

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on February 12, 2007 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Raney Gilliland, Kansas Legislative Research Department  
Tatiana Lin, Legislative Fellow  
Mike Corrigan, Revisor of Statutes  
Ann McMorris, Committee Secretary

Conferees appearing before the committee: Lisa Hoopes, Legislative Division of Post Audit  
Kim Winn, League of Kansas Municipalities  
Mary Galligan, Kansas Legislative Research Department

Others in attendance: See attached list

Performance Audit Report

Lisa Hoopes, Auditor, Legislative Division of Post Audit, reviewed the information provided in the Performance Audit Report. The report contains the findings, conclusions and recommendations from the completed performance audit, Wireless Enhanced 911: Reviewing Implementation of the 2004 Act. It also contains: (1) information by Public Safety Answering Points (PSAPs) on implementation status; (2) projected funds available and estimated expenditures; and (3) recommendations for the Department of Administration and the Kansas Wireless Enhanced 911 Advisory Board. (Attachment 1)

Update on Enhanced 911

Kimberly Winn, League of Kansas Municipalities (LKM), reported the LKM along with the Kansas Association of Counties serves as the Local Collection Point Administrator (LCPA). In this capacity, they have distributed funds to PSAPs and provided technical assistance to the cities and counties charged with establishing enhanced wireless 911 across the state. Ms. Winn reviewed the latest LCPA audit report. She discussed the deployment progress and the technical assistance provided. (Attachment 2)

Bills impacting Energy Production and Transportation - 1998 thru 2006

Mary Galligan, Kansas Legislative Research Department, reviewed bills that has been enacted during the 1998 through 2006 legislative sessions that have a direct impact on entities that produce and transport energy and certain fuels. Due to the lack of time, Ms. Galligan completed her review only through 2002 and will appear at a later date to complete the report. (Attachment 3)

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 3

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 12, 2007

| Name            | Representing         |
|-----------------|----------------------|
| Julienne Maslin | Gov Office           |
| Jamie Bousef    | Gov. Ofc.            |
| Tennis Krueger  | RS Assoc of Counties |
| Kathie Gubay    | Kearney & Associates |
| Ron Seeber      | Hem Low Film         |
| Usa Homes       | LPA                  |
| Ivan Williams   | LPA                  |
| Cindy Lash      | LPA                  |
| Tim Gackner     | Cringer Wireless     |
| Steve Kearney   | Alltel               |
| Nelson Krueger  | Par Electric         |
| Sandy Braden    | Angular Wireless     |
| Dennis Fisk     | Verizon              |
| Tom DAY         | KCC                  |





# **PERFORMANCE AUDIT REPORT**

## **Wireless Enhanced 911: Reviewing Implementation of the 2004 Act**

Senate Utilities Committee  
February 12, 2007  
Attachment 1-1

**A Report to the Legislative Post Audit Committee  
By the Legislative Division of Post Audit  
State of Kansas  
February 2007**

# ***Legislative Post Audit Committee***

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## ***Legislative Division of Post Audit***

**THE LEGISLATIVE POST** Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about \$11 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U.S. Government Accountability Office. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

The Legislative Post Audit Committee is a bipartisan committee comprising five senators and five representatives. Of the Senate members, three are appointed by the President of the Senate and two are appointed by the Senate Minority Leader. Of the Representatives, three are appointed by the Speaker of the House and two are appointed by the Minority Leader.

Audits are performed at the direction of the Legislative Post Audit Committee. Legislators

or committees should make their requests for performance audits through the Chairman or any other member of the Committee. Copies of all completed performance audits are available from the Division's office.

### **LEGISLATIVE POST AUDIT COMMITTEE**

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Representative Tom Burroughs  
Representative John Grange  
Representative Virgil Peck, Jr.  
Representative Tom Sawyer

Senator Nick Jordan, Vice-Chair  
Senator Les Donovan  
Senator Anthony Hensley  
Senator Derek Schmidt  
Senator Chris Steineger

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Barbara J. Hinton, Legislative Post Auditor

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LEGISLATURE OF KANSAS

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February 6, 2007

To: Members, Legislative Post Audit Committee

|                                  |                                 |
|----------------------------------|---------------------------------|
| Representative Peggy Mast, Chair | Senator Nick Jordan, Vice Chair |
| Representative Tom Burroughs     | Senator Les Donovan             |
| Representative John Grange       | Senator Anthony Hensley         |
| Representative Virgil Peck Jr.   | Senator Derek Schmidt           |
| Representative Tom Sawyer        | Senator Chris Steineger         |

This report contains the findings, conclusions, and recommendations from our completed performance audit, *Wireless Enhanced 911: Reviewing Implementation of the 2004 Act*.

The report also contains appendices showing information by PSAP. One shows implementation status, expected date of Phase II wireless enhanced 911 service implementation, estimated 2006 call volume, grant moneys awarded in 2005 and 2006, local fee funds received and spent, the current monthly land-line tax, and balance of land-line tax funds. Another shows projected funds available and estimated expenditures. The report includes recommendations for the Department of Administration and the Kansas Wireless Enhanced 911 Advisory Board.

We would be happy to discuss the findings presented in this report with any legislative committees, individual legislators, or other State officials. These findings are supported by a wealth of data, not all of which could be included in this report because of space considerations. These data may allow us to answer additional questions about the audit findings or to further clarify the issues raised in the report.

Barbara J. Hinton  
Legislative Post Auditor

### Get the Big Picture

Read these Sections and Features:

1. **Executive Summary** - an overview of the questions we asked and the answers we found.
2. **Conclusion and Recommendations** - are referenced in the Executive Summary and appear in a box after each question in the report.
3. **Agency Response** - also referenced in the Executive Summary and is the last Appendix.

### Helpful Tools for Getting to the Detail

- In most cases, an “**At a Glance**” description of the agency or department appears within the first few pages of the main report.
- **Side Headings** point out key issues and findings.
- **Charts/Tables** may be found throughout the report, and help provide a picture of what we found.
- **Narrative text boxes** can highlight interesting information, or provide detailed examples of problems we found.
- **Appendices** may include additional supporting documentation, along with the audit **Scope Statement** and **Agency Response(s)**.

# EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

## Overview of Wireless Enhanced 911 Services in Kansas

**Wireless E-911 services improve emergency response to calls made from cell phones.** *Enhanced 911, which automatically identifies the location from which an emergency call is being made, has been available for calls made from regular "land-line" telephones for many years. In contrast, enhanced 911 for "wireless" calls made from cell phones is a fairly recent development. Determining the location from which a wireless E-911 phone call is being made involves complex, costly technology that many Public Safety Answering Points (or PSAPs for short) couldn't afford.* ..... page 3

**A funding source was established in 2004 to help pay for implementation of wireless E-911 services.** *The Wireless Enhanced 911 Act, which took effect July 1, 2004, assesses fees on all cell phone subscribers and purchasers of pre-paid wireless phones. The Act created a 25¢ local fee and a 25¢ grant fee that's assessed monthly on all cell phone subscriber accounts, as well as a 1% grant fee assessed on the retail price of pre-paid phone service. Local fees are distributed to PSAPs based on each wireless cell phone subscriber's primary place of use. Grant fees are remitted to the Secretary of Administration and held in the Statewide grant fund. PSAPs in counties with fewer than 75,000 people are eligible to apply for grants to supplement their revenue from the local fee.* ..... page 4

*The Statewide grant fund will be eliminated in 2010. Any remaining balance will be distributed to PSAPs based on population. Within each PSAP, the 911 fees for land-line or wireless phones, or for the Internet through Voice over Internet Protocol (VoIP) must be equalized. They also will be capped at 25¢ each in counties with populations of 125,000 or more, and at 50¢ each in counties with populations less than 125,000.*

**State law limits the use of wireless E-911 fees.** *The Act specifies that wireless E-911 fees can be spent only on necessary and reasonable costs to implement services, buy equipment and upgrades, pay maintenance fees, and train personnel. Wireless E-911 fees can't be used to lease, construct, acquire, remodel, renovate, or furnish a building.* ..... page 6

## Question 1: What Is the Status of Implementation of Wireless Enhanced 911 Service?

**Wireless E-911 services should be fully implemented in half the PSAPs in 2006, and in all but one by 2010.** *Fully implemented E-911 services means the PSAP can receive the cell phone number, billing* ..... page 7



address, and a location based on longitude and latitude coordinates. In all, 53% of PSAPs told us they expected to be at this point by the end of 2006. More than 80% of Kansans live in areas that already have wireless E-911 services.

By 2010, all but one PSAP expects to be capable of offering full wireless E-911 service. Officials with that PSAP, which serves Comanche County, said they have installed all the necessary equipment, but because there's only one cell tower in their county, they can't reliably locate callers.

The availability of grant funds will affect whether some PSAPs are able to fully implement wireless E-911 service by the dates they estimated. Implementation is costly, and many PSAPs are counting on grant funds. For 2007, 56 PSAPs requested grant funding totaling almost \$8 million; however, only 37 PSAPs received awards, totaling about \$5 million.

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## **Question 2: Are Public Safety Answering Points Using Wireless E-911 Fees Appropriately?**

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**Through June 2006, PSAPs spent \$6.7 million from wireless E-911 fee revenues.** ..... page 10  
*About half the money (\$3.5 million) has been spent on such things as equipment, monitors, and software. PSAPs also have spent \$1.6 million on contractual services, such as ongoing costs for phone lines and maintenance contracts. In all, fee revenues of approximately \$21 million have been collected between July 2004 and November 2006.*

**Wireless E-911 fee moneys generally have been used as allowed by law.** ..... page 11  
*PSAPs can spend wireless moneys only on necessary and reasonable costs for implementing wireless E-911 service, buying equipment and upgrades, maintaining that equipment, and training personnel. Although the statute seems to limit equipment-related purchases to equipment that's used exclusively for wireless E-911 services, in reality the same equipment often handles both land-line and wireless calls or data.*

*All purchases we reviewed made from grant funds were appropriate. Expenditures made from grant moneys are carefully reviewed by staff in the Governor's Grants Program. PSAPs usually are reimbursed only after they submit invoices or other documentation. In our sample of 77 purchases accounting for \$875,000, all but one purchase (\$295 for a file cabinet) appeared reasonable, and staff at the Governor's Grants Program didn't reimburse the PSAP for that purchase.*

*We identified a small amount of spending from local fee funds that either wasn't allowable, or wasn't supported by documentation. Unlike grant funds, there's no regular outside oversight of the spending of local fee moneys that go directly to PSAPs. The League of Kansas Municipalities provides guidance to PSAPs about allowable purchases,*

and PSAPs are required to send bi-annual informational reports to the Governor's Grants Program. Those reports show fees received, amount spent, and brief descriptions of purchases. In our sample of 55 purchases totaling \$1.2 million, we found no problems with 52 purchases. For the three other purchases: one purchase of \$1,286 wasn't an allowable expense, and two other expenditures totaling about \$5,200 involved inaccurate reporting or lacked supporting documentation.

**About half the PSAPs haven't yet spent any local fee moneys.** ..... page 14  
*These 55 PSAPs are at varying levels of implementation. Some have a very small wireless subscriber base and don't generate much revenue. After receiving money for more than two years, 14 of the 16 PSAPs with only Basic wireless 911 service have less than \$20,000 in their wireless funds. Some other PSAPs have used grant moneys to improve their systems, while saving the local fee money for future upgrades or ongoing expenses.*

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**Question 3: Is the Amount of Fee Money Being Collected Adequate To Fund the Implementation of Wireless Enhanced 911, and What Level of Funding Is Needed for Ongoing Support of the System?**

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**This early assessment of the adequacy of wireless E-911 funding had to involve many estimates, projections, and assumptions.** ..... page 16  
*Looking accurately into the future is difficult because there's so little actual experience to base projections on. To develop estimates of PSAPs' future E-911 costs and the revenues that will be used to fund them, we surveyed PSAPs regarding their 2007-2012 estimated expenditures and any other sources of revenue they expected to use, and projected the wireless E-911 local and grant fee revenues over the next few years.*

*Expenditure estimates are particularly subject to error because some PSAPs have had little experience with actual implementation costs, and have little basis for knowing what their ongoing and upgrade costs will be in the future. Revenue projections also are subject to error. For example, the number of wireless phone subscribers could turn out to be quite different from our estimates, and the amount of grant funds PSAPs request could change as they get a better handle on their costs.*

**On a Statewide basis, estimated wireless E-911 revenues would far exceed PSAPs' estimated costs.** ..... page 17  
*From 2007 through June 30, 2010, projected fee revenues overall would be \$42 million, which is \$15 million greater than the expenses PSAPs estimated for our survey. Estimated revenues and expenditures are fairly close in 2007, but PSAPs' expenditure estimates drop off sharply in 2008 and beyond.*

**Some individual PSAPs wouldn't have enough funding to cover their estimated costs through June 30, 2010.** ..... page 18  
*The only revenues PSAPs are guaranteed to get are the local fees levied on wireless phones*

in their areas. Based on the revenues and expenditures estimated, only 46 PSAPs would be able to cover their estimated costs with their local fee revenues alone. Many PSAPs applied for grants for 2007, others reported they expect to apply for grants in future years, and 50 reported they plan to bring in other sources of revenue to help pay costs.

PSAPs' ability through June 30, 2010 to fund their estimated expenditures with the projected funds they expect to have available is mixed. (Projected funds includes local fee revenues, grants they said they expected to apply for, and other local revenues they said they expected to spend on 911.) We compared the projected funding each PSAP might have available between 2007 and June 30, 2010, to the estimated expenditures they reported for that period. Based on those estimates, 85 PSAPs would be able to cover their estimated costs, while 26 PSAPs wouldn't be able to cover costs. The PSAPs that wouldn't be able to cover their estimated expenditures were more likely to have smaller populations.

