

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on February 6, 2006 in Room 526-S of the Capitol.

Committee members absent:

Pat Apple, excused  
Roger Reitz, excused

Committee staff present: Athena Andaya, Kansas Legislative Research Department  
Raney Gilliland, Kansas Legislative Research Department  
Bruce Kinzie, Revisor of Statutes' Office  
Ann McMorris, Committee Secretary

Conferees appearing before the committee: Judy Moler, Kansas Association of Counties  
Tim Pickering, General Counsel, AT&T  
Callie Jill Denton, Kansas Trial Lawyers

Others in attendance: See attached list

Chairman opened the hearing on

**HB 2590 - VoIP enhanced 911 Act**

Proponents:

Judy Moler, Kansas Association of Counties, in conjunction with Kimberly Winn, League of Kansas Municipalities, asked for an amendment to **HB 2590** to give the Secretary of Administration authority to assess monetary penalties and interest. A copy of the Independent Auditors' Report prepared by Summers, Spencer & Callison, CPAs, who audited the statement of cash receipts and disbursements of Wireless Enhanced 911 Local Fee Fund, was provided the Senate Utilities Committee by the Kansas Association of Counties. (Attachment 1)

Tim Pickering, General Attorney for AT&T Kansas, noted one area of **HB 2590** that the Committee should consider modifying involves the exemption of all certified local exchange carries and telecommunications carriers from collecting, or their VoIP users paying, the VoIP 911 fee. AT&T Kansas offered amendments for consideration. (Attachment 2)

Considerable discussion on the House COW amendment to **HB 2590**. Representative Sloan of the House Utilities Committee explained the intent of the amendment.

Neutral:

Callie Jill Denton, Kansas Trial Lawyers Association, appeared for the purpose of calling the Committee's attention to the amendments made by the House Committee of the Whole to New Section 8, p5, lines 3-4 and urges the Committee to retain it. (Attachment 3)

Closed hearing on **HB 2590** with caveat that the hearing may be reopened when the proposed amendments have been studied by other entities with interest in this bill.

Approval of Minutes

Moved by Senator Taddiken, seconded by Senator Petersen, the minutes of the Senate Utilities Committee meeting held on February 2, 2006, be approved. Motion carried.

Adjournment.

Respectfully submitted,  
Ann McMorris, Secretary

Attachments - 3

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 6, 2006

Name	Representing
- Saralyn Hayes	Mid-America Regional Council (MARC) 9-1-1
Annie Achenurst	Mid-America Regional Council
Callie Hill Denton	KS Trial Lawyers Assoc.
Erica Haas	Growers Grants Office
Jamie Bause	Governor's Grants Ofc.
Juliana Madu	Sen office
Judy Malus	KAC
Dennis Kiesel	KAC
Shirley Allen	KRTC
TOM DAM	KCC
Steve Johnson	Kansas Gas Service / ONEOK
Jim Garkner	at & t
Jim Pickering	at & t

Testimony on HB 2590  
Before the Senate Utilities Committee  
February 6, 2006

Judy A. Moler, Kansas Association of Counties  
Kimberly Winn, League of Kansas Municipalities

Thank you, Mr. Chair and members of the Senate Utilities Committee for allowing me to speak in support of House Bill 2590, the VoIP Enhanced Wireless 9-1-1 bill.

The KAC and the League are in support HB 2690 as we believe that new technologies will develop that give access to 9-1-1. As these technologies develop and provide access to emergency services 9-1-1, the providers should be part of helping build and maintain the local 9-1-1 system. We view this bill as far-sighted.

I would like to give a little history regarding the progress made by local governments in completion of the enhanced 9-1-1 capabilities.

As you recall, the 2004 Kansas Legislature created the Wireless Enhanced 9-1-1 Act, now found at K.S.A. 12-5321 *et seq.* The Act allowed for the collection of 50 cents per wireless subscriber to be remitted (25 cents to the Local Collection Point Administrator and 25 cents to the state for a grants program). As set forth by the statute, the Local Collection Point Administrator is the Kansas Association of Counties and the League of Kansas Municipalities.

Using zip code data supplied by the wireless carriers, the Local Collection Point Administrator allocates the fees to the Public Safety Answering Points (PSAPs), less a 2% administrative fee, for the building of the Enhanced 9-1-1 system. The bill before you is modeled on the Wireless Enhanced 9-1-1 Act.

