY	KCC
Jim Gackmer	SBC
Caryn Luster	Sprint
Mary Peters	Sprint
Steve Johnson	Kansas Gas Service
John S. Peneq	Kansas Legislative Policy Group
JOHN C. BOTTEBERG	SBC
Andy Shaw	Attel
Julie Mohr	KAC
Rim Gullety	CKM
Jandia Braden	Cingular
Mike Murray	Sprint
Tom Burgess	RTMC
Mike Pepon	Sedwick County
Russell B. Walter	City of Burrton
Heather Grace	Dannon + Associates

Revised
Selected 2003 and 2004 Wireless Enhanced 911 (e-911) Bills and Proposals

Provision	Wireless Industry Proposal	2004 HB 2476	2003 HB 2473*	2003 HB 2037 and 2003 SB 153*
Bill Status as of opening of 2004 Session	Presented in testimony January 14, 2004.	Introduced January 12, 2004; In House Utilities	Introduced May 5, 2003; In House Utilities	HB 2037 remained in Conference Committee at the end of the 2003 Session. SB 153 in House Utilities.
Title of Act	N/A	Wireless Enhanced 911 Act	Same	NA
Public Safety Answering Point (PSAP) Financing	Emergency telephone tax	Wireless e-911 tax and wireless-911 fee	Same	Same
Wireless e-911 Tax	50¢ per month "upon each telephone number that has a billable address in Kansas" 50% of the tax would be remitted to the Administrator. 50% would be retained by the wireless carrier. The tax would expire on July 1, 2007. No similar provision.	25¢ per month per wireless subscriber account and prepaid wireless telephone service in Kansas. (A "subscriber account" would be defined by the bill to be the 10-digit access number assigned to a wireless customer.) July 1, 2008 the e-911 tax would increase to a maximum of 50¢ per month per wireless subscriber account in Kansas. At that time, the wireline 911 tax and the e-911 tax would be equalized at a maximum of 50¢ per month per access line or subscriber account. Existing law that permits imposition of a wireline 911 tax would be amended to make wireless service subject only to the e-911 tax and fee.	Amount and basis for tax the same. The tax could be imposed at the discretion of a local governing body at any time after execution of a contract to provide wireline 911 service in the jurisdiction. <u>When e-911 service has been deployed in every county</u> , the e-911 tax would increase to a maximum of 50¢ per month per wireless subscriber account in Kansas. At that time, the wireline 911 tax and the e-911 tax would be equalized. Same	25¢ per month per <u>wireless service user</u> within the taxing jurisdiction. (A "service user" under the bill would be any person provided exchange telephone service or wireless service in Kansas. "Wireless service" would be a two-way voice or text radio service provided by a wireless carrier.) Any city or county could impose the wireless emergency telephone tax by ordinance or resolution. The tax could be imposed at any time after a contract is executed with the wireless carrier to receive wireless e-911 information. No "sunset" of tax. Same
Local Tax	The tax would specifically be exempt from state and local taxation.	NA	Same	Same

* Comparisons are to provisions of 2004 HB 2476.

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Revised
Selected 2003 and 2004 Wireless Enhanced 911 (e-911) Bills and Proposals

Provision	Wireless Industry Proposal	2004 HB 2476	2003 HB 2473*	2003 HB 2037 and 2003 SB 153*
Administration of tax	<p>The Administrator would be appointed by the Governor and employed by or under contract to the Kansas Highway Patrol.</p> <p>Tax revenue would be deposited in the Enhanced Wireless 911 Fund in the state treasury.</p>	<p>The tax would be remitted to the League of Kansas Municipalities and the Kansas Association of Counties which would be designated the "local collection point administrator" (LCPA) by the bill.</p> <p>The LCPA would be required to distribute tax revenue to PSAPs based on information provided by carriers regarding the primary place of use of the wireless service.</p> <p>The LCPA would be authorized to retain, as an administrative fee, a maximum of 2 percent of total tax revenue collected.</p>	<p>Same</p> <p>Same</p> <p>Same</p>	<p>The tax would be <u>remitted to the local governments</u> quarterly along with a tax return agreed upon by the governing body and the wireless carrier.</p>
Allowable use of tax revenue	<p>Same. PSAP expenses related to 911 or enhanced 911 service <u>if those expenses are incurred to prepare the PSAP for providing wireless e-911 service.</u> (See also Use of Fund Revenue, below.)</p> <p>Carriers could use the retained portion of the tax revenue to design, develop, deploy and maintain wireless enhanced 911 service and to pay carriers' costs associated with collection and administration of the tax.</p> <p>Same</p> <p>Carrier-retained tax revenue in excess of the amount necessary to implement enhanced 911 service would be remitted to the State Treasurer for deposit in the Enhanced 911 Fund.</p>	<p>Proceeds of the tax could be used to pay for costs of wireless and wireline 911 services.</p> <p>Revenue from the wireless tax could not be used for new or expanded buildings or similar facilities or to construct other capital improvements not specifically authorized by the Act.</p> <p>No similar provision.</p>	<p>Same</p>	<p>Same.</p>

* Comparisons are to provisions of 2004 HB 2476.