**Additional grant funds would be available for PSAPs that come up short in being able to cover their costs.** ..... page 21  
*Based on what PSAPs reported, after calendar year 2007 the grant requests would drop off dramatically. In contrast, fees going into the grant fund are expected to continue to increase each year. This could result in \$17.6 million in grant money being available to help most PSAPs cover their "unfunded" estimates between now and 2010.*

**Some PSAPs may not be able to cover their ongoing expenses with their wireless E-911 revenues after 2010.** ..... page 22  
*When the fee structure changes in 2010, the grant fund will be eliminated and PSAPs will be able to set their own wireless E-911 fees, within limits set by statute. We compared projected wireless E-911 revenues in 2011 for each PSAP (assuming they charged the maximum fee allowed) with the estimates of ongoing operating costs the PSAP provided us. Based on these projections and estimates, at least 16 PSAPs wouldn't be able to cover their ongoing operating costs with the new fee structure. Those PSAPs would need to charge fees ranging from 52¢ to \$1.52 to pay monthly expenses. In addition to these ongoing costs, PSAPs will have to fund recurring equipment upgrades.*

|  |               |
|--|---------------|
| <b>Conclusion</b>  | ..... page 24 |
| <b>Recommendations</b>   | ..... page 24 |
| <b>APPENDIX A: Scope Statement</b>   | ..... page 26 |
| <b>APPENDIX B: Local Funds, Grants, and Call Volume by PSAP</b>  | ..... page 28 |
| <b>APPENDIX C: Differences Between PSAPs' Projected Funding Available and Estimated Expenditures for Implementing and Operating Their Wireless E-911 Systems</b> | ..... page 35 |
| <b>APPENDIX D: Agency Responses</b>  | ..... page 39 |

This audit was conducted by Lisa Hoopes, Brenda Heafey, Jill Shelley, and Ivan Williams. Cindy Lash was the audit manager. If you need any additional information about the audit's findings, please contact Lisa at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.

## Wireless Enhanced 911: Reviewing Implementation of the 2004 Act

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The Wireless Enhanced 911 Act imposed fees on all cell phone or “wireless” subscribers, and on all prepaid wireless phones. Those fees were intended to help local governments upgrade their 911 phone systems to provide enhanced 911 services (E-911) for wireless callers. With wireless E-911 services, local dispatchers can determine the location of a 911 call made on a wireless phone.

Wireless carriers collect a 50¢ wireless E-911 fee from their cell phone subscribers each month. Half that fee is distributed back to local governments. The other half—as well as all fees collected on prepaid wireless phones—is maintained in a Statewide grant fund.

The Act requires Legislative Post Audit to conduct an audit of the wireless E-911 service system during calendar year 2006 to determine whether local governments are using these moneys appropriately, whether the amount of money being collected is adequate, the status of implementation, and the need and level of continued funding of the system. The statute calls for a similar audit during calendar year 2008.

This performance audit answers the following questions:

- 1. What is the status of implementation of wireless enhanced 911 service?**
- 2. Are public safety answering points using wireless E-911 fees appropriately?**
- 3. Is the amount of fee money being collected adequate to fund the implementation of wireless enhanced 911, and what level of funding is needed for ongoing support of the system?**

To answer these questions, we surveyed all emergency response centers for 911 services (these are called public safety answering points, or PSAPs) to determine the current status of their wireless E-911 services, and their estimated dates for full implementation. We also obtained PSAPs’ estimates of future expenditures. We visited a sample of PSAPs to gain an understanding of the equipment needed and the process involved in receiving a wireless E-911 call.

We reviewed documentation for a sample of expenditures from both the Statewide grant fund and PSAPs' local funds to determine whether the expenditures were allowable, and whether self-reported expenditure data were reliable. We obtained information from the Kansas Association of Counties and the League of Kansas Municipalities on the amount of wireless fees paid to PSAPs through October 2006.

We used those data—along with projected growth rates in population and in cell phone subscribers—to project future revenues of individual PSAPs. Finally, we used the projected revenues and estimated expenditures to assess whether the amount of money being collected will be adequate to fund the implementation and ongoing costs of wireless E-911 services.

A copy of the scope statement for this audit approved by the Legislative Post Audit Committee is included in **Appendix A**.

In conducting this audit, we followed all applicable auditing standards set forth by the U.S. Government Accountability Office except that, because of time constraints, we did only limited testing of the monthly amounts of local fees paid out to the PSAPs. This testwork determined the accuracy and reliability of the data provided, it disclosed no errors, and we found no indication that the data are grossly or systematically wrong. Any inaccuracies would tend to overstate or understate the projected future revenues for PSAPs, but are unlikely to be extreme enough to affect our findings and conclusions.

The reader should note that the future expenditures used in our analyses were estimates PSAPs reported to us, which for some PSAPs may have been based on little or no experience with actual costs. In the absence of any other data, we had to use those estimates in concluding whether the fees being collected likely would be adequate to implement wireless E-911 services in Kansas.

Our findings begin on page 7, following a brief overview of wireless E-911 services in the State.



## Overview of Wireless Enhanced 911 Services in Kansas

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### *Wireless E-911 Services Improve Emergency Response to Calls Made From Cell Phones*

Enhanced 911, which automatically identifies the location from which an emergency call is being made, has been available for calls made from regular “land-line” telephones for many years. Although not all 115 emergency response centers in Kansas (officially called public safety answering points, or PSAPs for short) were equipped to receive this location information, most were, particularly in the more populous areas.

In contrast, Enhanced 911 for “wireless” calls made from cell phones or other pre-paid wireless phones is a fairly recent development. Determining the location from which a wireless 911 phone call is being made involves complex and costly technology that many PSAPs couldn’t afford. When the Wireless Enhanced 911 Act was passed in 2004, however, PSAPs in Kansas were encouraged to update their systems to handle emergency calls from wireless phones.

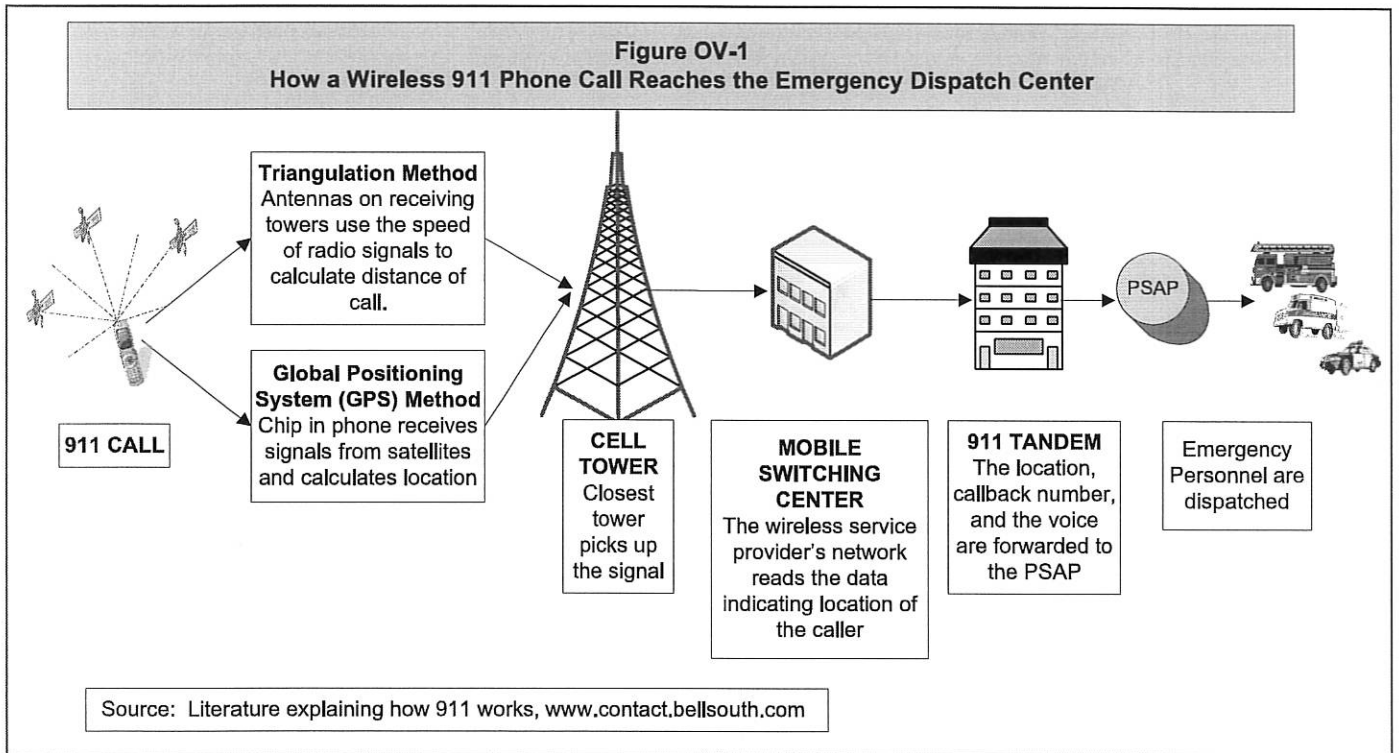
Kansas generally has one PSAP per county, although four counties have more: Cowley and Leavenworth Counties each have two PSAPs, Butler County has three, and Johnson County has seven. Currently, PSAPs vary in the level of information they’re capable of receiving about wireless calls. As described below, that can affect their ability to respond to emergencies:

Basic 911 means the PSAP simply has the capability to receive a call from a wireless phone. If the caller doesn’t know his or her location, or is unable to respond to the dispatcher’s questions, the PSAP may be unable to make any type of emergency response.

Phase I refers to the lowest level of wireless enhanced 911 services. PSAPs operating at Phase I automatically receive the number of the wireless phone and billing address of the phone’s owner. This additional information can help PSAPs locate some emergency callers, but isn’t adequate in situations where the caller is away from home and unable to respond.

Phase II refers is the highest level of wireless enhanced 911 services. In addition to Phase I information, the PSAP automatically receives location information based on longitude and latitude coordinates. This level is most similar to Enhanced 911 for land-line phones.

**With Phase II wireless E-911 services, PSAPs can determine the location of a cell phone call in two ways.** The first is through a method called triangulation. The signal from the wireless phone is picked up by three cell towers, then sent to the dispatch center. The second way is through Global Positioning System (GPS)



coordinates if the cell phone has a locator chip installed. *Figure OV-1* shows the steps a wireless call must go through to transmit information to a PSAP that has fully implemented Phase II of wireless E-911.

***A Funding Source Was Established in 2004 To Help Pay for Implementation of Wireless E-911 Services***

The Wireless Enhanced 911 Act, which took effect July 1, 2004, assesses fees on all cell phone subscribers and purchasers of pre-paid wireless phones to help offset the costs of implementing and offering E-911 services for wireless users. Although there's no State or federal requirement to offer Enhanced 911 for wireless callers, the funding provided as a result of the Act encouraged the development of that service throughout the State. The Act created the following fees:

- a 25¢ local fee, assessed monthly on all cell phone subscriber accounts
- a 25¢ grant fee, assessed monthly on all cell phone subscriber accounts
- a 1% grant fee, assessed on the retail price of pre-paid wireless phone service

These fees are collected by wireless phone companies (such as Verizon or Cingular) and by wholesalers of pre-paid wireless phones. Local and grant fees are handled differently:

- **Local fees** are remitted to the Kansas Association of Counties, which serves jointly with the League of Kansas Municipalities as administrator of the local fees. The Act calls for these local fees to be distributed to PSAPs based on each wireless cell phone subscriber's primary place of use.

- **Grant fees** are remitted to the Secretary of Administration, who contracts with the Governor's Grants Program to administer the grant program. Grant fees are pooled, and PSAPs in counties with fewer than 75,000 people are eligible to apply for grants to supplement their revenue from the local fee. The State's five largest counties—Douglas, Johnson, Shawnee, Sedgwick, and Wyandotte—aren't eligible for these grants.

The Act requires the Secretary of Administration to obtain an audit during 2006 of wireless companies' records of fee collections and remittances under the Act. The Governor's Grants Program currently is conducting this audit on behalf of the Secretary. Staff are reviewing subscriber lists from each wireless company to determine if those lists substantiate the number of subscribers the companies report receiving fees from each month. The report is expected to be available in March 2007.

During the 2006 legislative session, the Legislature amended the Act to include Voice over Internet Protocol (VoIP) subscribers beginning July 1, 2006. Companies that provide VoIP service must collect the local fee and the grant fee from their subscribers, and remit those fees in the same manner as wireless companies.

**The Statewide grant fund will be eliminated in 2010.** The Act calls for significant changes to the funding stream for all 911 services (land-line, wireless, and VoIP) effective July 1, 2010. At that time, the following things happen:

- grant fees on wireless and VoIP subscribers will be eliminated, and the balance in the grant fund will be distributed to PSAPs based on population
- land-line 911 fees (currently up to 75¢ per month) will be limited to no more than 25¢ per month per line in counties with populations of at least 125,000 (currently only four counties), and to no more than 50¢ per month in counties with populations fewer than 125,000
- local fees for wireless cell phone and VoIP subscribers must be the same as for land-line phones

| Figure OV-2<br>Changes in Maximum Monthly Fees for 911 Services<br>Beginning July 1, 2010 |                                      |                 |  |                 |
|---|--------------------------------------|-----------------|--|-----------------|
| Fee Type  | County population<br>125,000 or more |                 | County population<br>Less than 125,000 |                 |
|   | Before<br>7/1/10                     | After<br>7/1/10 | Before<br>7/1/10                       | After<br>7/1/10 |
| Land-line (local fee)   | 75¢                                  | 25¢             | 75¢                                    | 50¢             |
| Wireless phone (local fee)  | 25¢                                  | 25¢             | 25¢                                    | 50¢             |
| VoIP subscribers (local fee)  | 25¢                                  | 25¢             | 25¢                                    | 50¢             |
| Wireless phone (grant fee)  | 25¢                                  | none            | 25¢                                    | none            |
| VoIP subscribers (grant fee)  | 25¢                                  | none            | 25¢                                    | none            |

Source: Wireless Enhanced 911 Act and VoIP Enhanced 911 Act

*Figure OV-2* shows how these changes will affect the maximum fees that can be charged. All 911 fees (land-line, wireless, and VoIP) will be merged after July 1, 2010, and can be spent on necessary costs for emergency 911 services.

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***State Law Limits  
The Use of Wireless  
E-911 Fees***

The Act specifies that wireless enhanced 911 fees can be spent only on necessary and reasonable costs in the following areas:

- implementation of wireless E-911 services
- purchase of equipment and upgrades and modification to equipment used solely to process the data elements of wireless E-911 services
- maintenance and license fees for such equipment, and training of personnel to operate equipment

Allowable expenditures can include such items as software programs that map the general location of the caller, telephone trunk lines for receiving wireless phone calls, and staff training on the specialized software that's needed. The Act specifically states that wireless E-911 fees can't be used to lease, construct, acquire, remodel, renovate, or furnish a building.