During the 18 months that the fees have been collected, compliance by the wireless providers has varied. The merger of several of the companies has led to data and/or payments being delayed. I am happy to report that as of this report all but two wireless companies are in compliance. The statewide board overseeing the Enhanced Wireless 9-1-1 deployment has voted to promulgate rules and regulations that include a monetary penalty for non-compliance.

Due to the remittance of money, but no data, this has allowed a large interest balance to accumulate in the Local Collection Point Administrator account. As there is no statutory guidance as to what is to be done with the interest, it was decided that this would be used for

Senate Utilities Committee  
February 6, 2006  
Attachment 1-1

training. There have been 2 training events and another planned after the statewide audit report.

The Local Collection Point Administrators contracted with Summers, Spencer & Callison, CPAs, Chartered for an audit for the year ending June 30, 2005. I have attached a copy of the audit as well as the audit letter accompanying it. You will notice the audit letter references the lack of recourse when wireless companies do not comply by providing information and/or money. Because of this omission in the original bill, the KAC and the League of Kansas Municipalities would ask for an amendment to KSA 12-5325 to be added to HB 2690. This is the statute that gives the Secretary of Administration authority to assess monetary penalties and interest.

A sample amendment would be:

12-5325 (c ) adopt rules and regulations necessary for the effectuation of this act, including, but not limited to, assessing monetary penalties against wireless carriers and voice over internet service providers that fail to comply with the provisions of this act. 1) Any monetary penalties and interest collected from wireless carriers or voice over internet service providers shall be deposited with the local collection point administrator and subsequently routed back to the corresponding Public Safety Answering Point (PSAP) and shall be used solely for those expenses allowed by the Act.

By adding this language it creates a level playing field for all wireless carriers and voice over internet service providers.

Finally, I would address the amendment on page 7 of the bill. This would allow the PSAPs to have one more year...until July 1, 2007 to make a valid request for wireless enhanced 9-1-1 services. We estimate that by July 1, 2006 44% of PSAPs will have made a formal request.

Kimberly Winn from the League and Dennis Kriesel from the KAC staff are here with me, and we would be glad to answer any questions.

**INDEPENDENT AUDITORS' REPORT**

To the Local Collection Point Administrator  
Wireless Enhanced 911 Local Fee Fund

We have audited the accompanying statement of cash receipts and disbursements of

**WIRELESS ENHANCED 911 LOCAL FEE FUND**

for the year ended June 30, 2005. This financial statements is the responsibility of the Fund's management. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the statement of cash receipts and disbursements is free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the statement of cash receipts and disbursements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the statement of cash receipts and disbursements. We believe that our audit provides a reasonable basis for our opinion.

As described in note 1, as prescribed by Kansas statute, this financial statement has been prepared on the cash receipts and disbursements basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the statement of cash receipts and disbursements referred to above presents fairly, in all material respects, the cash receipts and disbursements of the Wireless Enhanced 911 Local Fee Fund for the year ended June 30, 2005, on the basis of accounting described in note 1.

*Summers, Spencer & Callison, CPAs, Chartered*

Summers, Spencer & Callison, CPAs, Chartered

November 30, 2005

*Wireless Enhanced 911 Local Fee Fund*

**FINANCIAL STATEMENT**

**Wireless Enhanced 911 Local Fee Fund**  
**Statement of Cash Receipts and Disbursements**  
**YEAR ENDED JUNE 30, 2005**

<b>Receipts</b>	
Fees	\$ 3,767,531
Interest	<u>8,241</u>
<i>Total receipts</i>	<u>3,775,772</u>
<b>Disbursements</b>	
PSAPs	2,988,443
Administrative fees	59,574
Statewide training expenses	<u>2,099</u>
<i>Total disbursements</i>	<u>3,050,116</u>
<b>Excess receipts over disbursements</b>	725,656
Cash at beginning of year	<u>-</u>
<b>Cash at end of year</b>	<u><u>\$ 725,656</u></u>

1-5

# Wireless Enhanced 911 Local Fee Fund

## Notes to Financial Statement

YEAR ENDED JUNE 30, 2005

### 1. Summary of significant accounting policies

#### (a) Organization

The 2004 Kansas Legislature created the Wireless Enhanced 911 Act (the Act), K.S.A. 12-5321 et seq. The Wireless Enhanced 911 Local Fee was established under this law (K.S.A. 12-5330) requiring wireless carriers to collect 25 cents for each wireless subscriber. The Wireless Enhanced 911 Local Fee Fund (the Fund) represents the fees remitted by the wireless carriers to the Local Collection Point Administrator for distribution to Public Safety Answering Points. The Act is administered by the Governor's Grants Program. As set forth in the statutes, the Kansas Association of Counties and the League of Kansas Municipalities share the duties of Local Collection Point Administrator.