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Revised
Selected 2003 and 2004 Wireless Enhanced 911 (e-911) Bills and Proposals

Provision	Wireless Industry Proposal	2004 HB 2476	2003 HB 2473*	2003 HB 2037 and 2003 SB 153*
Failure of PSAP to implement wireless e-911 after imposition of tax	No similar provision.	If a PSAP has not made a valid request to wireless carriers to implement wireless e-911 service by July 1, 2006, tax revenue generated would be deposited in the Grant Fund. A waiver of up to one year could be granted by the Advisory Board if necessary equipment is not available to meet the time requirement, or for other just cause.	Deadline for making the request would effectively be the same. Provisions regarding failure to make a valid request would be the same. PSAPs would be required to provide wireless carriers with six months notice prior to filing a formal request for implementation of e-911 service.	No similar provision
e-911 Fee	No similar provision.	25¢ per month fee (e-911 fee) on each wireless subscriber account and prepaid wireless telephone service in Kansas. The fee would be collected from the wireless user by the carrier and remitted to the Secretary of Administration for deposit in the Grant Fund. Collection of the fee would begin July 1, 2004. Authority for the fee would expire July 1, 2008.	Same The fee would be discontinued when e-911 service has been deployed in every county.	The bill would create a public safety fee of 25¢ per month to be paid by each <u>wireless service user</u> .
Fee/Tax Fund	Essentially the same. Fund name would be different. Money in the fund would not be "subject to any fiscal-year limitation or lapse provision of an unexpended balance at the end of any fiscal year or biennium." No similar provision.	The Wireless Enhanced 911 Grant Fund (Fund) would be created as the repository for revenue generated by the e-911 fee and other moneys available for the purposes of the fund. On July 1, 2008 the fund would be abolished and any unobligated balance in the fund would be paid to the LCPA for distribution to municipalities based on population.	Same The Fund would be abolished <u>when e-911 service has been deployed in every county</u> , any bonds issued under the Act are retired, and any unobligated balance in the fund at that time would be paid to the LCPA for distribution to cities and counties based on population.	The fund name would be different. Other provisions would be the same. Effectively the same.

* Comparisons are to provisions of 2004 HB 2476.

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**Revised
Selected 2003 and 2004 Wireless Enhanced 911 (e-911) Bills and Proposals**

Provision	Wireless Industry Proposal	2004 HB 2476	2003 HB 2473*	2003 HB 2037 and 2003 SB 153*
<p>Use of fund revenue</p>	<p>Disbursements to PSAPs for:</p> <ul style="list-style-type: none"> • Same • Same • Same • Same, including costs of training PSAP personnel to provide effective service to all users of the emergency telephone system who have communications disabilities • Expenses related to 911 or enhanced 911 service if those expenses are incurred to prepare the PSAP for providing wireless e-911 service. <p>Same</p> <p>Administrative costs paid from the fund "shall be kept to a minimum." Actual and necessary expenses incurred by Board members while performing duties under the Act.</p>	<p>Grants to counties with populations of less than 75,000 or cities located in such counties. Those grants could be used to finance:</p> <ul style="list-style-type: none"> • Necessary and reasonable costs incurred by PSAPs to implement e-911 service; • Purchase or upgrade of equipment used solely to process data elements of e-911 service; • Costs of maintenance and license fees for e-911 equipment; and • training of personnel to operate that equipment. <p>Grant funds specifically could not be used to build new or expanded facilities or to construct other capital improvements not explicitly authorized by the Act.</p> <p>Administrative expenses would be limited to a maximum of 5 percent of Fund revenue. Those administrative costs may include costs incurred by the advisory board and the cost of audits.</p>	<p>Same, and in addition, payment of principal and interest on bonds issued pursuant to the Act to finance e-911 projects eligible for grant funding.</p> <p>Same</p> <p>Same, except that a maximum of \$195,000 of Fund revenue could be used for administrative expenses during FY 2005.</p>	<p>Cities and counties of any size could receive grant funds.</p> <p>Allowable uses of fund moneys would be the same.</p> <p>Same, but no enumeration of costs to be considered "administrative."</p>

* Comparisons are to provisions of 2004 HB 2476.

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Revised
Selected 2003 and 2004 Wireless Enhanced 911 (e-911) Bills and Proposals

Provision	Wireless Industry Proposal	2004 HB 2476	2003 HB 2473*	2003 HB 2037 and 2003 SB 153*
Administration of Fund	<p>The fund would be administered by a person appointed by the Governor and employed by or under contract to the Kansas Highway Patrol. The Administrator would be required to:</p> <ul style="list-style-type: none"> • Determine cost of implementing wireless e-911 services. • Promote collaboration between PSAPs and encourage economies of scale • Determine the amount of funding available for disbursement pursuant to the Act • Determine the percentage of funds to be allocated to each funding purpose • Receive and review applications for grants from the Fund and notify applicants regarding disposition of the application 	<p>The grant fund would be administered by the Secretary of Administration who would be required to:</p> <ul style="list-style-type: none"> • Provide eligible municipalities with technical advice and assistance regarding e-911 projects or grant applications; • Establish grant application procedures and requirements; and • Make an annual report to the Governor and the Legislature describing how the goals and objectives of the previous year have been met and reporting progress toward implementation of federal phase II e-911 requirements. <p>The Secretary would be authorized to:</p> <ul style="list-style-type: none"> • Adopt rules and regulations to implement the Act; • Select projects to be funded from the Grant Fund; and • Enter into agreements with grantees for payment of e-911 project costs. 	<p>Same</p>	<p>Grant fund administered by Secretary of Administration.</p> <p>The administrator would be required to provide municipalities with technical advice and assistance regarding a project or an application for a grant.</p> <p>The administrator would be authorized, but not required, to make an annual report to the Governor and the Legislature.</p> <p>Same</p>

* Comparisons are to provisions of 2004 HB 2476.