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***An Audit in 2008  
Will Take a Broad  
Look at E-911***

When the Act was passed in 2004, it called for us to conduct two audits: one in 2006 and one in 2008. The current audit looks at several issues related to wireless E-911 services, as follows:

- the status of implementation
- whether fee moneys are being spent appropriately
- whether fee moneys are adequate
- the need and level of continued funding

The 2008 audit is substantially broader, including the wireless E-911 system, the VoIP E-911 system, and the land-line system. That audit will address the following issues:

- the status of enhanced 911 implementation for wireless and VoIP systems
- whether wireless and VoIP fee moneys are being spent appropriately
- whether fees collected for wireless and VoIP are adequate
- the need and level of continued funding for wireless enhanced 911, VoIP enhanced 911, and the land-line 911 system

That audit is required to be submitted at the beginning of the 2009 legislative session, which will give legislators updated information before the changes to the fee structure take effect July 1, 2010.

## Question 1: What Is the Status of Implementation Of Wireless Enhanced 911 Service?

**ANSWER IN BRIEF:** *By the end of 2006, more than half the 115 PSAPs across the State expected to have implemented wireless E-911 services, essentially covering 83% of all Kansans. All but one PSAP said they planned to have wireless E-911 services fully implemented by July 2010. State grant funds are available to help local governments implement wireless E-911 services, but in 2007 PSAPs requested \$3 million more in grant funding than was awarded. These and other findings are described in the sections that follow.*

### ***Wireless E-911 Services Should Be Fully Implemented in Half The PSAPs in 2006, and In All But One by 2010***

Counties' emergency response centers (called public safety answering points, or PSAPs for short) are under the control of local officials. We contacted representatives of each PSAP during November 2006 to find out what they expected their implementation status to be as of December 2006 as well as by July 1, 2010, when grant funds for wireless E-911 service are eliminated. (At that point, the remaining fees for land-line, wireless, and VoIP E-911 service must be equalized.)

### **By the end of 2006, slightly more than half the PSAPs expected to have fully implemented Phase II of wireless E-911 service.**

As noted in the Overview, Phase II means the PSAP can receive the cell phone number, billing address, and a location based on longitude and latitude coordinates.

As **Figure 1-1** on the next page shows, 61 of the State's 115 PSAPs (53%) told us they expect to have fully implemented Phase II by the end of 2006. An additional 26 PSAPs (23%) said they expected to have started implementing Phase II by the end of 2006.

**More than 80% of Kansans live in areas that already have wireless E-911 services.** In all, 18 of the State's 21 most populous counties—including Johnson, Sedgwick, and Shawnee—have fully implemented Phase II of wireless E-911 services. PSAPs expecting to offer full Phase II wireless E-911 services by the end of 2006 covered 83% of the Kansas population.

**By 2010, all but one PSAP expects to be fully capable of offering Phase II wireless E-911 services.** Officials in Comanche County are facing an interesting challenge. Although their PSAP has all the necessary Phase II equipment, wireless carriers have only installed one cell tower in the area. For a PSAP to receive the Phase II data, the cell phone must either have Global Position System (GPS) capability, or there need to be three towers in the





The box on the left describes the situation in Chase County, a PSAP we visited during the audit whose grant request for 2007 wasn't funded. Question 3 of this audit, beginning on page 16, explores in detail the sufficiency of current funding.

**Wireless E-911 Services Likely Will Be Delayed in Chase County Because Its 2007 Grant Request Was Denied**

The PSAP for Chase County has begun implementing Phase I of wireless E-911 services, but needs a mapping system and additional trunk lines to complete Phase II. When we visited this PSAP, officials told us they'd been able to purchase some wireless E-911 equipment through a Homeland Security grant. Part of that equipment was in use, but part of it remains in storage—not usable until the PSAP comes up with funding to fully implement Phase II. The PSAP requested more than \$46,000 in State grant funds for 2007, but its request was denied. A PSAP official said he was relying on 2007 grant funds to fully implement the wireless E-911 system.

**PSAPs Must Begin Implementation of Wireless E-911 Services To Continue Receiving Funding**

Although PSAPs aren't required to implement wireless E-911 services, State law has created incentives to do so—and to do so in a timely manner—by instituting fees on all wireless subscribers yet placing the following limits on use of that money:

- it can be spent only for necessary and reasonable costs related to wireless enhanced 911
- PSAPs have to submit a valid request for wireless enhanced 911 services to wireless companies by July 1, 2007. Up to two one-year extensions are available.
- if a PSAP hasn't submitted a request by 2008, local officials must turn over all local fee money they've received for wireless E-911 services to the State Wireless Enhanced 911 Grant Fund, where it will be awarded to other PSAPs.

**Wireless E-911 Service—Even When Fully Implemented—Will Have Holes**

Advances in technology have significantly improved PSAPs' ability to provide emergency services to people calling for help from cell phones, but some fairly serious issues remain. As noted in a recent Consumer Reports article, these issues are nationwide. Some of these issues are discussed below.

**Wireless phone signals can be difficult to locate.** For a cell phone caller to be accurately located, there must be a clear signal. Trees, buildings, and other obstructions can interfere with the signal. In addition, some signals may not be located accurately if the caller is inside a vehicle or building. The Federal Communications Commission requires wireless phone companies to be able to locate a call within 50 meters for 67% of the wireless calls received, and within 150 meters for 95% of the wireless calls received for phones with GPS capability. This level of precision may not be very helpful in crowded areas.

**Not all cell phones are equipped with a Global Positioning System (GPS) chip.** The Federal Communications Commission required wireless companies to ensure that 95% of their customers' handsets are "location-capable" by the end of 2005, but customers can't be forced to buy those phones or update their old non-GPS-enhanced phones. Without a GPS chip, dispatch centers must rely on a cell phone signal being triangulated among cell towers to determine a general location of the caller. Often, towers can only narrow the caller's location to a square mile or more.

**Cell phone calls can be sent to the wrong PSAP.** Sometimes a signal bounces off the wrong face of a tower, and the call is sent to a dispatch center in a county different from where the call is originating. Because of technology or system differences, some PSAPs are unable to transfer these misguided calls, and the accompanying data, to the proper PSAP.

**Pre-paid phones and "donated" phones can't fully benefit from wireless E-911 services.** These phones don't provide pertinent information to the PSAP—such as subscriber address—and often don't have location-reporting capabilities. Without this information, it's difficult to find and help callers who aren't able to state their locations. Also, "donated" phones only have the capability of making an outgoing call to 911; they can't receive an incoming call.

Conclusions and recommendations for the audit are contained on page 24 at the end of Question 3.

## Question 2: Are Public Safety Answering Points Using Wireless E-911 Fees Appropriately?

**ANSWER IN BRIEF:** *Public safety answering points (PSAPs) spent more than \$6.7 million in wireless E-911 fees through June 2006. About half that money was spent on equipment, and nearly one-fourth was spent on contractual services such as maintenance and phone bills for wireless lines. Nearly all the purchases have been for items allowed by law. All of the purchases made with grant funds—which receive lots of scrutiny from the Governor’s Grants Program—appeared to be appropriate. Spending from local fee funds doesn’t receive much outside oversight, but we found only very minor problems in that area. By the end of June 2006, about half the PSAPs hadn’t spent any of the local fees moneys they had received. These and other findings are discussed in the sections that follow.*

### **Through June 2006, PSAPs Spent \$6.7 Million From Wireless E-911 Fee Revenues**

Since July 2004, a monthly fee of 50¢ has been collected from wireless phone subscribers, as well as a 1% fee on prepaid wireless service. These fees generated total revenues of approximately \$21 million by the end of November 2006.

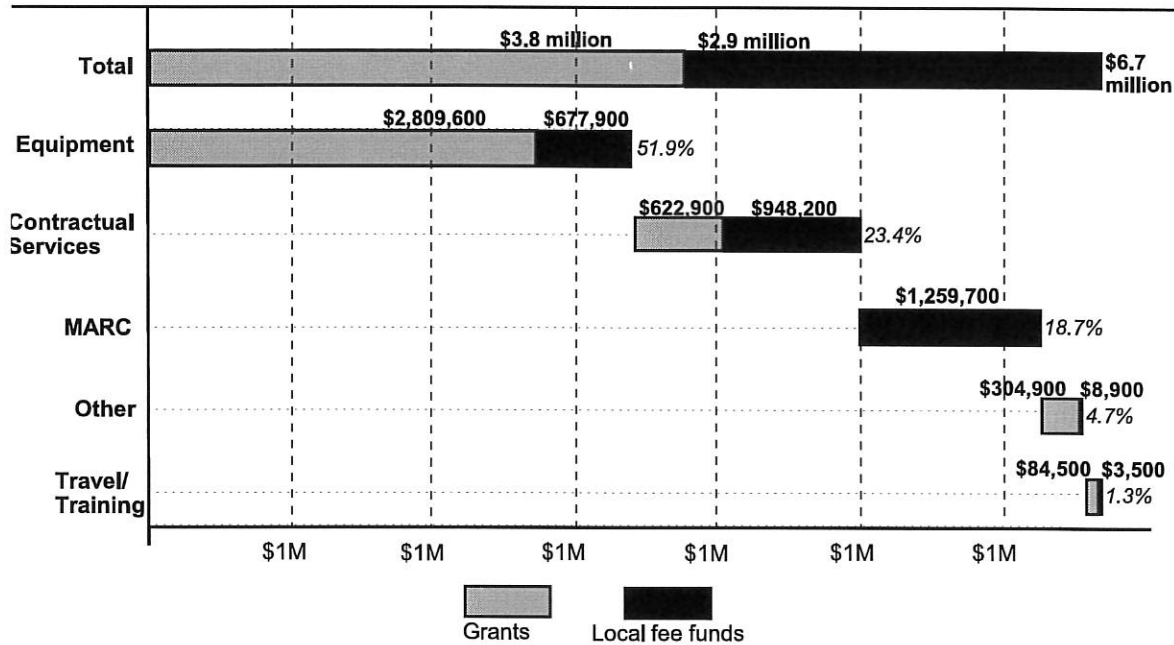
As noted in the Overview, 25¢ of each monthly fee goes directly to PSAPs based on the billing addresses of wireless subscribers. The remaining 25¢ and the fee on prepaid service goes into a grant fund administered by the Kansas Wireless Enhanced 911 Advisory Board. Grants have been awarded competitively to PSAPs since calendar year 2005.

**About half the \$6.7 million spent from wireless E-911 fee moneys has been spent on equipment.** As *Figure 2-1* shows, about \$3.5 million has been used to buy such things as Phase I and Phase II packages of equipment, monitors, and software.

The figure also shows that PSAPs have spent:

- About \$1.6 million (23.4% of the total) on contractual services, such as ongoing costs for phone lines added to handle wireless calls, maintenance contracts, and mapping services.
- About \$1.3 million (19%) on payments to the Mid-America Regional Council (MARC), which provides 911 equipment, maintenance, and technical support to PSAPs in the metropolitan Kansas City area and adjoining counties in Kansas and Missouri.
- About \$310,000 on other miscellaneous purchases, which included equipment installation, geographic information systems work, and a percentage of PSAP utility costs.

**Figure 2-1  
Spending from Wireless E-911 Fee Moneys  
Through June 30, 2006**



Source: LPA analysis of reports received by the Governor's Grants Program

Note: Spending by category is indicative, not absolute, as PSAPs aren't entirely consistent in how they classify various types of expenditures.

***Wireless E-911 Fee Moneys Generally Have Been Used As Allowed by Law***

As noted in the Overview, State statutes prohibit PSAPs from using wireless E-911 fee moneys to lease, construct, acquire, remodel, renovate, or furnish a building. They can spend those moneys only on necessary and reasonable costs in the following areas:

- implementation of wireless E-911 service
- equipment and upgrades, and modification of equipment used solely to process the data elements of wireless E-911 service
- maintenance and license fees for such equipment, and training of personnel to operate it

Although the statute seems to limit equipment-related purchases to equipment that is used exclusively for wireless enhanced 911 services, in reality the same equipment often handles both land-line and wireless calls or data. For example, a voice recorder used to capture a wireless 911 call also will be recording calls received from land-line phones.

To address this situation, the Kansas Enhanced 911 Wireless Advisory Board and the League of Kansas Municipalities have interpreted “implementation of wireless E- 911 service” to include any item that is necessary for a PSAP to provide that service, except those items specifically prohibited by law. (Officials said requests for grant funding have been greater than the amount of funding available; the Board has decided that grant funds will be awarded only for a pro-rated share of the costs of equipment that can be used for land-line and wireless E-911 calls.) Staff from the Revisor of Statutes Office told us this broader interpretation appeared to be consistent with legislative discussions at the time the bill was passed. For that reason, we followed that interpretation in determining whether PSAPs’ purchases were allowed by law. However, we did verify that the service or equipment was a necessary component of a wireless E-911 system.

*Figure 2-2* to the right contains pictures of PSAP operations and lists examples of purchases made by PSAPs to implement and maintain wireless E-911 services.

**Purchases made from grant funds appeared to be appropriate.**

During this audit, we reviewed a sample of 77 purchases from 20 PSAPs accounting for about \$875,000 of the \$3.8 million in grant funds spent through June 2006. PSAPs are required to attend a class on grant requirements and, as described below, expenditures made from grant moneys are carefully reviewed by the staff of the Governor’s Grants Program:

- the Wireless Enhanced 911 Advisory Board reviews / approves detailed grant applications. We observed Board members questioning specific proposed expenditures.
- PSAPs usually are reimbursed only after they submit invoices or other documentation to the Governor’s Grants Program (sometimes a PSAP will get an advance to pay a large bill)
- PSAPs must submit quarterly reports and report detailed information on equipment costing \$1,000 or more
- the Governor’s Grants Program performs on-site reviews after grant funds have been spent to ensure—among other things—that the proposed items actually were purchased, and that they were in place and in use

In our sample, all but one of the 77 expenditures we reviewed appeared to be reasonable (an expenditure of \$295), and staff at the Governor’s Grants Program didn’t reimburse the PSAP for that purchase.