#### (b) Basis of accounting

The accompanying financial statements present the Fund's activities following the cash receipts and disbursements accounting method. Under this method, revenues are recognized when received rather than when earned and expenses are recognized when paid rather than when the obligation is incurred. The statement of cash receipts and disbursements is a summary of the cash activity of the Fund and does not present transactions that would be included in financial statements prepared using the accrual method of accounting, as contemplated by generally accepted accounting principles.

### 2. Payments to PSAPs

Using zip code data supplied by the wireless carriers, the Local Collection Point Administrator allocates the fees to Public Safety Answering Points (PSAPs). The payments are made in the month following collection. In some cases, certain wireless carriers have not supplied the information necessary to make the allocation although the fees have been remitted to the Local Collection Point Administrator (see Note 5).

### 3. Administrative fees

The Local Collection Point Administrator is paid a 2% administrative fee calculated on payments made to PSAPs. All administrative expenses are paid from this administrative fee.

### 4. Statewide training expenses

Fees attributable to out-of-state zip codes are segregated within the Fund and utilized for training expenses benefiting all PSAPs.

### 5. Commitments

The Fund's cash balance at June 30, 2005 is restricted for payment to PSAPs and the related 2% administrative fee. Undistributed amounts are as follows:

PSAPs	
Collected August 2004 through May 2005	\$ 279,757
Collected June 2005	382,287
Statewide training fund	39,818
Administrative fees	15,553
Interest income (to be used for statewide training)	<u>8,241</u>
Fund balance at June 30, 2005	<u>\$ 725,656</u>

### 6. Deposits

The Fund's cash balance is held in an interest-bearing checking account at a financial institution. The bank balance is secured by a standby irrevocable letter of credit issued by the Federal Home Loan Bank of Topeka expiring October 28, 2005. The letter of credit was subsequently renewed for an additional one-year period.

1-6



***WIRELESS ENHANCED 911 LOCAL FEE FUND***

***Statement of Cash Receipts and Disbursements***

*YEAR ENDED JUNE 30, 2005*

**SS** Summers, Spencer &  
**&C** Callison, CPAs, Chartered  
**CERTIFIED PUBLIC ACCOUNTANTS**

1-7

*Wireless Enhanced 911 Local Fee Fund  
Year Ended June 30, 2005*

**Contents**

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<b>INDEPENDENT AUDITORS' REPORT</b>	<b>2</b>
<b>FINANCIAL STATEMENT</b>	<b>3</b>
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS.....	4
NOTES TO FINANCIAL STATEMENT .....	5

1-8

**SS Summers, Spencer &  
&C Callison, CPAs, Chartered**

**CERTIFIED PUBLIC ACCOUNTANTS**

Topeka ■ Overland Park ■ Lawrence ■ Meriden

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Topeka, Kansas 66614  
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**INDEPENDENT AUDITORS' REPORT**

To the Local Collection Point Administrator  
Wireless Enhanced 911 Local Fee Fund

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**WIRELESS ENHANCED 911 LOCAL FEE FUND**

for the year ended June 30, 2005. This financial statements is the responsibility of the Fund's management. Our responsibility is to express an opinion on this financial statement based on our audit.

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*Summers, Spencer & Callison, CPAs, Chartered*  
Summers, Spencer & Callison, CPAs, Chartered  
November 30, 2005

*Wireless Enhanced 911 Local Fee Fund*

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1-11

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Testimony of Timothy S. Pickering, General Attorney – SBC Kansas  
220 SE 6<sup>th</sup> Street, Topeka, Kansas 66603 (785) 276-8411  
Regarding HB 2590  
Before the Senate Utilities Committee  
February 6, 2006

Chairman Emler and members of the Committee, good morning. My name is Tim Pickering and I am the General Attorney for AT&T Kansas. We appreciate the opportunity to speak to you today on House Bill 2590 and Voice over Internet Protocol Services (VoIP) and 911 services.

