

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 21, 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

HB 2476 - Wireless enhanced 911 act;
Sub SB 153 - Wireless enhanced 911 act

Chairman Holmes continued the debate on **HB 2476**. A listing of the population of all Kansas counties was distributed (Attachment 1) in response to an inquiry during the previous day's debate.

Working from the balloon adopted on the previous day (Attachment 2), Representative Huy moved to strike the new language in new Section 12 on page 10 from line 11 through line 17 and to restore the original language. Representative Carter seconded the motion. The motion failed. Representative Neighbor moved to change the language in new Section 12 from "the commission shall ascertain the expenses of any such audit and shall by order assess such expenses against the wireless carrier audited" to read "the secretary of Administration shall ascertain" Representative Carter seconded the motion. The motion failed. Representative Long-Mast moved to strike lines 10, 11, 12, and 13 from page 11. Representative Kuether seconded the motion. The motion carried. Representative Carter moved to strike the new language incorporated on page 11, lines 34 through 40 and restore the original language. Representative Huy seconded the motion. The motion failed.

Representative Sloan moved to strike the language in Sub SB 153 and replace it with the language from the HB 2476, as amended, and to report House Sub for Senate Sub for SB 153 favorable for passage. Representative Svaty seconded the motion. The motion carried. Representative Carter requested his 'no' vote be recorded in the minutes.

The meeting adjourned at 10:23 a.m.

The next meeting will be Thursday, January 22, 2004.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: January 21, 2004

NAME	REPRESENTING
Dina Fisk	Verizon Wireless
Nelson Krueger	Western Wireless
Pat Lehman	KS Fire Fire Service Alliance
Judy Melus	KAC
Kim Gullett	LKM
Jim Grahmer	SBC
John D. Pinegar	Kansas Legislative Policy Group
Michael D. Pegoan	Sedwick County
Danielle Nae	Johnson County
Nube Reelt	AT&T
Bruce GRAHAM	KEPCo
Tom Burgess	RTMC
Anne Spiess	KTIA-KS Telecom Industry Assn
Heather Grace	Dannron + Associates
Sandia Braden	Cingular
Judy Shaw	Altel
TOM DAY	KCC

National and State Population Estimates and Estimated Components of Change 7/1/2003
Source: Population Estimates Branch, U.S. Bureau of the Census
Release date: December 18, 2003

County Name	Total Population	
	7/1/2002 Est	Rank
Johnson	476,536	1
Sedgwick	461,937	2
Shawnee	170,748	3
Wyandotte	158,331	4
Douglas	102,316	5
Leavenworth	70,789	6
Reno	63,790	7
Riley	61,480	8
Butler	60,534	9
Saline	53,910	10
Finney	39,732	11
Crawford	38,052	12
Cowley	36,427	13
Lyon	35,904	14
Montgomery	35,307	15
Harvey	33,375	16
Ford	32,662	17
McPherson	29,413	18
Miami	28,904	19
Barton	27,743	20
Ellis	27,274	21
Geary	26,410	22
Sumner	25,533	23
Franklin	25,322	24
Seward	23,072	25
Labette	22,281	26
Cherokee	21,953	27
Dickinson	19,144	28
Jefferson	18,664	29
Pottawatomie	18,489	30
Osage	16,928	31
Atchison	16,683	32
Neosho	16,638	33
Bourbon	15,171	34
Allen	14,234	35
Marion	13,248	36
Jackson	12,741	37
Marshall	10,583	38
Brown	10,501	39
Rice	10,501	40
Nemaha	10,463	41

HOUSE UTILITIES

DATE: 1-21-04

ATTACHMENT 1

National and State Population Estimates and Estimated Components of Change 7/1/2003
Source: Population Estimates Branch, U.S. Bureau of the Census
Release date: December 18, 2003