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HOUSE BILL No. 2476

By Representatives Neighbor and Svaty

11-5

AN ACT concerning emergency telephone service, enacting the wireless enhanced 911 act; imposing certain fees and taxes; providing for certain grants; amending K.S.A. 12-5302 and repealing the existing ~~sections~~ and K.S.A. 2003 Supp. 19-101a sections

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

Now Section 1. Sections 1 through 18, and amendments thereto, may be cited as the wireless enhanced 911 act.

Now Sec. 2. As used in the wireless enhanced 911 act, unless the context otherwise requires:

(a) "Active prepaid wireless telephone" means a prepaid wireless telephone that has been used by the customer during the month to complete a telephone call for which a charge was deducted from the customer's card or balance.

(b) "Advisory board" means the wireless enhanced 911 advisory board established under section 6, and amendments thereto.

(c) "Automatic number identification" means a feature by which a person calling a public safety answering point has such person's 10-digit telephone number simultaneously forwarded to the public safety answering point and to the public safety answering point's display and transfer.

(d) "Eligible municipality" means: (1) Any county having a population of less than 75,000 or any city located within such a county; or (2) any two or more such counties or cities.

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

(f) "Emergency telephone tax" means a tax to finance the operation of emergency telephone service.

(g) "Enhanced 911 service" means an emergency telephone service that generally may provide, but is not limited to, selective routing, automatic number identification and automatic location identification features.

(h) "Exchange access facilities" means all facilities provided by the service supplier for the facility which provides local telephone exchange

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ATTACHMENT 2

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- 1 access to a service user.
- 2 (j) "Fund" means the wireless enhanced 911 grant fund established
3 by this act.
- 4 (k) "Governing body" means the board of county commissioners of a
5 county or the governing body of a city.
- 6 (l) "Local collection point administrator" means the statewide asso-
7 ciation of cities as established by K.S.A. 12-1610e, and amendments
8 thereto, and the statewide association of counties as established by K.S.A.
9 19-2699, and amendments thereto.
- 10 (m) "Mobile telephone number" means the telephone number as-
11 signed to a wireless telephone at the time of initial activation.
- 12 (n) "Person" means any individual, firm, partnership, copartnership,
13 joint venture, association, cooperative organization, corporation, municip-
14 al or private, and whether organized for profit or not, state, county,
15 political subdivision, state department, commission, board, bureau or fra-
16 ternal organization, nonprofit organization, estate, trust, business or com-
17 mon law trust, receiver, assignee for the benefit of creditors, trustee or
18 trustee in bankruptcy or any other legal entity.
- 19 (o) "Prepaid wireless telephone service" means wireless telephone
20 service that is activated in advance by payment for a finite dollar amount
21 of service or for a finite set of minutes that terminate either upon use by
22 a customer and delivery by the wireless provider of an agreed-upon
23 amount of service corresponding to the total dollar amount paid in ad-
24 vance or within a certain period of time following the initial purchase or
25 activation, unless additional payments are made.
- 26 (p) "Primary place of use" has the meaning provided in the mobile
27 telecommunications act (4 U.S.C. 116, *et seq.*, as in effect on the effective
28 date of this act).
- 29 (q) "Project" means the development and acquisition of the necessary
30 improvements in order to facilitate the establishment of wireless en-
31 hanced 911 service.
- 32 (r) "Project costs" means all costs or expenses which are necessary
33 or incident to a project and which are directly attributable thereto.
- 34 (s) "PSAP" means public safety answering point.
- 35 (t) "Pseudo-automatic number identification" means a feature by
36 which automatic number identification is provided to a public safety an-
37 swering point of the 10-digit telephone number of the specific cell site
38 or cell site sector from which a wireless call originated.
- 39 (u) "Public agency" means any city, county, municipal corporation,
40 public district or public authority located in whole or in part within this
41 state which provides or has authority to provide fire fighting, law enforce-
42 ment, ambulance, emergency medical or other emergency services.
- 43 (v) "Secretary" means the secretary of administration.

22

1 (v) "Service supplier" means any person providing exchange tele-
2 phone service to any service user in this state.

3 (w) "Service user" means any person who is provided exchange tel-
4 ephone service or wireless service in this state.

5 (x) "Subscriber account" means the 10-digit access number assigned
6 to a wireless service customer regardless of whether more than one such
7 number is aggregated for the purpose of billing a service user.

8 (y) "Sufficient positive balance" means a dollar amount greater than
9 or equal to the total monthly wireless enhanced 911 fee and wireless
10 enhanced 911 tax.

11 (z) "Tariff rate" means the rate or rates billed by a service supplier
12 and as stated in the service supplier's tariffs, approved by the state cor-
13 poration commission which represent the service supplier's recurring
14 charges for exchange access facilities or their equivalent, exclusive of all
15 taxes, fees, licenses or similar charges whatsoever.