**I. What is VoIP Service?**

You have all heard about VoIP services, which are offered by an ever increasing number of providers, including cable companies, some traditional phone companies, and start-ups, like Vonage. In today's marketplace, there are numerous types of VoIP services. Some VoIP services are purely computer to computer applications, such as those used for gaming (Microsoft's Xbox Live), and to enhance instant messaging. These VoIP services do not use telephone numbers and cannot make calls to or receive calls from the public switched telephone network (PSTN). However, other VoIP services perform functions similar to traditional wireline voice calls made over the PSTN. These services allow customers to send and receive voice communications, and access other features like caller ID and voicemail, over the Internet.

A few additional points on the VoIP services that connect with the PSTN. First, VoIP customers must have access to a broadband connection to the Internet. However, unlike a telephone line, once service is established, most VoIP services are "portable" and it does not matter where the broadband connection is located or even whether it is the same broadband connection every time the subscriber accesses the service. So the provider may not know where the customer is actually located. Some providers use wireline broadband connections, such as DSL or cable modem connections. Also, as wireless broadband availability expands, more providers are also using this as a platform for VoIP calls. Recently, some vendors have introduced wireless phones that allow users to seamlessly switch between traditional wireless/cellular networks and new Wi-Fi and Wi-Max networks.

Second, special customer premises equipment (CPE) attached to a broadband connection is usually required to access VoIP services. This CPE typically consists of a dedicated IP phone or a terminal adapter that attaches to a standard telephone and converts analog signals into VoIP communications. Third, customers may access their service through an Internet web page including viewing calls placed and received and playing voicemails back through a computer in e-mails with the actual message attached as a sound file. Fourth, VoIP services use "telephone numbers" but a customer's number is not necessarily tied to the customer's physical location and does not require the customer to remain at a single location. So a customer in Kansas might have a St. Louis or New York phone number, and may make and receive calls from any location with a broadband connection.

## II. HB 2590 and VoIP E911 Services.

All would agree that it is important for consumers to have reliable access to E911 services. With numerous providers and technologies competing for consumers' business, it is important for the government to be very precise in identifying exactly what types of services it will require to adhere to state and federal E911 regulations. In June 2005, the Federal Communications Commission (FCC) issued its *VoIP E911 Order*, which placed certain requirements on some VoIP providers to provide E911 functionality.<sup>1</sup> Specifically, the FCC required services that connect to the PSTN to provide E911 services. These types of providers were defined by the FCC in its *VoIP E911 Order* at 47 C.F.R. § 9.3:

- “Interconnected VoIP Service,” An interconnected Voice over Internet protocol (VoIP) service is a service that: (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment (CPE); and (4) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

This definition clarifies the types of services that are subject to the FCC's 911 rules – generally those in which the VoIP service is used as the primary communications service, including for making and receiving traditional telephone calls. For example, it would make no sense to require a teenager playing interactive games on Xbox Live to pay a \$.50 monthly E911 fee, when that teenager could not use Xbox Live to call 911. The same would be true for instant messaging services that cannot make calls to or receive calls from the PSTN. The House amendments appropriately assess E911 fees only on these types of “interconnected VoIP services.”

Additionally, it can be difficult to determine the location at which a VoIP service is primarily used. As such, the FCC also defined a term to require VoIP companies to obtain each customer's primary place of use, so that the information could be transmitted to the local 911 entity that might receive such a call:

- “Registered Location.” The most recent information obtained by an interconnected VoIP service provider that identifies the physical location of an end user.

The VoIP user can also change the “Registered Location” frequently. From an administration standpoint, the “nomadic” nature of VoIP could make collection efforts very difficult, if not impossible, as VoIP users with primary service addresses leave Kansas, and establish a registered location outside of the state for some period of time. As such, the House also adopted an amendment to ensure that the subscriber's primary service address (not the “registered location”) is the basis for determining which subscribers will be assessed the 911 fees. This approach is very similar to that used in assessing the 911 fees on wireless users, which may also use cell phones in other areas of the country, but pay fees in Kansas and not in other states.

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<sup>1</sup> See In the Matters of Vonage IP Enabled Services and E911 Requirements for IP-Enabled Service Providers, WC Docket Nos. 04-36 and 05-196; FCC 05-116; First Report and Order and Notice of Proposed Rulemaking, Released June 3, 2005 (“*VoIP E911 Order*”).