County Name	Total Population	
	7/1/2002 Est	Rank
Decatur	3,407	83
Morton	3,360	84
Edwards	3,337	85
Ness	3,316	86
Trego	3,140	87
Elk	3,138	88
Cheyenne	3,123	89
Kiowa	3,107	90
Logan	2,998	91
Gove	2,992	92
Chase	2,930	93
Rawlins	2,887	94
Graham	2,847	95
Hamilton	2,658	96
Sheridan	2,641	97
Wichita	2,502	98
Stanton	2,410	99
Clark	2,382	100
Hodgeman	2,149	101
Lane	2,000	102
Comanche	1,985	103
Wallace	1,692	104
Greeley	1,472	105

Adopted 1/20/04

HOUSE UTILITIES

DATE: 1-21-04

ATTACHMENT 2

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 ~~provision~~ and K.S.A. 2003 Supp. 19-101a sections

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

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

New 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

22

- 1 access to a service user.
- 2 (i) "Fund" means the wireless enhanced 911 grant fund established
3 by this act.
- 4 (j) "Governing body" means the board of county commissioners of a
5 county or the governing body of a city.
- 6 (k) "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 19-2690, and amendments thereto.
- 10 (l) "Mobile telephone number" means the telephone number as-
11 signed to a wireless telephone at the time of initial activation.
- 12 (m) "Person" means any individual, firm, partnership, copartnership,
13 joint venture, association, cooperative organization, corporation, municipi-
14 pal 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 (n) "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 (o) "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 (p) "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 (q) "Project costs" means all costs or expenses which are necessary
33 or incident to a project and which are directly attributable thereto.
- 34 (r) "PSAP" means public safety answering point.
- 35 (s) "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 (t) "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 (u) "Secretary" means the secretary of administration.

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1 (vi) "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 wireless
17 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 servi-
32 ce 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.

42

- 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 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 and reports shall transfer from the state general fund to the fund interest earnings based on:

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

35 (2) the net earnings rate of the pooled money investment portfolio 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

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

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 New Sec. 11. (a) 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 (b) 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 (c) 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 wireless 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,

Handwritten notes: "Guy Motion" and "Sealed" in a box.

20 New Sec. 13. The wireless enhanced 911 service described in the
21 wireless 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 uses 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 a~~
43 ~~scope statement authorized and approved by the legislative post-audit~~

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

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(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

10 (c) ~~Any information provided to the division of post audit pursuant~~
11 ~~to this section shall be treated as proprietary records which will be with-~~
12 ~~held from the public upon the request of the party submitting such~~
13 ~~records.~~

Strike

14 Now Sec. 15. Nothing in the wireless enhanced 911 act shall be con-
15 sidered to limit the ability of a wireless carrier from recovering directly
16 from the carrier's customers its costs associated with designing, devel-
17 oping, deploying and maintaining wireless enhanced 911 service and its
18 costs of collection and administration of the wireless enhanced 911 fee
19 and wireless enhanced 911 tax, whether such costs are itemized on the
20 customer's bill as a surcharge or by any other lawful method.

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

24 New Sec. 17. Upon notice to a PSAP of an application by a wireless
25 carrier for a waiver of the deadlines of the federal communications com-
26 mission for implementation of wireless enhanced 911, such PSAP shall
27 notify the secretary of such application.

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28 New Sec. 18. On July 1, ~~2005~~

29 (a) The wireless enhanced 911 fee shall be discontinued, the advisory
30 board shall be abolished, any unobligated balance of the wireless en-
31 hanced 911 grant fund shall be paid to the local collection point admin-
32 istrator for distribution to municipalities based on population and the
33 fund shall be abolished.

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

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

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.

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

41 Sec. 19. K.S.A. 12-5302 is hereby amended to read as follows: 12-
42 5302. (a) In addition to other powers for the protection of the public
43 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 servi-
10 ce has been contracted. *Subject to the provisions of section 18, and*
11 *amendments thereto*, the amount of such tax shall not exceed \$.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.

33 Sec. ~~20~~ K.S.A. 12-5302~~15~~ hereby repealed.

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

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

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