**We identified a small amount of spending from local fee funds that either wasn’t allowable, or wasn’t supported by**



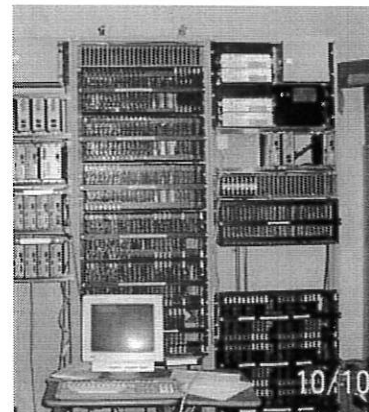
**Figure 2-2  
A System To Receive and Process Wireless E-911 Calls Has Many Components**

The components needed for a PSAP to receive wireless E-911 calls are complex, but include certain basic things:

- **a 911 controller.** This computer is the system's "traffic director." It determines whether the calls coming in will require additional information—such as the caller's location—and makes that information available to the PSAP.
- **equipment to access remote databases.** This equipment includes phone lines that connect each company to the PSAP, and computers, cables, and the like to run the 911 call-taker's work station.
- **maps that can help pinpoint an emergency location.** The necessary software and monitors often are part of a computer-aided dispatch system, but some stand-alone packages also have this capability. The maps must show sufficient detail (e.g., seldom-used roads, small streams) to be useful to the personnel on the ground.
- **addresses.** The phone company must have an up-to-date master street address guide showing all addresses within the PSAP's jurisdiction for its database, so that the location information can come to the PSAP through the controller. Developing this database is a cooperative effort between the phone company and the PSAP.
- **a means to record 911 calls.** A recorder's many components allow the PSAP to capture call information.

| Examples of Purchases Listed on Reports |   |           |
|---|---|-----------|
| Category                                | Description   | Amount    |
| equipment                               | four-position 911 call-taking system, including training, installation, and warranty  | \$108,170 |
|   | 22-channel voice recorder   | \$20,540  |
|   | computer for computer-aided dispatch  | \$980     |
| contractual services                    | addressing, mapping, software updates, master street address guide database           | \$19,530  |
|   | phone line bill for 6 months  | \$1,132   |
|   | wireless company testing to ensure calls from all parts of the county can be received | \$270     |
| travel/training                         | training on mapping software  | \$2,425   |
|   | fuel to and from training on grant reporting requirements in Salina                   | \$41      |
| other                                   | wireless percentage of utilities at the radio power source                            | \$1,500   |

Source: reports submitted to the Governor's Grants Program



top: new system monitors on top of old radio system in Anderson County; right: new call-taking position in Coffey County



top: phone system equipment in Shawnee County; bottom: backup power supply (left), units of the computer-aided dispatch system (top), and the recorder system (bottom) in Coffey County

**documentation.** We reviewed detailed supporting documentation for a sample of 55 purchases from 31 PSAPs totaling \$1.2 million. These purchases accounted for 41% of the \$2.9 million in **local fees** PSAPs reported spending through June 2006. (We also looked at the descriptions of the remaining expenditures to see if there were any that, on their face, appeared to be a questionable use of local fee money.)

Unlike the situation described above for grant funds, there's no regular outside oversight of the spending of local fee moneys that go directly to PSAPs. The League of Kansas Municipalities provides **guidance to PSAPs and answers specific questions** about whether items are allowable. And as required by law, PSAPs send informational reports to the Governor's Grants Program every six months showing the amount they received in fees, the amount they spent, and brief descriptions of what was purchased. But State staff have no authority over that spending.

We found no problems with 52 of the 55 purchases in our sample. For the other three purchases, we found the following:

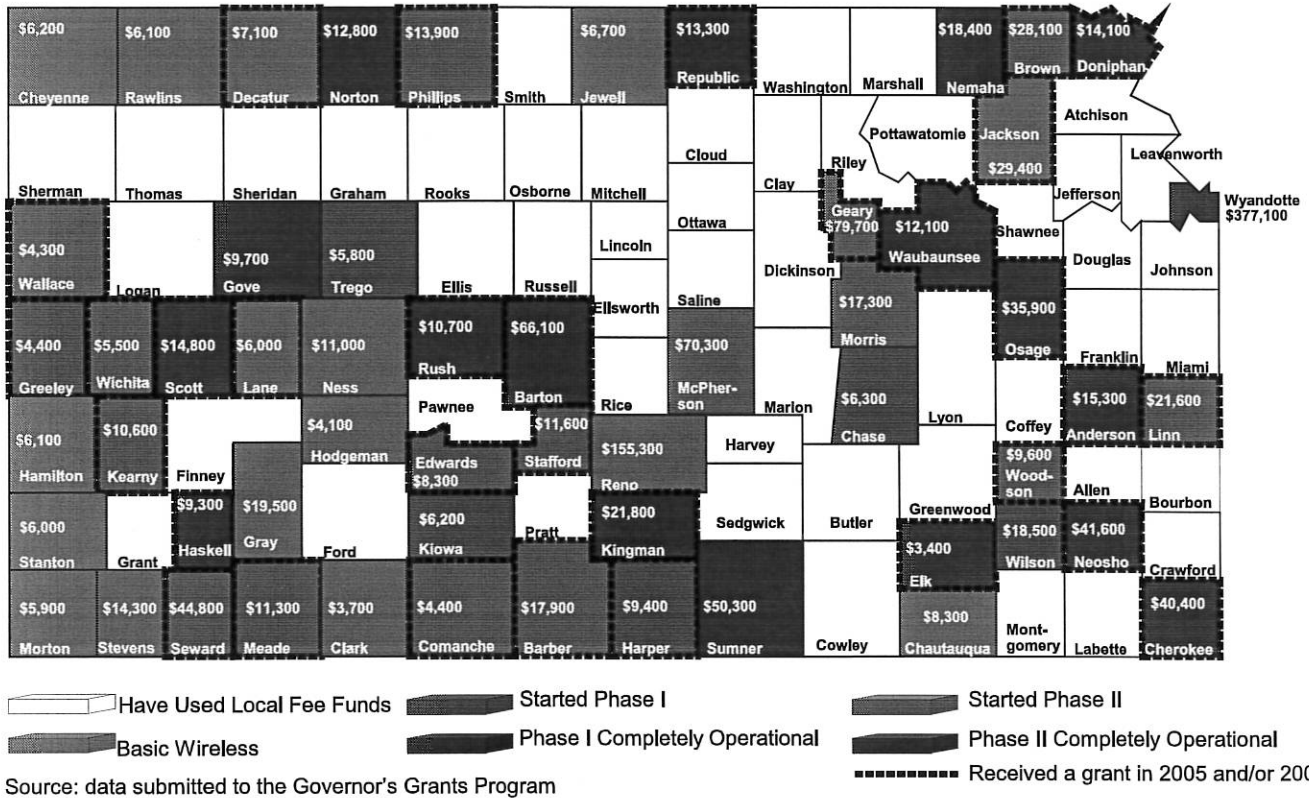
- **we identified only one payment for an item that wasn't allowable: \$1,268 in trunk-line fees from Smith County.** A Smith County official told us the expense had been for land-line phone lines, not wireless, and that paying the bill from the wireless fee fund had been an error. She also said the County had previously identified and corrected other bills inadvertently charged to the wireless fund, but had missed this one.
- **we identified two situations where the payment wasn't accurately recorded or supporting documentation wasn't available.** In one case, Marion County reported spending \$1,266 more from wireless fee moneys for a \$92,000 mapping project than was shown on vouchers from the various accounts used to pay for the item. In the other case, Shawnee County officials said they couldn't find the invoices for \$3,963 in "software licensing and maintenance."

**About half the PSAPs haven't yet spent any local fee moneys.**

As shown in *Figure 2-3*, these 55 PSAPs are at varying levels of implementation. Some have a very small wireless subscriber base and don't generate much revenue. After receiving fee moneys for more than two years, 14 of the 16 PSAPs with only Basic wireless 911 service have less than \$20,000 in each of their wireless funds. These PSAPs likely will need State grants to implement wireless E-911 services.

Just because a PSAP hasn't spent any of its local fee moneys doesn't mean it's not working on implementation. *Figure 2-3* shows that many of these PSAPs (indicated with dashed lines) have used State **grant moneys** to progress beyond Basic wireless service. Information about the amount of grant moneys received is included in *Appendix B*, which

**Figure 2-3  
PSAPs That Had Not Spent Local Wireless Fee Funds, and Amount in the Fund,  
As of June 30, 2006**



also contains information about wireless and land-line moneys available to the PSAPs.

We asked a few of the PSAPs who hadn't spent any of their local fee funds how they planned to use the moneys. Here's what they told us:

- Reno County officials said they're planning to spend all the money in this account, plus more, in the next few months to purchase Phase I and Phase II equipment.
- Sumner County officials said they're saving for approximately \$300,000 in major upgrades that will be needed in later years. At some point they will also begin using local fee moneys for on-going expenses. The County received a Homeland Security grant for its initial purchase of equipment.
- Wyandotte County officials said they're saving for new equipment. A representative of the Mid-America Regional Council (of which Wyandotte County is a member) said they are planning an extensive equipment upgrade in 2007-2008, and that some equipment a PSAP might need—such as radios that tie in with the dispatch equipment—wouldn't be covered by the fees paid to MARC.

Conclusions and recommendations for the audit are contained on page 24, at the end of Question 3.

**Question 3: Is the Amount of Fee Money Being Collected Adequate To Fund the Implementation of Wireless Enhanced 911, and What Level of Funding Is Needed for Ongoing Support of the System?**

**ANSWER IN BRIEF:** *Because there are still so many unknowns, our assessment had to involve many estimates, projections, and assumptions. If they held true, wireless revenues through June 30, 2010, would exceed estimated expenditures on a Statewide basis by about \$15 million. But 26 individual PSAPs would fall \$1.5 million short of being able to cover their estimated costs with all the funding sources they projected they'd have available. Because PSAPs' estimates of the grant funds they would request are almost \$18 million less than the estimated amount of grant funds that would be available, grant funds likely could cover most of these funding "shortfalls" through 2010. After that, grant funds dry up, and at least 16 PSAPs would need to charge a fee higher than the 50¢ anticipated by State law just to cover their estimated ongoing operating costs. In addition, PSAPs will have recurring costs for equipment upgrades. These and other findings are discussed in the sections that follow.*

***This Early Assessment of The Adequacy of Wireless E-911 Funding Had To Involve Many Estimates, Projections, and Assumptions***

Looking accurately into the future is difficult because there's so little actual experience to base projections on. To develop estimates of PSAPs' future E-911 costs and the revenues that will be used to fund them, we did the following:

- Surveyed all 112 PSAPs regarding their 2007-2012 estimated expenditures for:
  - ▶ fully implementing wireless E-911
  - ▶ ongoing monthly costs (like maintenance contracts and phone bills)
  - ▶ for those PSAPs that already have implemented wireless E-911, any expected system upgrades to keep their components up-to-date with changing technologies (like equipment replacement)

Note: Earlier sections reported on 115 PSAPs, but three were combined for financial reporting. Geary County didn't provide financial data; therefore all analysis was completed on data for 111 PSAPs.

- Projected the wireless E-911 local and grant fee revenues that will be generated over the next few years based on historical actual revenue data, national data on the projected growth in cell phone subscribers, and county-specific projections of population growth.
- Surveyed all PSAPs regarding the amount of money they expected to use for wireless E-911 from other sources of revenue in 2007-2009 (including the amount of grant funds they expected to apply for, any land-line 911 revenues or general fund moneys they expected to use, and the like)

**Expenditure estimates are particularly subject to error.** That's because some PSAPs may have had little or no experience with actual implementation costs, they may have little basis for knowing what their ongoing costs will be or how they will increase in the future, and they may have no idea about what their upgrade costs will be.

Revenue estimates also are subject to error. For example, the number of wireless phone subscribers potentially could be quite different from our estimates, and the amount of grant funds PSAPs request may change considerably in the future as they get a better handle on their costs.

Despite such limitations, we had to use those estimates in this initial assessment of whether the fees being collected likely would be adequate to implement wireless E-911 services in Kansas. Our 2008 audit should be able to provide much more accurate estimates.

Finally, as noted in the Overview, on June 30, 2010, the current funding structure of local fees, grant fees, and mandated fee levels will be replaced with a system that eliminates the grant program and gives PSAPs the flexibility to determine their own fee level, within a statutory cap. The following sections address the adequacy of fees under both structures.

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***On a Statewide Basis,  
Estimated Wireless  
E-911 Revenues  
Would Far Exceed  
PSAPs' Estimated Costs***

Revenues for wireless E-911 services are generated in the form of a local fee, grant fee, and a fee on the sale of prepaid wireless phones. PSAPs use those revenues to cover the costs of implementing the wireless E-911 systems, and for ongoing expenses and necessary equipment upgrades. **Figure 3-1** on the next page shows that, from 2007 through June 30, 2010, projected fee revenues overall would be \$15 million greater than the expenses PSAPs estimated for our survey.

**As the figure shows, estimated revenues and expenditures are fairly close in 2007, but PSAPs' expenditure estimates drop off sharply in 2008 and beyond.** Some potential factors could be coming into play here:

- PSAPs are bound to have a much better idea of what their expenditures will be during the current year than during the "out" years
- by the end of 2007, 100 PSAPs expect to have fully implemented wireless E-911. As a result, far fewer PSAPs would have significant costs in future years, and most of those PSAPs are ones with smaller populations
- as noted above, many PSAPs may not know what their equipment upgrades costs will be in future years, so they didn't report those costs on their surveys



**Figure 3-1**  
**Estimated Wireless E-911 Fee Revenues Generated and**  
**Estimated Expenditures for Implementing and Operating Wireless E-911 Systems**  
(in millions)

| Category  | 2007           | 2008          | 2009          | 2010 (through June 30) (a) | Totals        |
|---|----------------|---------------|---------------|----------------------------|---------------|
| <b>Estimated Revenues</b>   |                |               |               |                            |               |
| Local fee   | \$5.2          | \$5.6         | \$6.0         | \$3.1                      | \$19.9        |
| Grant fee:  |                |               |               |                            |               |
| Subscribers   | \$5.4          | \$5.7         | \$6.1         | \$3.3                      | \$20.5        |
| Prepaid   | \$0.4          | \$0.4         | \$0.5         | \$0.3                      | \$1.6         |
| <b>Total Est. Revenues</b>  | <b>\$11.0</b>  | <b>\$11.7</b> | <b>\$12.6</b> | <b>\$6.7</b>               | <b>\$42.0</b> |
| <b>Estimated Expenditures</b>   |                |               |               |                            |               |
| Implementation  | \$6.0          | \$0.1         | \$0.02        | None                       | \$6.1         |
| Ongoing Costs   | \$3.0          | \$3.3         | \$3.5         | \$1.8                      | \$11.6        |
| Upgrades  | \$2.5          | \$2.7         | \$1.6         | \$2.5                      | \$9.3         |
| <b>Total Est. Expend.</b>   | <b>\$11.5</b>  | <b>\$6.1</b>  | <b>\$5.1</b>  | <b>\$4.3</b>               | <b>\$27.0</b> |
| <b>Difference Between Estimated Revenues and Estimated Expenditures</b> | <b>(\$0.5)</b> | <b>\$5.7</b>  | <b>\$7.5</b>  | <b>\$2.3</b>               | <b>\$15.0</b> |

(a) 2010 through June 30 includes estimated expenditures based on wireless fees of 25¢ for six months, half of the 2010 estimated ongoing expenditures, and all of the 2010 estimated upgrades for fully implemented PSAPs.  
Source: LPA analysis of revenue data and estimated expenditures

***Some Individual PSAPs  
Wouldn't Have Enough  
Funding To Cover Their  
Estimated Costs  
Through June 30, 2010***

The only revenues PSAPs are guaranteed to get are the **local fees** levied on wireless phones in their areas. Based on the revenues and expenditures estimated for this audit, only 46 PSAPs would be able to cover their estimated costs with local fee revenues alone. *Appendix C* shows financial information for all PSAPs and identifies those 46. As described in the Overview, however, through June 30, 2010, all PSAPs except those located in the State's five most populous counties are eligible to apply for the **grant fees** levied on wireless phone users.