16 (aa) "Valid request" means a request to a wireless carrier for wire-
17 less enhanced 911 service, made by a PSAP which is capable of receiving and
18 utilizing the data elements associated with wireless enhanced 911 service
19 as determined in accordance with 47 CFR 20.18 (October 1, 2002).

20 (bb) "Wireless automatic location identification information" means
21 a feature by which information is provided to a public safety answering
22 point identifying the location of a 911 caller within the parameters estab-
23 lished by the federal communications commission.

24 (cc) "Wireless carrier" means any common, private or other radio
25 carrier licensed by the federal communications commission to provide
26 two-way voice service in this state which provides interconnection to the
27 public switched telephone network and access to a 24-hour answering
28 point.

29 (dd) "Wireless enhanced 911 fee" means the fee imposed under sec-
30 tion 4, and amendments thereto.

31 (ee) "Wireless enhanced 911 service" means a communication serv-
32 ice by which wireless carriers can provide automatic number identifica-
33 tion, pseudo-automatic number identification and wireless automatic lo-
34 cation identification information to a requesting PSAP, as defined in FCC
35 docket 94-102, which is capable of receiving and utilizing the data ele-
36 ments associated with wireless enhanced 911 service.

37 (ff) "Wireless enhanced 911 tax" means the tax imposed under sec-
38 tion 10, and amendments thereto, to finance the operation of wireless
39 enhanced emergency telephone service.

40 (gg) "Wireless service" means a two-way voice service provided by a
41 wireless carrier.

42 New Sec. 3 (a) There is hereby established in the state treasury the
43 wireless enhanced 911 grant fund.

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

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

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

6 (3) amounts received under section 4, 8 or 10, and amendments
7 thereto;

8 (4) interest attributable to investment of moneys in the fund; and

9 (5) amounts received from any public or private entity for the pur-
10 poses of the fund.

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

13 (1) To pay costs of administering the fund, including actual and nec-
14 essary expenses incurred by members of the advisory board while per-
15 forming duties required by the wireless enhanced 911 act and costs of
16 any audit performed under ~~this section or section 12 or 14~~ and amend- section 11
17 ments thereto, but the aggregate amount of all such costs shall not exceed
18 5% of the moneys credited to the fund; and

19 (2) grants to eligible municipalities for the following costs: (A) Nec-
20 essary and reasonable costs incurred or to be incurred by PSAP's to im-
21 plement wireless enhanced 911 service; (B) costs of purchasing equip-
22 ment and upgrades and modification to equipment used solely to process
23 the data elements of wireless enhanced 911 service; and (C) costs of
24 maintenance and license fees for such equipment and training of person-
25 nel to operate such equipment, including costs of training PSAP person-
26 nel to provide effective service to all users of the emergency telephone
27 system who have communications disabilities. Such costs shall not include
28 expenditures for new or expanded buildings or similar facilities or to con-
29 struct other capital improvements not expressly authorized by this act.

30 (d) On or before the 10th of each month, the director of accounts
31 and reports shall transfer from the state general fund to the fund interest
32 earnings based on:

33 (1) The average daily balance of moneys in the wireless enhanced
34 911 grant fund for the preceding month; and

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

37 (e) All payments and disbursements from the fund shall be made in
38 accordance with appropriation acts upon warrants of the director of ac-
39 counts and reports issued pursuant to vouchers approved by the secretary
40 or by a person or persons designated by the secretary. ~~All payments and~~
41 ~~disbursements from the fund, and beginning and ending balances thereof,~~
~~shall be subject each year to post-audit in accordance with article 11 of~~
~~chapter 46 of the Kansas Statutes Annotated, and amendments thereto.~~

strike as marked

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1 New Sec. 4 (a) Subject to the provisions of section 18, and amend-
2 ments thereto, effective July 1, 2004, there is hereby established a wireless
3 enhanced 911 fee in the amount of \$.25 per month per wireless subscriber
4 account with primary place of use in the state of Kansas.

5 (b) It shall be the duty of each wireless carrier to collect such fee
6 from the wireless service user and remit such fee to the secretary as
7 provided by section 11, and amendments thereto.

8 (c) The secretary shall remit to the state treasurer, in accordance with
9 the provisions of K.S.A. 75-4215, and amendments thereto, any fees re-
10 ceived pursuant to this section. Upon receipt of the remittance, the state
11 treasurer shall deposit the entire amount in the state treasury and credit
12 it to the wireless enhanced 911 grant fund.

13 New Sec. 5 The secretary shall administer the provisions of the wire-
14 less enhanced 911 act and shall be responsible for administration and
15 management of the fund. The secretary is hereby authorized to:

16 (a) Enter into binding commitments for the provision of grants in
17 accordance with the provisions of this act.

18 (b) Review applications of eligible municipalities for grants and select
19 the projects for which grants will be made available; and

20 (c) Adopt rules and regulations necessary for effectuation of the pro-
21 visions of this act.

22 New Sec. 6 (a) There is hereby established the wireless enhanced
23 911 advisory board. Members of the advisory board shall be individuals
24 familiar with development and implementation of wireless enhanced 911
25 service and shall be appointed by the governor as follows:

26 (1) One individual representing the Kansas association of counties;

27 (2) one individual representing the league of Kansas municipalities;

28 (3) one individual representing local law enforcement;

29 (4) one individual representing local fire/emergency medical services;

30 (5) one individual representing PSAP's in counties having a popula-
31 tion of less than 15,000;

32 (6) one individual representing PSAP's in counties having a popula-
33 tion of 15,000 or more;

34 (7) one individual representing the wireless carriers industry;

35 (8) one individual representing local exchange service providers; and

36 (9) one individual representing the Kansas highway patrol.