### III. Proposed Amendments.

One area of the House bill that this Committee should consider modifying involves the exemption of all certified local exchange carriers and telecommunications carriers from collecting, or their VoIP users paying, the VoIP 911 fee. This occurred when the definition of VoIP Provider (page 2, lines 4-7) was amended to exclude such companies. AT&T Kansas recommends that this exclusion be removed so that all VoIP service users are fairly assessed the 911 fee. It would be unfair if a VoIP customer of a company such as Vonage was required to pay the 911 fee, while the customers of certified companies, such as AT&T Kansas, Birch, Sunflower, or Cox cable do not.

Additionally, the Committee should consider including an amendment that clarifies that no customer should pay multiple 911 fees on the same communications device. Today, new wireless phones that are assessed the wireless 911 fee can also be used to make VoIP calls using a Wi-Fi connection that would also be classified as an “interconnected VoIP service.” The amendments proposed below will address that concern.

In light of the information provided above, we offer the following recommendations to the Committee to modify HB 2590.

#### 1. **Definitions.**

- New Section 2(i): “VoIP Provider” means a provider of **interconnected VoIP service**, ~~but does not include any telecommunications carrier or local exchange carrier, as defined by K.S.A. 66-1,187, and amendments thereto, which holds a certificate of public convenience and necessity issued by the state corporation commission.~~

#### 2. **Multiple E911 Assessments.** With the convergence of wireline, wireless and VoIP technologies, it is important that providers and subscribers not be subject to a “double dip” of government fees. As such, we recommend that the following language be added to New Section 4(a) and 5(a):

- New Section 4(a), line 10: Notwithstanding any other provisions of this act, no VoIP Service User shall be liable for, nor shall any VoIP provider be required to collect, the VoIP enhanced 911 grant fee on any Interconnected VoIP Service upon which an emergency telephone tax is paid pursuant to K.S.A. 12-5302, or upon which a wireless enhanced 911 grant fee is paid pursuant to K.S.A. 12-5324.
- New Section 5(a), line 19: Notwithstanding any other provisions of this act, no VoIP Service User shall be liable for, nor shall any VoIP provider be required to collect, the VoIP enhanced 911 local fee on any Interconnected VoIP Service upon which an emergency telephone tax is paid pursuant to K.S.A. 12-5302, or upon which a wireless enhanced 911 local fee is paid pursuant to K.S.A. 12-5330.

We have provided “balloons” showing exactly where these modifications would fit in HB 2590 and those are attached to this testimony. Thank you for your time this morning.

2-4

1 necessary or incident to a VoIP project and which are directly attributable  
2 thereto.

3 (h) (i) "VoIP provider" means a provider of VoIP service intercon-  
4 nected VoIP service, but does not include any telecommunications  
5 carrier or local exchange carrier, as defined in K.S.A. 66-1,187,  
6 and amendments thereto, which holds a certificate of public con-  
7 venience and necessity issued by the state corporation commission.

[Delete]

8 (i) (j) "VoIP service user" means any person who is provided VoIP  
9 service a subscriber to interconnected VoIP service whose primary  
10 service address is in Kansas.

11 New Sec. 3. The secretary shall administer the provisions of the VoIP  
12 enhanced 911 act. The secretary is hereby authorized to adopt rules and  
13 regulations necessary for effectuation of the provisions of this act.

14 New Sec. 4. (a) Subject to the provisions of section 10, and amend-  
15 ments thereto, effective July 1, 2006, there is hereby established a VoIP  
16 enhanced 911 grant fee in the amount of \$.25 per month per VoIP sub-  
17 scriber whose primary residence is in the state of Kansas service user.  
18 It shall be the duty of each VoIP provider to collect such fee from the  
19 VoIP service user and remit such fee to the secretary as provided by  
20 section 6, and amendments thereto.

Notwithstanding any other provisions of this act, no VoIP Service User shall be liable for, nor shall any VoIP provider be required to collect, the VoIP enhanced 911 grant fee on any Interconnected VoIP Service upon which an emergency telephone tax is paid pursuant to K.S.A. 12-5302, or upon which a wireless enhanced 911 grant fee is paid pursuant to K.S.A. 12-5324.