Many PSAPs applied for grants for 2007, others reported they expected to apply for grants in future years, and 50 reported they plan to bring in other sources of revenue (often land-line 911 fees or local general fund moneys) to help pay the costs of implementing, operating, or upgrading their wireless E-911 systems.

For the revenue and expenditure comparisons in the subsections that follow, we used "projected funds available" for each PSAP, which includes the local fee revenue we projected for each year, as well as any grant moneys the PSAP said it planned to request through 2009, and any other funds the PSAP said it planned to use. In all cases, if PSAPs reported grant requests exceeding total expenditures, we reduced the grant request to equal total expenditures.



**New Fees Help Extend E-911 for Internet Phones**

Voice over Internet Protocol (VoIP) is a relatively new technology that allows voice calls using a broadband Internet connection rather than an ordinary telephone line. The 2006 Legislature imposed 911 fees on VoIP users whose service allows calls to and from regular land-line phones. Those local and grant fees are the same amount as for wireless telephone users, a total of 50¢ for each line, and are to be used to assist PSAPs with costs of providing VoIP enhanced 911 service. VoIP companies submitted approximately \$20,000 in fees in the first four months the fees were collected.

The current limitations of using VoIP for emergency calls include that calls may go to a PSAP's administrative line, not to a 911 call-taker, and that PSAPs may not have the special equipment needed to locate a mobile computer using VoIP.

**PSAPs' ability to fund their estimated expenditures through June 30, 2010, with the projected funds they expect to have available, is mixed.** We compared the projected funding each PSAP might have available between 2007 and June 30, 2010, to the estimated expenditures they reported for that period. That comparison showed there was a significant difference between the cumulative projected funds available and estimated costs for some individual PSAPs. Based on the estimates in this audit:

- 85 PSAPs (77% of the total) would be able to cover their estimated costs with the projected funding available; 25 of these PSAPs would have at least \$100,000 "leftover" as of June 30, 2010.
- 26 PSAPs (23% of the total) wouldn't be able to cover their estimated costs. For these 26 PSAPs, the estimated shortfall would be a total of \$1.5 million.

*Figure 3-2* on the next page shows the difference between projected available funds and estimated expenditures through June 30, 2010, for the 20 PSAPs with the largest positive difference and the 26 PSAPs with a negative difference.

*Appendix C* shows this information for all PSAPs.

In general, PSAPs with the largest amount of "excess" projected funding tended to be more populous. The PSAPs that wouldn't be able to cover their estimated expenditures were more likely to have smaller populations.

The exception was Sedgwick County, where the PSAP's estimated expenditures exceeded its projected funds available by more than \$500,000. Sedgwick County is planning a major upgrade that's expected to cost \$2.4 million through 2010, and an additional \$3 million beyond 2010.

Finally, we looked at the annual (rather than cumulative) differences between projected available funding and estimated costs for each PSAP. That information is summarized in *Figure 3-3* on page 21.

In all, 18 of the 27 PSAPs shown on that figure already have implemented wireless E-911, but based on current estimates they wouldn't be able to cover their ongoing operating or equipment upgrade costs. (Greenwood County is included in *Figure 3-3* because of a shortfall in 2007, but isn't included in *Figure 3-2* because it won't have a negative difference by 2010.)

**Figure 3-2  
PSAPs With the Greatest Differences Between  
Cumulative Projected Funds Available and Estimated Expenditures  
2007 through June 30, 2010**

| <b>PSAP Coverage Area</b>                       | <b>Projected Funds Available</b> | <b>Expenditure Estimates</b> | <b>Difference (a)</b> |
|---|----------------------------------|------------------------------|-----------------------|
| <b>PSAPs with the highest estimated balance</b> |                                  |                              |                       |
| Wyandotte County                                | \$1,506,000                      | \$209,000                    | \$1,297,000           |
| Douglas County                                  | \$985,000                        | \$409,000                    | \$576,000             |
| Overland Park, City of                          | \$1,969,000                      | \$1,393,000                  | \$576,000             |
| Shawnee County                                  | \$1,244,000                      | \$758,000                    | \$486,000             |
| Riley County                                    | \$434,000                        | \$53,000                     | \$381,000             |
| Lenexa, City of                                 | \$753,000                        | \$376,000                    | \$377,000             |
| Johnson County                                  | \$1,033,000                      | \$665,000                    | \$368,000             |
| Olathe, City of                                 | \$1,222,000                      | \$869,000                    | \$353,000             |
| McPherson County                                | \$323,000                        | \$13,000                     | \$310,000             |
| Reno County                                     | \$711,000                        | \$443,000                    | \$268,000             |
| Pottawatomie County                             | \$262,000                        | \$19,000                     | \$243,000             |
| Cowley County                                   | \$465,000                        | \$238,000                    | \$227,000             |
| Dickinson County                                | \$421,000                        | \$197,000                    | \$224,000             |
| Lyon County                                     | \$257,000                        | \$64,000                     | \$193,000             |
| Ellis County                                    | \$291,000                        | \$111,000                    | \$180,000             |
| Ford County                                     | \$288,000                        | \$116,000                    | \$172,000             |
| Butler County                                   | \$517,000                        | \$348,000                    | \$169,000             |
| Labette County                                  | \$253,000                        | \$88,000                     | \$165,000             |
| Shawnee, City of                                | \$587,000                        | \$448,000                    | \$139,000             |
| Neosho County                                   | \$158,000                        | \$22,000                     | \$136,000             |
| <b>PSAPs with a negative estimated balance</b>  |                                  |                              |                       |
| Smith County                                    | \$166,700                        | \$167,000                    | (\$300)               |
| Anderson County                                 | \$62,500                         | \$63,000                     | (\$500)               |
| Graham County                                   | \$164,000                        | \$165,000                    | (\$1,000)             |
| Rooks County                                    | \$203,000                        | \$204,000                    | (\$1,000)             |
| Kingman County                                  | \$75,000                         | \$76,000                     | (\$1,000)             |
| Mitchell County                                 | \$309,000                        | \$311,000                    | (\$2,000)             |
| Marion County                                   | \$120,000                        | \$123,000                    | (\$3,000)             |
| Rawlins County                                  | \$313,000                        | \$316,000                    | (\$3,000)             |
| Morris County                                   | \$201,000                        | \$205,000                    | (\$4,000)             |
| Wichita County                                  | \$21,000                         | \$26,000                     | (\$5,000)             |
| Pawnee County                                   | \$46,000                         | \$52,000                     | (\$6,000)             |
| Norton County                                   | \$263,000                        | \$273,000                    | (\$10,000)            |
| Morton County                                   | \$232,000                        | \$252,000                    | (\$20,000)            |
| Meade County                                    | \$33,000                         | \$53,000                     | (\$20,000)            |
| Finney County                                   | \$288,000                        | \$308,000                    | (\$20,000)            |
| Hodgeman County                                 | \$345,000                        | \$366,000                    | (\$21,000)            |
| Cloud County                                    | \$182,000                        | \$213,000                    | (\$31,000)            |
| Seward County                                   | \$142,000                        | \$179,000                    | (\$37,000)            |
| Scott County                                    | \$79,000                         | \$118,000                    | (\$39,000)            |
| Clay County                                     | \$92,000                         | \$136,000                    | (\$44,000)            |
| Stanton County                                  | \$210,000                        | \$264,000                    | (\$54,000)            |
| Sherman County                                  | \$55,000                         | \$133,000                    | (\$78,000)            |
| Leavenworth County                              | \$864,000                        | \$949,000                    | (\$85,000)            |
| Franklin County                                 | \$338,000                        | \$531,000                    | (\$193,000)           |
| Harvey County                                   | \$215,000                        | \$458,000                    | (\$243,000)           |
| Sedgwick County                                 | \$3,507,000                      | \$4,010,000                  | (\$503,000)           |

(a) Amounts rounded to nearest thousand, except Smith and Anderson Counties.  
Source: LPA analysis of revenue data and estimated expenditures.

**Figure 3-3  
Annual Differences for PSAPs Whose Projected Funds Available Wouldn't Cover  
Their Estimated Wireless E-911 Expenditures  
2007 – June 2010**

| PSAP Coverage Area             | 2007      | 2008       | 2009      | 2010 (through June) | Cumulative Totals (a) |
|--------------------------------|-----------|------------|-----------|---------------------|-----------------------|
| Anderson County                |           |            |           | -\$500              | -\$500                |
| Clay County                    |           |            |           | -\$43,700           | -\$44,000             |
| Cloud County                   |           |            | -\$38,600 |                     | -\$39,000             |
| Finney County                  |           |            |           | -\$19,900           | -\$20,000             |
| Franklin County <sup>(b)</sup> | -\$84,800 | -\$31,900  | -\$32,000 | -\$45,400           | -\$194,000            |
| Graham County                  |           |            |           | -\$1,400            | -\$1,000              |
| Greenwood County               | -\$1,800  |            |           |                     | -\$2,000              |
| Harvey County                  |           | -\$282,600 |           |                     | -\$283,000            |
| Hodgeman County                | -\$1,500  | -\$7,700   | -\$7,600  | -\$3,700            | -\$21,000             |
| Kingman County                 |           |            | -\$4,800  |                     | -\$5,000              |
| Leavenworth County             | -\$1,400  | -\$2,100   | -\$39,100 | -\$42,100           | -\$85,000             |
| Marion County                  |           |            |           | -\$2,700            | -\$3,000              |
| Meade County                   | -\$19,800 | -\$500     |           |                     | -\$20,000             |
| Mitchell County                |           |            |           | -\$2,100            | -\$2,000              |
| Morris County                  |           |            |           | -\$3,900            | -\$4,000              |
| Morton County <sup>(b)</sup>   |           | -\$4,900   | -\$7,000  | -\$7,200            | -\$19,000             |
| Norton County                  |           |            | -\$2,500  | -\$7,100            | -\$10,000             |
| Pawnee County                  |           | -\$2,400   | -\$2,400  | -\$1,300            | -\$6,000              |
| Rawlins County <sup>(b)</sup>  |           |            | -\$900    | -\$2,900            | -\$4,000              |
| Rooks County                   |           |            |           | -\$1,400            | -\$1,000              |
| Scott County                   |           |            |           | -\$39,100           | -\$39,000             |
| Sedgwick County                |           |            |           | -\$503,400          | -\$503,000            |
| Seward County                  |           | -\$5,600   | -\$19,700 | -\$11,900           | -\$37,000             |
| Sherman County                 | -\$8,800  | -\$27,000  | -\$27,400 | -\$14,600           | -\$78,000             |
| Smith County                   |           |            |           | -\$300              | -\$300                |
| Stanton County                 | -\$13,400 | -\$13,000  | -\$16,800 | -\$10,300           | -\$54,000             |
| Wichita County                 |           |            | -\$3,500  | -\$1,800            | -\$5,000              |

Shaded areas represent years in which the difference between revenue and expenditures is likely to be positive.

(a) Rounded to nearest thousand, except Anderson and Smith Counties.

(b) Cumulative totals don't match Figure 3-2 and Appendix C totals because of rounding.

Source: LPA analysis of projected revenues and estimated expenditures.

**Additional grant funds would be available for PSAPs that come up short in being able to cover their costs.** Based on what PSAPs reported, after calendar year 2007, the grant requests would drop off dramatically. However, fees going into the grant fund are expected to continue to increase each year.

As *Figure 3-4* on the next page shows, this could result in \$17.6 million in grant money being available to help most PSAPs cover their “unfunded” estimated costs between now and 2010 (the five largest PSAPs aren’t eligible for grant funds). As that happened, much more of the grant funds would be awarded than shown on the figure.

Under State law, any balance in the grant fund as of June 30, 2010, is to be distributed to PSAPs based on population. PSAPs in the most populous counties, which weren’t eligible to apply for grants, will receive a pro-rata share of any fund balance.

**Figure 3-4**  
**Estimated State Grant Fund Revenues and Reported Future Requests (a)**

|   | CY 2007                    | CY 2008            | CY 2009             | CY 2010             |
|---|----------------------------|--------------------|---------------------|---------------------|
| <b>Estimated Grant Funds Available at Start of Year</b>         | \$3,583,000                | \$2,195,000        | \$7,695,000         | \$14,013,000        |
| <b>ESTIMATED REVENUES</b>                                       |                            |                    |                     |                     |
| 25¢ Remittance Fee  | \$5,363,000                | \$5,741,000        | \$6,135,000         | \$3,273,000         |
| 1% Prepaid  | \$409,000                  | \$438,000          | \$468,000           | \$250,000           |
| Interest Earned   | \$273,000                  | \$292,000          | \$312,000           | \$167,000           |
| Estimated New Revenue   | \$6,045,000                | \$6,471,000        | \$6,915,000         | \$3,690,000         |
| <b>Total Estimated Revenues Available</b>                       | <b>\$9,628,000</b>         | <b>\$8,666,000</b> | <b>\$14,610,000</b> | <b>\$17,703,000</b> |
| <b>ESTIMATED EXPENDITURES and REQUESTS</b>                      |                            |                    |                     |                     |
| Reported Grant Requests   | \$7,325,000 <sup>(b)</sup> | \$856,000          | \$474,000           | — <sup>(c)</sup>    |
| Administrative Expenditures                                     | \$108,000                  | \$115,000          | \$123,000           | \$66,000            |
| <b>Total Estimated Expenditures and Reported Grant Requests</b> | <b>\$7,433,000</b>         | <b>\$971,000</b>   | <b>\$597,000</b>    | <b>\$66,000</b>     |
| <b>Estimated Grant Funds Available at End of Year</b>           | <b>\$2,195,000</b>         | <b>\$7,695,000</b> | <b>\$14,013,000</b> | <b>\$17,637,000</b> |

(a) Rounded to nearest thousand.  
(b) Only \$5 million in grants were awarded in 2007. Our analysis includes all grant funds requested by PSAPs in order to account for all the money PSAPs are planning to obtain from the grant fund. We needed to account for the fact that some or all of these unfunded requests might be re-submitted in future years.  
(c) The questionnaire sent to PSAPs didn't ask for 2010 grant requests.  
Source: Governor's Grants Program, LPA Projections, PSAP Questionnaire Responses

***Some PSAPs May Not Be Able To Cover Their Ongoing Expenses With Their Wireless E-911 Revenues After 2010***

When the fee structure changes in 2010, the grant fund will be eliminated and PSAPs will be able to set their own wireless E-911 fees, within the following caps determined by the Legislature:

- PSAPs in counties with populations of 125,000 or more will be able to charge the same amount they currently receive (25 cents per wireless phone per month)
- PSAPs in the remaining counties will be able to double their current fee (up to 50 cents).