37 (b) The appointments in subsection (a)(1) through (a)(6) of this sec-
38 tion shall satisfy the following:

39 (1) Two shall be individuals from counties having a population of
40 more than 75,000;

41 (2) two shall be individuals from counties having a population from
42 15,000 up to 75,000; and

43 (3) two shall be individuals from counties having a population of less

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1 than 15,000.

2 New Sec. 7. After providing for public comment and review each
3 year, the secretary, in conjunction with the advisory board, shall prepare
4 a plan identifying the intended uses of the moneys available in the fund.
5 The intended use plan shall include, but not be limited to:

6 (a) The wireless enhanced 911 project priority list;

7 (b) a description of the short-term and long-term goals and objectives
8 of the fund for the deployment of wireless enhanced 911;

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

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

14 New Sec. 8. (a) Eligible municipalities wishing to receive a grant
15 under the wireless enhanced 911 act shall submit an application therefor
16 to the secretary. Applications shall be in such form and shall include such
17 information as the secretary shall require including, but not limited to,
18 the request for proposals submitted to initiate the deployment process,
19 and shall be submitted in a manner and at a time to be determined by
20 the secretary.

21 (b) The secretary may enter into agreements with any eligible mu-
22 nicipality for the provision of a grant thereto for payment of all or a part
23 of project costs and any eligible municipality may enter into such an
24 agreement and may accept such grant when so authorized by the munic-
25 ipal governing body. The purposes of the grant to be provided, a time
26 frame for implementation, and the amount thereof, which may vary
27 among municipalities, shall be included in the agreements. All such agree-
28 ments shall include provisions for repayment of the grant if implemen-
29 tation is not completed in accordance with the terms of the agreement.

30 (c) If a municipality to which a grant is made available under the
31 wireless enhanced 911 act fails to enter into an agreement with the sec-
32 retary for the provision of such grant in accordance with the requirements
33 of this act, the secretary may make the amount of the grant available for
34 one or more other projects on the priority list.

35 (d) The secretary shall provide any eligible municipality, upon re-
36 quest, with technical advice and assistance regarding a project or an ap-
37 plication for a grant for the payment of all or part of project costs.

38 (e) (1) Subject to the provisions of subsection (e)(3), each PSAP shall
39 submit to wireless carriers a valid request for wireless enhanced 911 serv-
40 ice by July 1, 2006.

41 (2) Subject to the provisions of subsection (e)(3), if a PSAP has not
42 submitted to wireless carriers a valid request for wireless enhanced 911
43 service by July 1, 2006, such PSAP shall pay to the secretary all moneys

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1 paid from the fund to such PSAP. The secretary shall remit such moneys
2 to the state treasurer in accordance with K.S.A. 75-4215, and amend-
3 ments thereto. Upon receipt of the remittance, the state treasurer shall
4 deposit the entire amount in the state treasury and credit it to the wireless
5 enhanced 911 grant fund. Thereafter, such PSAP shall not be eligible to
6 receive moneys from the fund until the PSAP has submitted to the sec-
7 retary evidence satisfactory to the secretary that the PSAP has submitted
8 to wireless carriers a valid request for wireless enhanced 911 service.

9 (3) If a PSAP is unable to make a valid request by July 1, 2006, the
10 advisory board may approve extension of such date to not later than July
11 1, 2007, if the advisory board determines that: (A) Equipment necessary
12 to receive and utilize the data elements associated with the wireless en-
13 hanced 911 service has been ordered by the PSAP but is unavailable; or
14 (B) there is other just cause to extend the date.

15 New Sec. 9. The secretary shall prepare an annual report describing
16 how the state has met the goals and objectives for the previous year as
17 identified in the intended use plan prepared under section 7, and amend-
18 ments thereto. Such report shall include information concerning the pro-
19 gress toward implementation of federal phase II enhanced 911 require-
20 ments pursuant to 47 C.F.R. 20.18. The secretary shall provide such
21 report to the governor and the legislature ~~together with copies of the~~
22 ~~audit required under section 3, and amendments thereto.~~

strike as marked

23 New Sec. 10. (a) Effective July 1, 2004, there is hereby imposed a
24 wireless enhanced 911 tax. Subject to the provisions of section 18, and
25 amendments thereto, the amount of such tax shall be \$.25 per month per
26 wireless subscriber account with primary place of use in the state of
27 Kansas.

28 (b) The proceeds of the wireless enhanced 911 tax, and any interest
29 earned on revenue derived from such tax, shall be used to pay for costs
30 of emergency telephone service described in subsection (b) of K.S.A. 12-
31 5304, and amendments thereto. In addition to allowable expenditures
32 under K.S.A. 12-5304, and amendments thereto, the proceeds of such tax
33 shall be used to pay costs of implementation of wireless enhanced 911
34 service, including: (1) Necessary and reasonable costs incurred or to be
35 incurred by PSAP's to implement wireless enhanced 911 service; (2) pur-
36 chases of equipment and upgrades and modification to equipment used
37 solely to process the data elements of wireless enhanced 911 service; and
38 (3) maintenance costs and license fees for such equipment and the train-
39 ing of personnel to operate such equipment including costs of training
40 PSAP personnel to provide effective service to all users of the emergency
41 telephone system who have communications disabilities. Such costs shall
not include expenditures for new or expanded buildings or similar facil-
ities or to construct other capital improvements not expressly authorized

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1 by this act.