21 (b) The secretary shall remit to the state treasurer, in accordance with  
22 the provisions of K.S.A. 75-4215, and amendments thereto, any fees re-  
23 ceived pursuant to this section. Upon receipt of the remittance, the state  
24 treasurer shall deposit the entire amount in the state treasury and credit  
25 it to the wireless enhanced 911 grant fund.

26 New Sec. 5. (a) Effective July 1, 2006, there is hereby imposed a  
27 VoIP enhanced 911 local fee. Subject to the provisions of section 10, and  
28 amendments thereto, the amount of such fee shall be \$.25 per month per  
29 VoIP subscriber whose primary residence is in the state of Kansas service  
30 user.

31 (b) The proceeds of the VoIP enhanced 911 local fee, and any interest  
32 earned on revenue derived from such fee, shall be used only for the  
33 purposes provided in K.S.A. 2005 Supp. 12-5330, and amendments  
34 thereto.

Notwithstanding any other provisions of this act, no VoIP Service User shall be liable for, nor shall any VoIP provider be required to collect, the VoIP enhanced 911 local fee on any Interconnected VoIP Service upon which an emergency telephone tax is paid pursuant to K.S.A. 12-5302, or upon which a wireless enhanced 911 local fee is paid pursuant to K.S.A. 12-5330.

35 (c) Each PSAP shall submit to the secretary an annual report ac-  
36 counting for the money received by the PSAP from the VoIP enhanced  
37 911 local fee. Such report shall be submitted on a form provided by the  
38 secretary, which shall be consolidated with the report accounting for mon-  
39 eys received from the wireless enhanced 911 local fee required pursuant  
40 to K.S.A. 2005 Supp. 12-5330, and amendments thereto.

41 (d) If pursuant to K.S.A. 2005 Supp. 12-5330, and amendments  
42 thereto, a PSAP is required to pay to the secretary all moneys from the  
43 wireless enhanced 911 local fee which have been or are received by such

To: Senator Jay Scott Emler, Chair  
Members of the Senate Committee on Utilities

From: Callie Jill Denton  
Kansas Trial Lawyers Association

Date: February 6, 2006

Re: HB 2590 VoIP Enhanced 911 Act

I appear before you today on behalf of the Kansas Trial Lawyers Association, a statewide nonprofit organization of attorneys who represent consumers and advocate for the safety of families and the preservation of Kansas' civil justice system. I appreciate the opportunity to provide you with testimony on HB 2590 enacting the VoIP enhanced 911 act.

KTLA is neutral on HB 2590 overall but wants to draw the Committee's attention to amendments made by the House Committee of the Whole to New Section 8, page 5, lines 3-4. The House COW amendments return the standard of care required of VoIP providers of 911 services to "ordinary care", which is the same standard required of wireless providers under K.S.A. 12-5333 (attached). KTLA supports the House COW amendment and urges the committee to retain it.

Prior to the House COW amendment, the bill's standard of care for VoIP providers of 911 services was "gross negligence", which means that VoIP providers would not be accountable for installing, maintaining, or providing VoIP enhanced 911 services unless they acted in an intentional manner with reckless disregard. This standard is not appropriate when Kansans are depending on VoIP providers for reliable 911 services. The "ordinary care" standard instead requires VoIP providers to be reasonably prudent, which is the same standard required of wireless providers and more suited to the critical role 911 services play in assuring Kansans can quickly summon fire, police, and emergency medical care.

KTLA brought our concerns to the attention of House Utilities Committee members and the amendment was adopted as "friendly" during House floor debate. We urge the Senate Utilities Committee to retain the amendment if it chooses to advance HB 2590.

Senate Utilities Committee  
February 6, 2006  
Attachment 3-1

## 12-5333

### Chapter 12.--CITIES AND MUNICIPALITIES

#### Article 53.--EMERGENCY TELEPHONE SERVICES

**12-5333. Wireless enhanced 911 service declared governmental power; limitation on liability.** The wireless enhanced 911 service described in the wireless enhanced 911 act is within the governmental power and authority of the secretary, local collection point administrator, governing bodies and public agencies. Except as provided by the Kansas tort claims act, in contracting for such service and in providing such service, and except for failure to use ordinary care, or for intentional acts, the secretary, local collection point administrator, each governing body, each public agency, each wireless carrier and their employees and agents shall not be liable for the payment of damages resulting from the performance of installing, maintaining or providing wireless enhanced 911 service.

**History:** L. 2004, ch. 72, § 13; Apr. 22.