We compared PSAPs' projected monthly wireless E-911 revenues in 2011—the first full year after the fee change—with the estimates of ongoing operating costs they provided us. In projecting fee revenues, we assumed that PSAPs would charge the maximum fee allowed. It's important to note that PSAPs' cost estimates varied greatly; some showed their ongoing operating costs increasing over time, while others showed their costs remaining flat across the years.

Given these estimates and assumptions, at least 16 PSAPs wouldn't be able to cover their ongoing operating costs with the new fee structure authorized by law. As shown in **Figure 3-5**, those PSAPs would need to charge a fee higher than the 50¢ cap set by statute.

**Figure 3-5  
PSAPs That Would Need a Higher  
Wireless Fee After 2010 To Cover Their  
Estimated Ongoing Operating Expenses**

| PSAP Coverage Area | Estimated 2011 Wireless Fee Needed |
|--------------------|------------------------------------|
| Stanton County     | \$1.52                             |
| Rush County        | \$1.07                             |
| Cheyenne County    | \$1.00                             |
| Morton County      | \$1.00                             |
| Clark County       | \$.94                              |
| Smith County       | \$.91                              |
| Hodgeman County    | \$.90                              |
| Sherman County     | \$.77                              |
| Graham County      | \$.71                              |
| Trego County       | \$.67                              |
| Jewell County      | \$.59                              |
| Hamilton County    | \$.59                              |
| Franklin County    | \$.55                              |
| Republic County    | \$.54                              |
| Rawlins County     | \$.54                              |
| Norton County      | \$.52                              |

Source: LPA analysis of projected revenues and estimated expenditures.

As the figure shows, many of these PSAPs are in rural areas, with populations of less than 5,000. All but four have not yet fully implemented Phase II.

**In addition to ongoing costs, PSAPs will have to fund recurring equipment upgrades.** We have limited data in this area, but the PSAPs that already have implemented Phase II have begun to budget for upgrades to their equipment. Based on the estimates they reported, we calculated an estimated average annual upgrade cost for different-sized PSAPs:

- For PSAPs with populations more than 100,000, the estimated average annual cost was \$68,000
- For PSAPs with populations between 25,000 and 100,000, the estimated average annual cost was \$38,000
- For PSAPs with populations less than 25,000, the estimated average annual cost was \$21,000

Although very rough estimates, these averages give some indication that upgrades will be a significant cost for PSAPs in the future. PSAPs that purchased an entirely new system when upgrading to Phase II may not have to buy any upgrades for several years. But many PSAPs told us they “made-do” with as many parts of their existing systems as they could, buying only the elements they absolutely needed to fully implement wireless E-911. These PSAPs anticipate fairly significant expenses soon, as they begin to replace other aging parts of their emergency response system.

**Statutory changes to the wireless E-911 funding system in 2010 also will have an effect on the revenues PSAPs earn from land-line phones.** Most PSAPs currently charge a land-line 911 fee of 75¢. When changes are made in 2010, the land-line fee must be equal to that of the wireless fee, which will be capped at 50¢ for most PSAPs. Although PSAPs will be able to double their local wireless fee in 2010, that increase may be offset by a decrease in land-line revenues. There may be more of an impact on the four largest counties, which will have to cap their wireless and land-line fees at 25¢ starting July 2010.



**Conclusion:**

When the Wireless E-911 Act was passed, little was known about how quickly local PSAPs could implement systems that allow them to identify the location of people who call 911 from their wireless phones, or how much that would cost. Most reported their wireless E-911 systems would be fully implemented by the end of 2007; all but one said they will be fully implemented by 2010. The wireless fee levels currently set in statute should generate more than enough money to fund overall implementation and operations costs of the system, but many individual PSAPs will have to rely on grant funds for wireless E-911 or local moneys to cover their costs over the next several years. Most PSAPs have no way of knowing what their post-implementation equipment upgrade costs may be in the future.

It's too early to say with any certainty how PSAPs' financial status will be affected by the changes in the fee structure in 2010, but there are indications of potential problems ahead. Even assuming that PSAPs will charge the maximum allowed by law for wireless and VoIP subscribers, those fees probably won't generate enough revenue just to pay ongoing monthly operating costs for about 14% of the PSAPs. Many PSAPs also could face a notable reduction in their landline 911 revenues (after 2010, those fees have to be the same as the wireless 911 fees). Our 2008 audit of the E-911 system will address this issue further, and should give the Legislature enough time to decide what changes, if any, will need to be made in the 911 fee structure going out beyond 2010.

**Recommendations:**

1. Because there currently is no ongoing way to know whether wireless companies and VoIP providers are collecting and remitting all E-911 fees owed to the local PSAPs and the State grant fund, the Department of Administration should do the following:
  - a. use its statutory authority to conduct periodic audits of providers' records, in addition to the initial audits mandated in 2006 for wireless providers and in 2008 for VoIP providers.
  - b. require these audits to identify all providers who should be collecting 911 fees, make sure they are collecting the fees, and make sure they are remitting the fees. Such audits could include site visits to review and evaluate applicable accounting and control procedures, and to ensure those procedures are being appropriately followed.



2. To help ensure that all PSAPs achieve timely implementation of wireless E-911, the Wireless Advisory Board should follow up with the PSAPs identified in Appendix B of this report as implementing Phase II in 2008 or later. The Board should determine whether those PSAPs need technical assistance in planning for implementation, and whether they have a reliable funding strategy.

## APPENDIX A Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on July 11, 2006. The audit was required by the 2004 Kansas Wireless Enhanced 911 Act.

### **Wireless Enhanced 911: Reviewing Implementation of the 2004 Act**

The Wireless Enhanced 911 Act imposed fees on wireless subscribers and prepaid wireless phones to generate funds that would enable local governments to upgrade their emergency phone systems to provide Enhanced 911 services (E-911) for wireless callers. An enhanced 911 system automatically displays the caller's phone number and location when a call is received.

Wireless carriers collect a 50¢ E-911 fee from their subscribers each month. They remit half of the fee to the Local Collection Point Administrator, who distributes that money back to the local units of government where the subscribers are located. The other half of the fee, as well as the fee on prepaid wireless services, is remitted to the Department of Administration, where it is used to make grants to counties with a population of less than 75,000 to assist with implementation.

To help ensure that wireless fees are being spent appropriately, the law requires each answering point to report to the Department of Administration semi-annually on how the local fee moneys are being used. There are additional reporting requirements for grant funds.

The Act requires Legislative Post Audit to conduct an audit of the wireless enhanced 911 service system during calendar year 2006 to determine whether local units of government are using moneys received under this act appropriately, whether the amount of money being collected is adequate, the status of implementation, and the need and level of continued funding of the system. The statute calls for a similar audit during calendar year 2008.

A performance audit of this topic would answer the following questions:

- 1. What is the status of implementation of wireless enhanced 911?** To answer this question, we would review spending and accomplishment reports that answering points submit to the Department of Administration for local fee moneys and grant moneys. In addition, we would survey answering points and conduct site visits as necessary to obtain specific information on what they have left to do, when they expect to be done, and the reasons for any delays. We would use this information to prepare an inventory showing implementation status for each answering point, as well as an assessment of overall State progress, areas of greatest delays, and an estimate of when full implementation will be accomplished Statewide.

2. **Are Public Safety Answering Points using money from local fees and grant fees appropriately?** To answer this question, we would review State statutes to identify allowable uses for wireless enhanced 911 fee moneys. We would review and summarize the detailed purchasing reports and grant expenditure reports submitted to the Department of Administration to identify broad categories of spending. To assess the accuracy of this self-reported spending, we would look at the grant compliance reviews that have been conducted, and for a sample of answering points, we would review documentation of purchases made with local fee moneys to see if those purchases were for allowed uses. We would conduct additional work as needed.
  
3. **Is the amount of fee money being collected adequate to fund the implementation of wireless enhanced 911, and what level of funding is needed for ongoing support of the system?** To determine whether the amount of money being collected is adequate, we would analyze the answering points that have not yet completed implementation of wireless enhanced 911. We would obtain their cost estimates for the work that remains to be done, and compare that to the local fee moneys on hand and available over the next few years as well as the to grant fee moneys for which they might qualify. In addition, we would compare their proposed expenses to those of answering points that have completed implementation, to see if unreasonable expenses might be contributing to delays. To determine the level of ongoing funding needed after implementation, we would review the types and amounts of ongoing expense that answering points that have completed implementation are incurring to maintain their systems. We would compare that to the amount of funding they receive from the current local fee. We would conduct additional work as needed.

Estimated Time To Complete: 8-10 weeks

## APPENDIX B

### Local Funds, Grants, and Call Volume by PSAP

This appendix provides additional information about individual PSAPs:

- number of wireless 911 calls per month (estimated average)
- number of total 911 calls per month (estimated average)
- percentage of wireless 911 call volume
- grant moneys awarded in 2005 and 2006
- local fee funds received and spent through June 30, 2006
- current monthly land-line tax
- balance of land-line tax funds as of June 30, 2006

Information on grant awards and local fee funds came from the Governor's Grants Program staff. All other information was supplied by PSAPs.

For ease of viewing, we grouped PSAPs into the regions similar to those used by the Kansas Highway Patrol.

- Table 1: Northwest
- Table 2: North Central
- Table 3: Northeast
- Table 4: Southwest
- Table 5: South Central
- Table 6: Southeast

**Appendix B, Table 1  
Northwest Region**

|          |         |          |         |          |          |
|----------|---------|----------|---------|----------|----------|
| Dec '07  | Dec '07 | Dec '08  | Dec '10 | Dec '07  | June '07 |
| Cheyenne | Rawlins | Decatur  | Norton  | Phillips | Smith    |
|          |         | June '09 |         | Dec '07  |          |
| Sherman  | Thomas  | Sheridan | Graham  | Rooks    | Osborne  |
| June '07 |         |          | Dec '08 | Dec '07  |          |
| Wallace  | Logan   | Gove     | Trego   | Ellis    | Russell  |



- Basic Wireless
- Started Phase I
- Phase I Completely Operational
- Started Phase II
- Phase II Completely Operational

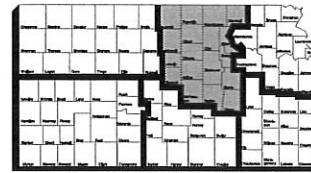
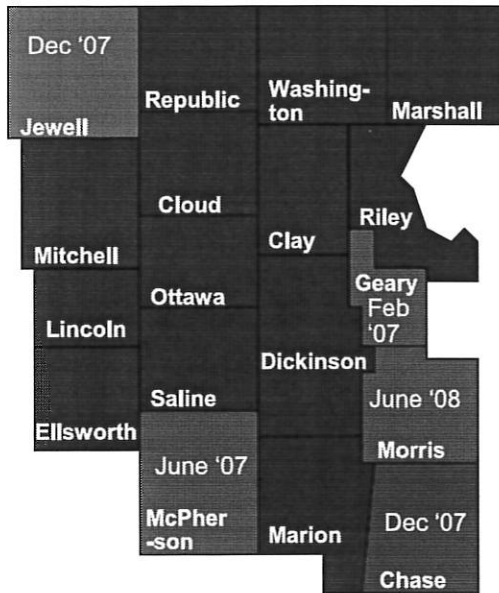
If not Phase II operational as of December 2006, expected date added when available

| PSAP                    | Monthly Call Volume ('06) (est.) |         |            | Grant Money Awarded          | Wireless Local Fee Funds Through 6/30/06 (a) |          |          | Landline            |                 |
|-------------------------|----------------------------------|---------|------------|------------------------------|--|----------|----------|---------------------|-----------------|
|                         | Wireless                         | Total   | Wireless % |                              | Received                                     | Spent    | Balance  | Current Monthly Tax | Balance 6/30/06 |
|                         | Cheyenne County                  | unknown | 50         |                              | unknown                                      |          | \$6,170  | \$0                 | \$6,170         |
| Decatur County          | 60                               | 130     | 46%        | (b)                          | \$7,135                                      | \$0      | \$7,135  | 75 cents            | \$22,516        |
| Ellis County            | 385                              | 805     | 48%        | \$134,316 '05                | \$80,590                                     | \$11,529 | \$69,062 | 75 cents            | \$71,499        |
| Gove and Logan Counties | 75                               | 131     | 57%        | \$46,230 '05<br>\$83,550 '06 | \$19,912                                     | \$1,125  | \$18,787 | 75 cents            | \$19,378        |
| Graham County           | 20                               | 55      | 36%        | \$108,500 '06                | \$6,501                                      | \$631    | \$5,870  | 50 cents            | \$40,735        |
| Norton County           | 10                               | 40      | 25%        |                              | \$12,762                                     | \$0      | \$12,762 | none                | \$16,667        |
| Osborne County          | 35                               | 55      | 64%        | \$85,900 '05                 | \$14,195                                     | \$2,381  | \$11,815 | 50 cents            | \$19,000        |
| Phillips County         | 28                               | 89      | 31%        | \$83,383 '05<br>\$99,732 '06 | \$13,933                                     | \$0      | \$13,933 | 75 cents            | \$14,570        |
| Rawlins County          | 13                               | 29      | 45%        |                              | \$6,092                                      | \$0      | \$6,092  | 75 cents            | \$17,037        |
| Rooks County            | 92                               | 242     | 38%        |                              | \$13,884                                     | \$1,863  | \$12,021 | 75 cents            | \$18,484        |
| Russell County          | 150                              | 250     | 60%        | \$93,961 '05                 | \$18,443                                     | \$6,878  | \$11,564 | 75 cents            | \$20,820        |
| Sheridan County         | 20                               | 41      | 49%        |                              | \$7,153                                      | \$150    | \$7,003  | 75 cents            | \$3,539         |
| Sherman County          | 63                               | 196     | 32%        |                              | \$26,711                                     | \$7,421  | \$19,291 | 50 cents            | \$14,374        |
| Smith County            | 50                               | 80      | 63%        | \$88,000 '05<br>\$34,120 '06 | \$12,078                                     | \$1,268  | \$10,810 | 75 cents            | \$20,062        |
| Thomas County           | 139                              | 215     | 65%        | \$114,792 '05                | \$19,703                                     | \$6,568  | \$13,135 | 50 cents            | \$60,505        |
| Trego County            | 100                              | 200     | 50%        |                              | \$5,786                                      | \$0      | \$5,786  | 75 cents            | \$28,441        |
| Wallace County          | 100                              | 177     | 56%        | \$226,742 '06                | \$4,299                                      | \$0      | \$4,299  | none                | \$0             |

(a) Includes interest, when the PSAP reported interest

(b) Decatur County was granted \$75,873 in '05, but it didn't spend any of the grant and returned all to the fund.