2 (c) Each PSAP shall submit to the secretary an annual report ac-
3 counting for the money received by the PSAP from the wireless enhanced
4 911 tax. Such report shall be submitted on a form provided by the
5 secretary.

6 (d) (1) Subject to the provisions of subsection (d)(3), each PSAP shall
7 submit to wireless carriers a valid request for wireless enhanced 911 serv-
8 ice by July 1, 2006.

9 (2) Subject to the provisions of subsection (d)(3), if a PSAP has not
10 submitted to wireless carriers a valid request for wireless enhanced 911
11 service by July 1, 2006, such PSAP shall pay to the secretary all moneys
12 from the wireless enhanced 911 tax which have been or are received by
13 such PSAP. The secretary shall remit such moneys to the state treasurer
14 in accordance with K.S.A. 75-4215, and amendments thereto. Upon re-
15 ceipt of the remittance, the state treasurer shall deposit the entire amount
16 in the state treasury and credit it to the wireless enhanced 911 grant fund.
17 Thereafter, such PSAP shall not be eligible to receive moneys from the
18 fund until the PSAP has submitted to the secretary evidence satisfactory
19 to the secretary that the PSAP has submitted to wireless carriers a valid
20 request for wireless enhanced 911 service.

21 (3) If a PSAP is unable to make a valid request by July 1, 2006, the
22 advisory board may approve extension of such date to not later than July
23 1, 2007, if the advisory board determines that: (A) equipment necessary
24 to receive and utilize the data elements associated with wireless enhanced
25 911 service has been ordered by the PSAP but is unavailable; or (B) there
26 is other just cause to extend the date.

27 Now Sec. 11-100. (c) Every billed wireless service user shall be liable for
28 the wireless enhanced 911 fee and the wireless enhanced 911 tax until
29 the fee or tax has been paid to the wireless carrier.

30 (d) The duty to collect any such fee or tax from a wireless service
31 user shall commence July 1, 2004. Such fee and tax shall be added to and
32 may be stated separately in billings to the wireless service user.

33 (e) The wireless carrier shall have no obligation to take any legal ac-
34 tion to enforce the collection of the wireless enhanced 911 fee or the
35 wireless enhanced 911 tax. The wireless carrier shall provide annually to
36 the secretary a list of amounts of uncollected fees along with the names
37 and addresses of those wireless service users which carry a balance that
38 can be determined by the wireless carrier to be nonpayment of the wire-
39 less enhanced 911 fee. The wireless carrier shall provide annually to the
40 local collection point administrator a list of amounts of uncollected taxes
41 along with the names and addresses of those wireless service users which
42 carry a balance that can be determined by the wireless carrier to be non-
43 payment of the wireless enhanced 911 tax.

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1 (d) The wireless enhanced 911 fee and the wireless enhanced 911 tax
2 shall be collected insofar as practicable at the same time as, and along
3 with, the charges for wireless service in accordance with regular billing
4 practice of the wireless carrier.

5 (e) The wireless enhanced 911 fee and the amounts required to be
6 collected therefor are due monthly. The amount of any such fees collected
7 in one month by the wireless carrier shall be remitted to the secretary
8 not more than 15 days after the close of the calendar month. On or before
9 the 15th day of each calendar month following, a return for the preceding
10 month shall be filed with the secretary in such form as the secretary and
11 the wireless carrier shall agree. The wireless carrier required to file the
12 return shall deliver the return together with a remittance of the amount
13 of the fees payable to the secretary. The wireless carrier shall maintain
14 records of the amount of any fees collected pursuant to action in accord
15 with this act. Such records shall be maintained for a period of three years
16 from the time the fees are collected.

17 (f) The wireless enhanced 911 tax and the amounts required to be
18 collected therefor are due monthly. The amount of any such tax collected
19 in one month by the wireless carrier shall be remitted to the local collec-
20 tion point administrator not more than 15 days after the close of the
21 calendar month. On or before the 15th day of each calendar month fol-
22 lowing, a return for the preceding month shall be filed with the local
23 collection point administrator. Such return shall be in such form and shall
24 contain such information as required by the administrator. The wireless
25 carrier required to file the return shall deliver the return together with a
26 remittance of the amount of the fees payable to the local collection point
27 administrator. The wireless carrier shall maintain records of the amount
28 of any fees collected pursuant to action in accord with this act. Such
29 records shall be maintained for a period of three years from the time the
30 tax is collected.

31 (g) In the case of prepaid wireless telephone service, the monthly
32 wireless enhanced 911 fee and wireless enhanced 911 tax shall be remit-
33 ted based upon each prepaid wireless telephone associated with this state,
34 for each subscriber account that has a sufficient positive balance as of the
35 last day of the month. The fee and tax shall be remitted in any manner
36 consistent with the wireless carrier's existing operating or technological
37 abilities, such as customer address, location associated with the mobile
38 telephone number or reasonable allocation method based upon other
39 comparable relevant data. The fee and tax amount or an equivalent num-
40 ber of minutes may be deducted from the prepaid subscriber's account
41 since a direct billing may not be possible. However, collection of the fee
42 and tax in the manner of a deduction of value or minutes from the prepaid
43 subscriber's account does not constitute a reduction in the sales price for

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1 purposes of taxes that are collected at the point of sale.