**Appendix B, Table 2  
North Central Region**



- Basic Wireless
- Started Phase I
- Phase I Completely Operational
- Started Phase II
- Phase II Completely Operational

If not Phase II operational as of December 2006, expected date added when available

| PSAP               | Monthly Call Volume ('06) (est.) |         |            | Grant Money Awarded           | Wireless Local Fee Funds Through 6/30/06 (a) |           |           | Land-line           |                 |
|--------------------|----------------------------------|---------|------------|-------------------------------|--|-----------|-----------|---------------------|-----------------|
|                    | Wireless                         | Total   | Wireless % |                               | Received                                     | Spent     | Balance   | Current Monthly Tax | Balance 6/30/06 |
|                    |                                  |         |            |                               |  |           |           |                     |                 |
| Chase County       | 83                               | 150     | 56%        | \$137,492 '05                 | \$6,256                                      | \$0       | \$6,256   | 75 cents            | \$31,224        |
| Clay County        | 85                               | 197     | 43%        | \$69,220 '06                  | \$21,338                                     | \$709     | \$20,629  | 75 cents            | \$33,595        |
| Concordia, City of | 72                               | 224     | 32%        | \$67,056 '05                  | \$23,267                                     | \$9,804   | \$13,463  | 75 cents            | \$140,415       |
| Dickinson County   | 238                              | 478     | 50%        | \$39,051 '05<br>\$60,551 '06  | \$80,956                                     | \$19,737  | \$61,218  | 75 cents            | \$113,341       |
| Ellsworth County   | 85                               | 139     | 61%        |                               | \$17,530                                     | \$2,254   | \$15,276  | 75 cents            | \$15,276        |
| Geary County       | 550                              | 1,150   | 48%        | \$91,358 '05                  | \$79,737                                     | \$0       | \$79,737  | 75 cents            | \$218,302       |
| Jewell County      | 13                               | 29      | 44%        |                               | \$6,724                                      | \$0       | \$6,724   | 75 cents            | \$43,080        |
| Lincoln County     | unknown                          | 41      | unknown    | \$84,750 '05                  | \$8,846                                      | \$1,154   | \$7,692   | 75 cents            | \$13,672        |
| Marion County      | 356                              | 628     | 57%        | \$125,100 '05<br>\$32,000 '06 | \$63,718                                     | \$32,223  | \$31,495  | 75 cents            | \$43,605        |
| Marshall County    | 92                               | 220     | 42%        | \$3,331 '06                   | \$24,630                                     | \$10,471  | \$14,159  | 75 cents            | \$98,776        |
| McPherson County   | unknown                          | unknown | unknown    |                               | \$70,258                                     | \$0       | \$70,258  | 75 cents            | \$58,399        |
| Mitchell County    | 81                               | 150     | 54%        | \$133,038 '05<br>\$59,316 '06 | \$18,839                                     | \$1,150   | \$17,690  | 75 cents            | \$57,629        |
| Morris County      | unknown                          | 255     | unknown    |                               | \$17,262                                     | \$0       | \$17,262  | 75 cents            | \$63,630        |
| Ottawa County      | 222                              | 338     | 66%        | \$107,777 '05                 | \$17,280                                     | \$10,187  | \$7,093   | 75 cents            | \$4,568         |
| Republic County    | 119                              | 204     | 58%        | \$107,055 '05<br>\$40,550 '06 | \$13,289                                     | \$0       | \$13,289  | 75 cents            | \$48,308        |
| Riley County       | 1,080                            | 1,800   | 60%        | \$60,955 '06                  | \$120,983                                    | \$12,620  | \$108,362 | 50 cents            | \$467,579       |
| Saline County      | 1,438                            | 2,693   | 53%        |                               | \$150,495                                    | \$141,765 | \$8,729   | 75 cents            | \$373,999       |
| Washington County  | 43                               | 93      | 46%        | \$62,537 '05                  | \$17,713                                     | \$3,808   | \$13,905  | 75 cents            | \$67,747        |

(a) Includes interest, when the PSAP reported interest



**Appendix B, Table 3  
Northeast Region**



- Basic Wireless
- Started Phase I
- Phase I Completely Operational
- Started Phase II
- Phase II Completely Operational

If not Phase II operational as of December 2006, expected date added when available

| PSAP                     | Monthly Call Volume ('06) (est.) |        |            | Wireless            |                                     |           |           | Land-line           |                 |
|--------------------------|----------------------------------|--------|------------|---------------------|-------------------------------------|-----------|-----------|---------------------|-----------------|
|                          | Wireless                         | Total  | Wireless % | Grant Money Awarded | Local Fee Funds Through 6/30/06 (a) |           |           | Current Monthly Tax | Balance 6/30/06 |
|                          |                                  |        |            |                     | Received                            | Spent     | Balance   |                     |                 |
| Atchison County          | unknown                          | 954    | unknown    | \$114,347 '05       | \$37,287                            | \$249     | \$37,038  | 75 cents            | \$200,781       |
| Brown County             | 40                               | 60     | 67%        | \$103,858 '06       | \$28,072                            | \$0       | \$28,072  | 75 cents            | \$47,598        |
| Doniphan County          | 25                               | 100    | 25%        | \$115,816 '06       | \$14,148                            | \$0       | \$14,148  | 75 cents            | \$11,006        |
| Douglas County           | 2,500                            | 4,200  | 60%        |                     | \$270,358                           | \$133,269 | \$137,088 | 75 cents            | \$617,832       |
| Franklin County          | 1,046                            | 1,670  | 63%        |                     | \$67,884                            | \$47,543  | \$20,340  | 75 cents            | \$144,348       |
| Jackson County           | 159                              | 437    | 36%        | \$67,000 '05        | \$29,404                            | \$0       | \$29,404  | 75 cents            | \$98,341        |
| Jefferson County         | 300                              | 750    | 40%        | \$105,166 '06       | \$41,921                            | \$29,064  | \$12,857  | 75 cents            | \$16,161        |
| Johnson County           | 2,861                            | 5,873  | 49%        |                     | \$316,107                           | \$166,484 | \$149,623 | 2% of base tariff   | \$2,729,219     |
| Leavenworth County       | 1,342                            | 2,734  | 49%        |                     | \$231,765                           | \$208,193 | \$23,572  | 75 cents            | \$0             |
| Leawood, City of         | 447                              | 801    | 56%        |                     | \$109,579                           | \$64,755  | \$44,824  | 2% of base tariff   | (b)             |
| Lenexa, City of          | 1,512                            | 2,533  | 60%        |                     | \$207,071                           | \$94,228  | \$112,843 | 2% of base tariff   | (b)             |
| Miami County             | 800                              | 1,300  | 62%        |                     | \$97,989                            | \$50,751  | \$47,238  | 50 cents            | \$105,156       |
| Nemaha County            | 100                              | 550    | 18%        |                     | \$18,429                            | \$0       | \$18,429  | 75 cents            | \$0             |
| Olathe, City of          | 2,287                            | 3,803  | 60%        |                     | \$377,106                           | \$217,717 | \$159,389 | 2% of base tariff   | (b)             |
| Osage County             | unknown                          | 375    | unknown    | \$205,462 '05       | \$35,876                            | \$0       | \$35,876  | 75 cents            | \$56,123        |
| Overland Park, City of   | 4,157                            | 7,015  | 59%        |                     | \$618,565                           | \$349,130 | \$269,435 | 2% of base tariff   | (b)             |
| Pottawatomie County      | unknown                          | 236    | unknown    | \$80,800 '05        | \$76,335                            | \$10,575  | \$65,759  | 75 cents            | \$61,947        |
| Prairie Village, City of | 316                              | 666    | 47%        |                     | \$82,203                            | \$51,656  | \$30,546  | 2% of base tariff   | (b)             |
| Shawnee County           | 5,167                            | 8,334  | 62%        |                     | \$464,584                           | \$351,661 | \$112,923 | 75 cents            | \$112,923       |
| Shawnee, City of         | 1,148                            | 1,927  | 60%        |                     | \$184,143                           | \$112,398 | \$71,746  | 2% of base tariff   | (b)             |
| Wabaunsee County         | 150                              | 240    | 63%        | \$75,764 '05        | \$12,122                            | \$0       | \$12,122  | 75 cents            | \$35,026        |
| Wyandotte County         | 8,700                            | 16,050 | 54%        |                     | \$377,125                           | \$0       | \$377,125 | 75 cents            | \$877,996       |

(a) Includes interest, when the PSAP reported interest  
(b) Only Johnson County imposes this tax

**Appendix B, Table 4  
Southwest Region**

|          |          |         |          |          |                      |
|----------|----------|---------|----------|----------|----------------------|
| June '07 | June '07 |         | June '07 | Dec '07  |                      |
| Greeley  | Wichita  | Scott   | Lane     | Ness     | Rush                 |
| Dec '08  | June '07 |         |          | Dec '08  | Pawnee               |
| Hamilton | Kearny   | Finney  |          | Hodgeman | Edwards<br>June '07  |
| June '08 | Dec '07  |         | Dec '08  |          | Dec '07              |
| Stanton  | Grant    | Haskell | Gray     | Ford     | Kiowa                |
| Dec '07  | Dec '07  |         | June '07 | Dec '07  | Unknown,<br>see p. 7 |
| Morton   | Stevens  | Seward  | Meade    | Clark    | Comanche             |



- Basic Wireless
- Started Phase I
- Phase I Completely Operational
- Started Phase II
- Phase II Completely Operational

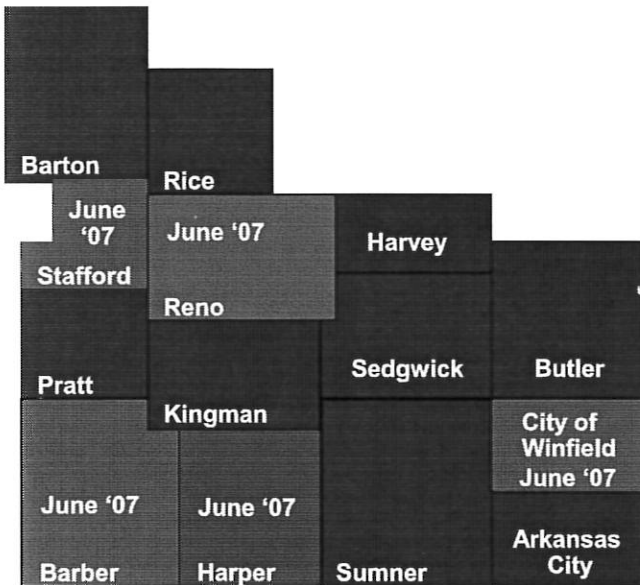
If not Phase II operational as of December 2006, expected date added when available

| PSAP            | Monthly Call Volume ('06) (est.) |         |            | Grant Money Awarded           | Wireless Local Fee Funds Through 6/30/06 (a) |          |          | Landline                      |                 |
|-----------------|----------------------------------|---------|------------|-------------------------------|--|----------|----------|-------------------------------|-----------------|
|                 | Wireless                         | Total   | Wireless % |                               | Received                                     | Spent    | Balance  | Current Monthly Tax           | Balance 6/30/06 |
| Clark County    | unknown                          | 54      | unknown    |                               | \$3,708                                      | \$0      | \$3,708  | 75 cents                      | \$56,251        |
| Comanche County | 12                               | 35      | 34%        | \$30,000 '05<br>\$30,000 '06  | \$4,360                                      | \$0      | \$4,360  | 50 cents                      | \$6,986         |
| Edwards County  | 10                               | 16      | 63%        | \$197,896 '06                 | \$8,264                                      | \$0      | \$8,264  | 75 cents                      | \$62,215        |
| Ford County     | 500                              | 1,400   | 36%        | \$97,314 '06                  | \$68,302                                     | \$10,072 | \$58,230 | 75 cents                      | \$301,701       |
| Garden City     | 500                              | 1,100   | 45%        |                               | \$74,310                                     | \$13,005 | \$61,305 | 75 cents                      | \$737,322       |
| Grant County    | 41                               | 96      | 43%        |                               | \$22,909                                     | \$13,550 | \$9,359  | 25 cents                      | \$94,078        |
| Gray County     | 90                               | 185     | 49%        |                               | \$19,457                                     | \$0      | \$19,457 | 75 cents                      | \$18,675        |
| Greeley County  | 10                               | 20      | 50%        | \$231,480 '06                 | \$4,439                                      | \$0      | \$4,439  | none                          | \$0             |
| Hamilton County | 20                               | 32      | 63%        |                               | \$6,066                                      | \$0      | \$6,066  | 50 cents                      | \$6,066         |
| Haskell County  | 70                               | 100     | 70%        | \$244,904 '06                 | \$9,306                                      | \$0      | \$9,306  | 75 cents                      | \$67,944        |
| Hodgeman County | 13                               | 28      | 46%        |                               | \$4,136                                      | \$0      | \$4,136  | 75 cents                      | \$11,453        |
| Kearny County   | 66                               | 144     | 46%        | \$225,568 '05                 | \$10,557                                     | \$0      | \$10,557 | none                          | \$0             |
| Kiowa County    | 30                               | 75      | 40%        |                               | \$6,202                                      | \$0      | \$6,202  | 25 cents                      | \$27,703        |
| Lane County     | 16                               | 26      | 62%        | \$44,950 '05                  | \$6,023                                      | \$0      | \$6,023  | 50 cents                      | \$8,951         |
| Larned, City of | 110                              | 345     | 32%        | \$45,018 '06                  | \$17,349                                     | \$20,198 | -\$2,849 | 75 cents                      | \$16,130        |
| Meade County    | unknown                          | unknown | unknown    | \$92,050 '06                  | \$11,345                                     | \$0      | \$11,345 | 50 cents                      | \$16,488        |
| Morton County   | 61                               | 108     | 57%        |                               | \$5,904                                      | \$0      | \$5,904  | none                          | \$0             |
| Ness County     | unknown                          | 31      | unknown    |                               | \$11,014                                     | \$0      | \$11,014 | 75 cents                      | \$53,689        |
| Rush County     | 65                               | 120     | 54%        | \$100,590 '05<br>\$77,200 '06 | \$10,693                                     | \$0      | \$10,693 | 25 cents                      | \$17,952        |
| Scott County    | 21                               | 35      | 59%        | \$85,584 '06                  | \$14,811                                     | \$0      | \$14,811 | 75 cents                      | \$37,692        |
| Seward County   | 300                              | 1,400   | 21%        | \$153,456 '06                 | \$44,779                                     | \$0      | \$44,779 | 75 cents                      | \$309,788       |
| Stanton County  | 60                               | 100     | 60%        |                               | \$6,017                                      | \$0      | \$6,017  | none                          | \$0             |
| Stevens County  | 35                               | 185     | 19%        |                               | \$14,292                                     | \$0      | \$14,292 | 25 cents starting<br>Jan 2007 | \$0             |
| Wichita County  | unknown                          | 25      | unknown    | \$235,120 '06                 | \$5,484                                      | \$0      | \$5,484  | none                          | \$0             |