2 (d) The local collection point administrator shall distribute moneys
3 collected from the wireless enhanced 911 tax to PSAP's based upon pri-
4 mary place of use information provided by wireless carriers. The local
5 collection point administrator may retain an administrative fee of not
6 more than 2% of moneys collected from such tax.

7 (i) All payments and disbursements by the local collection point ad-
8 ministrator from moneys collected from the wireless enhanced 911 tax
9 shall be subject each year to post audit in accordance with article 11 of
10 chapter 46 of the Kansas Statutes Annotated, and amendments thereto.

11 New Sec. 12. In 2005, the ~~secretary~~ shall require, and thereafter the
12 ~~secretary or the local collection point administrator~~ may require, an audit
13 of any wireless carrier's books and records concerning the collection and
14 remittance of fees and taxes pursuant to this act. ~~Any such audit shall be~~
15 ~~conducted at the expense of the secretary or local collection point ad-~~
16 ~~ministrator requiring the audit.~~ Information provided by wire-less carriers
17 to the advisory board or to the ~~secretary~~ pursuant to the wireless en-
18 hanced 911 act will be treated as proprietary records which will be with-
19 held from the public upon request of the party submitting such records.

state corporation commission

The commission shall ascertain the expenses of any such audit and shall by order assess such expenses against the wireless carrier audited.

state corporation commission,

20 New Sec. 13. The wireless enhanced 911 service described in the
21 wire-less enhanced 911 act is within the governmental power and authority
22 of the secretary, local collection point administrator, governing bodies and
23 public agencies. Except as provided by the Kansas tort claims act, in
24 contracting for such service and in providing such service, and except for
25 failure to use ordinary care, or for intentional acts, the secretary, local
26 collection point administrator, each governing body, each public agency,
27 each wireless carrier and their employees and agents shall not be liable
28 for the payment of damages resulting from the performance of installing,
29 maintaining or providing wireless enhanced 911 service.

30 New Sec. 14. (a) During calendar year 2006, ~~in accordance with a~~
31 ~~scope statement authorized and approved by the legislative post audit~~
32 ~~committee the division of post audit shall conduct an audit of the books,~~
33 ~~records, files, documents and correspondence, confidential or otherwise,~~
34 ~~of each wireless carrier, each city or county, each PSAP and the local~~
35 ~~collection point administrator relating to all payments, disbursements and~~
36 ~~uses of the moneys authorized by this act. This audit shall be conducted~~
37 ~~in accordance with article 11 of chapter 46 of the Kansas Statutes An-~~
38 ~~notated, and amendments thereto. Such audit shall include, but not be~~
39 ~~limited to an audit of: (1) The appropriate use of moneys; (2) sufficiency~~
40 ~~of moneys collected; (3) status of wireless enhanced 911 implementation;~~
41 ~~and (4) the need and level of continued funding.~~

the division of post audit shall conduct an audit of the wireless enhanced 911 service system to determine: (1) Whether grant moneys and tax moneys received by municipalities pursuant to this act are being used appropriately; (2) the amount of moneys collected pursuant to this act is adequate; (3) the status of wireless enhanced 911 implementation; and (4) the need and level of continued funding of the system. The audit shall be in accordance with a scope statement authorized and approved by the legislative post audit committee and

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42 (b) During the 12 months following July 1, ~~2007~~, ~~in accordance with~~
43 ~~a scope statement authorized and approved by the legislative post audit~~

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~~committee, the division of post audit shall conduct an audit of the books, records, files, documents and correspondence, confidential or otherwise, of each wireless carrier, each city or county, each PSAP and the local collection point administrator relating to all payments, disbursements and uses of the moneys authorized by this act. This audit shall be conducted in accordance with article 11 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto. Such audit shall include but not be limited to: (1) the appropriate uses of moneys and (2) the status of implementation of wireless enhanced 911.~~

the division of post audit shall conduct an audit of the wireless enhanced 911 service system to determine: (1) Whether grant moneys and tax moneys received by municipalities pursuant to this act are being used appropriately; (2) the amount of moneys collected pursuant to this act is adequate; (3) the status of wireless enhanced 911 implementation; and (4) the need and level of continued funding of the system. The audit shall be in accordance with a scope statement authorized and approved by the legislative post audit committee and

(c) Any information provided to the division of post audit pursuant to this section shall be treated as proprietary records which will be withheld from the public upon the request of the party submitting such records.

New Sec. 15. Nothing in the wireless enhanced 911 act shall be construed to limit the ability of a wireless carrier from recovering directly from the carrier's customers its costs associated with designing, developing, deploying and maintaining wireless enhanced 911 service and its costs of collection and administration of the wireless enhanced 911 fee and wireless enhanced 911 tax, whether such costs are itemized on the customer's bill as a surcharge or by any other lawful method.

New Sec. 16. All PSAP's and wireless carriers shall make a good faith effort to insure that wireless 911 calls placed near jurisdictional borders are forwarded to the appropriate PSAP.

New Sec. 17. Upon notice to a PSAP of an application by a wireless carrier for a waiver of the deadlines of the federal communications commission for implementation of wireless enhanced 911, such PSAP shall notify the secretary of such application.

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New Sec. 18. On July 1, 2008,

(a) The wireless enhanced 911 fee shall be discontinued, the advisory board shall be abolished, any unobligated balance of the wireless enhanced 911 grant fund shall be paid to the local collection point administrator for distribution to municipalities based on population and the fund shall be abolished.

Within any county which has a population of 40,000 or more, the

(b) The amount of the tax imposed within a jurisdiction pursuant to K.S.A. 12-5302, and amendments thereto, shall not exceed \$.50 per month per access line or its equivalent and the amount of the wireless enhanced 911 tax within such jurisdiction shall be an equal amount per month per wireless subscriber account.

, except that either such tax may exceed such amount if revenues from such tax were pledged to pay principal, interest and other costs associated with bonds issued before the effective date of this act

(c) The provisions of sections 3 through 9, and amendments thereto, shall expire.

Within any county which has a population of less than 40,000, the amount of the tax imposed to K.S.A. 12-5302, and amendments thereto, shall not exceed \$.75 per month per access line or its equivalent and the amount of the wireless enhanced 911 tax shall be an equal amount per month per wireless subscriber account.

Sec. 19. K.S.A. 12-5302 is hereby amended to read as follows: 12-5302. (a) In addition to other powers for the protection of the public health and welfare, a governing body may provide for the operation of an

(d)

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1 emergency telephone service and may pay for it by imposing an emer-
2 gency telephone tax for such service in those portions of the governing
3 body's jurisdiction for which emergency telephone service has been con-
4 tracted. The governing body may do such other acts as are expedient for
5 the protection and preservation of the public health and welfare and are
6 necessary for the operation of the emergency telephone system. The gov-
7 erning body is hereby authorized by ordinance in the case of cities and
8 by resolution in the case of counties to impose such tax in those portions
9 of the governing body's jurisdiction for which emergency telephone serv-
10 ice has been contracted. *Subject to the provisions of section 18, and*
11 *amendments thereto*, the amount of such tax shall not exceed \$7.75 per
12 month per exchange access line or its equivalent.

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

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1 the expiration of the protest period or until after approved at an election
2 if a sufficient protest petition is filed.

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

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

11 (e) Every billed service user shall be liable for any tax imposed under
12 this ~~act~~ section until it has been paid to the service supplier. Wireless
13 service ~~users~~ shall be exempt from the emergency telephone tax under
14 this section but shall be subject to the wireless enhanced 911 fee imposed
15 under section 4, and amendments thereto, and the wireless enhanced 911
16 tax imposed under section 10, and amendments thereto.

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

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

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

Sec. 20. K.S.A. 2003 Supp. 19-101a is hereby amended to read as follows:
19-101a. (a) The board of county commissioners may transact all county business
and perform all powers of local legislation and administration it deems appropriate,
subject only to the following limitations, restrictions or prohibitions . . .

(33) Counties may not exempt from or effect changes in the wireless
enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308, and
amendments thereto.

and K.S.A. 19-101a are

J

33 Sec. ~~20~~ K.S.A. 12-5302 ~~is~~ hereby repealed.

34 Sec. ~~21~~ This act shall take effect and be in force from and after its
35 publication in the Kansas register.

21

22

From: <rhoffman@harveycounty.com>
To: <holmes@house.state.ks.us>, <huy@house.state.ks.us>, <dreher@house.state.ks.us>, <carter@house.state.ks.us>, <svaty@house.state.ks.us>, <neighbor@house.state.ks.us>, <krehbiel@house.state.ks.us>, <compton@house.state.ks.us>, <kassebaum@house.state.ks.us>, <longp@house.state.ks.us>, <morrisonj@house.state.ks.us>, <myers@house.state.ks.us>, <reitz@house.state.ks.us>, <sloan@house.state.ks.us>, <kuether@house.state.ks.us>, <dillmore@house.state.ks.us>, <longm@house.state.ks.us>, <toelkes@house.state.ks.us>, <showalter@house.state.ks.us>, <ward@house.state.ks.us>, <williamsj@house.state.ks.usil>
Date: Thu, Jan 15, 2004 5:20 PM
Subject: HB 2476 WIRELESS 9-1-1

As Chairman of the Kansas 9-1-1 Providers Assn. I thank you for allowing our testimony. I feel the information Dickinson County speaks for it's self why Local PSAP'S need funding. There are two points I feel are very important to address

#1 Wording needs to be added to the bill which protects Local PSAP'S and government from being considered a "Wireless Customer". As we(PSAP'S) move into the wireless mode, Agreements are signed with the wireless vendors, thus one(Wireless Carriers) might say we are a customer of theirs! This then makes us a cost recovery target.

#2 Although this was not talked about, we would like to see a section in the bill that would require local government to establish a separate fund(line item) and that all monies collected from landline and wireless be deposited in that fund, including any interest collect from such fund. This would assure you and the local PSAP that monies are used for the full intent of said bill.

I thank you for your consideration in this matter.

RON C. HOFFMAN, DIRECTOR
HARVEY COUNTY COMMUNICATIONS CENTER
AC 316-284-6850
FAX AC 316-283-4892

HOUSE UTILITIES

DATE: 1-20-04

ATTACHMENT 3