(a) Includes interest, when the PSAP reported interest

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## Appendix B, Table 5 South Central Region



- Basic Wireless
  - Started Phase I
  - Phase I Completely Operational
  - Started Phase II
  - Phase II Completely Operational
- If not Phase II operational as of December 2006, expected date added when available

| PSAP                     | Monthly Call Volume ('06) (est.) |        |            | Grant Money Awarded           | Wireless Local Fee Funds Through 6/30/06 (a) |           |           | Landline            |                 |
|--------------------------|----------------------------------|--------|------------|-------------------------------|--|-----------|-----------|---------------------|-----------------|
|                          | Wireless                         | Total  | Wireless % |                               | Received                                     | Spent     | Balance   | Current Monthly Tax | Balance 6/30/06 |
|                          |                                  |        |            |                               |  |           |           |                     |                 |
| Andover, City of         | 165                              | 337    | 49%        | \$11,809 '06                  | \$23,467                                     | \$8,500   | \$14,967  | 75 cents            | \$31,243        |
| Arkansas City & Winfield | 422                              | 878    | 48%        | \$156,254 '06                 | \$79,256                                     | \$740     | \$78,516  | 75 cents            | \$178,183       |
| Augusta, City of         | 220                              | 410    | 54%        |                               | \$17,507                                     | \$17,507  | \$0       | 75 cents            | \$15,421        |
| Barber County            | unknown                          | 85     | unknown    | \$254,732 '06                 | \$17,861                                     | \$0       | \$17,861  | 25 cents            | \$6,603         |
| Barton County            | 915                              | 2,196  | 42%        | \$117,913 '05                 | \$66,109                                     | \$0       | \$66,109  | 75 cents            | \$44,156        |
| Butler County            | 1,381                            | 2,425  | 57%        | \$135,266 '05<br>\$68,861 '06 | \$109,727                                    | \$52,825  | \$56,902  | 75 cents            | \$75,000        |
| Harper County            | unknown                          | 521    | unknown    | \$249,969 '06                 | \$9,394                                      | \$0       | \$9,394   | 75 cents            | \$138,742       |
| Harvey County            | 1,650                            | 3,600  | 46%        | \$14,318 '06                  | \$76,806                                     | \$70,612  | \$6,194   | 75 cents            | -\$147          |
| Kingman County           | unknown                          | 560    | unknown    | \$8,643 '05<br>\$277,391 '06  | \$21,840                                     | \$0       | \$21,840  | 25 cents            | \$16,071        |
| Pratt County             | 103                              | 428    | 24%        |                               | \$27,399                                     | \$8,859   | \$18,540  | 75 cents            | \$22,146        |
| Reno County              | unknown                          | 2,964  | unknown    |                               | \$155,275                                    | \$0       | \$155,275 | 75 cents            | \$912,108       |
| Rice County              | 297                              | 436    | 68%        | \$67,366 '05                  | \$31,039                                     | \$7,629   | \$23,410  | 75 cents            | -\$1,390        |
| Sedgwick County          | 20,065                           | 36,565 | 55%        |                               | \$1,000,061                                  | \$302,156 | \$697,905 | 75 cents            | \$940,004       |
| Stafford County          | 30                               | 55     | 55%        | \$165,396 '06                 | \$11,566                                     | \$0       | \$11,566  | 75 cents            | \$18,366        |
| Sumner County            | 766                              | 1,666  | 46%        |                               | \$50,298                                     | \$0       | \$50,298  | 75 cents            | \$76,854        |

(a) Includes interest, when the PSAP reported interest

## Appendix B, Table 6 Southeast Region



- Basic Wireless
- Started Phase I
- Phase I Completely Operational
- Started Phase II
- Phase II Completely Operational

If not Phase II operational as of December 2006, expected date added when available

| PSAP                                      | Monthly Call Volume ('06) (est.) |       |            | Grant Money Awarded           | Wireless Local Fee Funds Through 6/30/06 (a) |           |          | Landline                                  |                 |
|---|----------------------------------|-------|------------|-------------------------------|--|-----------|----------|---|-----------------|
|   | Wireless                         | Total | Wireless % |                               | Received                                     | Spent     | Balance  | Current Monthly Tax                       | Balance 6/30/06 |
|   |                                  |       |            |                               |  |           |          |   |                 |
| Allen County                              | 218                              | 440   | 50%        | \$20,065 '05                  | \$33,457                                     | \$1,478   | \$31,979 | 75 cents                                  | \$122,273       |
| Anderson County                           | 45                               | 107   | 42%        | \$133,768 '06                 | \$15,288                                     | \$0       | \$15,288 | 75 cents                                  | \$97,765        |
| Chautauqua County                         | 15                               | 60    | 25%        |                               | \$8,287                                      | \$0       | \$8,287  | 75 cents                                  | \$24,446        |
| Cherokee County                           | 195                              | 367   | 53%        | \$53,409 '06                  | \$40,361                                     | \$0       | \$40,361 | 75 cents                                  | \$60,000        |
| Coffey County                             | 85                               | 157   | 54%        | \$133,738 '06                 | \$53,386                                     | \$15,108  | \$38,277 | 50 cents                                  | \$20,482        |
| Crawford County                           | 700                              | 1,500 | 47%        | \$27,435 '05<br>\$134,693 '06 | \$147,002                                    | \$118,892 | \$28,110 | 75 cents                                  | \$29,676        |
| Elk County                                | 45                               | 91    | 49%        |                               | \$3,438                                      | \$0       | \$3,438  | 75 cents                                  | \$505           |
| Emporia, City of                          | 2,247                            | 2,808 | 80%        |                               | \$85,630                                     | \$32,970  | \$52,660 | 25 cents                                  | -\$14,173       |
| Fort Scott, City of                       | 210                              | 510   | 41%        | \$182,703 '06                 | \$40,332                                     | \$20,023  | \$20,310 | 75 cents                                  | \$138,621       |
| Greenwood County                          | 35                               | 55    | 64%        | \$40,875 '05                  | \$15,840                                     | \$13,191  | \$2,650  | 75 cents                                  | \$15,669        |
| Independence, City of (Montgomery County) | 215                              | 333   | 65%        |                               | \$74,259                                     | \$48,249  | \$26,010 | 25 cents                                  | \$35,633        |
| Labette County                            | unknown                          | 387   | unknown    | \$77,774 '06                  | \$49,883                                     | \$4,951   | \$44,932 | 75 cents                                  | -\$1,735        |
| Linn County                               | 208                              | 342   | 61%        | \$142,232 '06                 | \$21,601                                     | \$0       | \$21,601 | 75 cents                                  | \$8,172         |
| Neosho County                             | 375                              | 750   | 50%        | \$120,619 '06                 | \$41,642                                     | \$0       | \$41,642 | 75 cents for county, 40 cents for Chanute | \$0             |
| Wilson County                             | 1,125                            | 1,500 | 75%        |                               | \$18,540                                     | \$0       | \$18,540 | 75 cents                                  | \$1,712         |
| Woodson County                            | 40                               | 100   | 40%        | \$141,278 '06                 | \$9,566                                      | \$0       | \$9,566  | 75 cents                                  | \$9,823         |

**Appendix C  
Differences Between PSAPs' Projected Funding Available  
And Estimated Expenditures for Implementing and Operating  
Their Wireless E-911 Systems,  
2007 Through June 30, 2010 (a)**

| PSAP Coverage Area | Projected Funds Available |                    |             |                       | Estimated Expenditures |           |           |                                  | Difference Between Funds and Expenditure Estimates | Are Local Fees Enough to Pay Costs? |
|--------------------|---------------------------|--------------------|-------------|-----------------------|------------------------|-----------|-----------|----------------------------------|--|-------------------------------------|
|                    | Local Fees                | Grant Requests (b) | Other Funds | Total Funds Available | Implement-ation        | Ongoing   | Upgrade   | Total Estimated Expenditures (c) |  |                                     |
| Allen County       | \$120,000                 |                    |             | \$120,000             | \$30,000               | \$39,000  |           | \$69,000                         | \$51,000   | Yes                                 |
| Anderson County    | \$44,500                  |                    | \$18,000    | \$62,500              |                        | \$63,000  |           | \$63,000                         | (\$500)  |                                     |
| Andover, City of   | \$88,000                  |                    |             | \$88,000              |                        | \$35,000  |           | \$35,000                         | \$53,000   | Yes                                 |
| Atchison County    | \$147,000                 |                    |             | \$147,000             |                        | \$90,000  |           | \$90,000                         | \$57,000   | Yes                                 |
| Augusta, City of   | \$70,000                  |                    | \$40,000    | \$110,000             | \$57,000               | \$22,000  |           | \$79,000                         | \$31,000   |                                     |
| Barber County      | \$58,000                  | \$69,000           |             | \$127,000             | \$69,000               | \$7,000   |           | \$76,000                         | \$51,000   |                                     |
| Barton County      | \$262,000                 | \$60,000           | \$128,000   | \$450,000             |                        | \$218,000 | \$225,000 | \$443,000                        | \$7,000  |                                     |
| Bourbon County     | \$110,000                 |                    |             | \$110,000             |                        | \$42,000  |           | \$42,000                         | \$68,000   | Yes                                 |
| Brown County       | \$103,000                 |                    |             | \$103,000             |                        | \$11,000  |           | \$11,000                         | \$92,000   | Yes                                 |
| Butler County      | \$442,000                 | \$75,000           |             | \$517,000             |                        | \$163,000 | \$185,000 | \$348,000                        | \$169,000  | Yes                                 |
| Chase County       | \$26,000                  | \$46,000           | \$41,000    | \$113,000             | \$46,000               | \$27,000  |           | \$73,000                         | \$40,000   |                                     |
| Chautauqua County  | \$29,000                  | \$309,000          | \$95,000    | \$433,000             | \$352,000              | \$44,000  |           | \$396,000                        | \$37,000   |                                     |
| Cherokee County    | \$154,000                 | \$31,000           |             | \$185,000             |                        | \$55,000  | \$23,000  | \$78,000                         | \$107,000  | Yes                                 |
| Cheyenne County    | \$19,000                  | \$385,000          | \$60,000    | \$464,000             | \$378,000              | \$58,000  |           | \$436,000                        | \$28,000   |                                     |
| Clark County       | \$13,000                  | \$214,000          | \$50,000    | \$277,000             | \$204,000              | \$36,000  |           | \$240,000                        | \$37,000   |                                     |
| Clay County        | \$66,000                  | \$21,000           | \$6,000     | \$92,000              |                        | \$36,000  | \$100,000 | \$136,000                        | (\$44,000)   |                                     |
| Cloud County       | \$89,000                  | \$79,000           | \$15,000    | \$182,000             |                        | \$4,000   | \$209,000 | \$213,000                        | (\$31,000)   |                                     |
| Coffey County      | \$142,000                 | \$51,000           |             | \$193,000             |                        | \$146,000 | \$42,000  | \$188,000                        | \$5,000  |                                     |
| Comanche County    | \$11,000                  | \$7,000            | \$28,000    | \$46,000              |                        | \$13,000  |           | \$13,000                         | \$33,000   |                                     |
| Cowley County      | \$277,000                 | \$158,000          | \$30,000    | \$465,000             |                        | \$158,000 | \$80,000  | \$238,000                        | \$227,000  | Yes                                 |
| Crawford County    | \$221,000                 |                    |             | \$221,000             |                        | \$120,000 | \$45,000  | \$165,000                        | \$56,000   | Yes                                 |
| Decatur County     | \$27,000                  | \$264,000          | \$39,000    | \$330,000             | \$247,000              | \$30,000  |           | \$277,000                        | \$53,000   |                                     |
| Dickinson County   | \$175,000                 | \$33,000           | \$213,000   | \$421,000             |                        | \$197,000 |           | \$197,000                        | \$224,000  |                                     |
| Doniphan County    | \$66,000                  |                    | \$2,000     | \$68,000              |                        | \$51,000  |           | \$51,000                         | \$17,000   | Yes                                 |
| Douglas County     | \$985,000                 |                    |             | \$985,000             |                        | \$217,000 | \$192,000 | \$409,000                        | \$576,000  | Yes                                 |
| Edwards County     | \$30,000                  |                    |             | \$30,000              |                        | \$13,000  |           | \$13,000                         | \$17,000   | Yes                                 |
| Elk County         | \$13,000                  | \$60,000           |             | \$73,000              | \$51,000               | \$11,000  |           | \$62,000                         | \$11,000   |                                     |
| Ellis County       | \$291,000                 |                    |             | \$291,000             |                        | \$51,000  | \$60,000  | \$111,000                        | \$180,000  | Yes                                 |



| PSAP Coverage Area      | Projected Funds Available                         |                    |             |                       | Estimated Expenditures |           |           |                                  | Difference Between Funds and Expenditure Estimates | Are Local Fees Enough to Pay Costs? |
|-------------------------|---|--------------------|-------------|-----------------------|------------------------|-----------|-----------|----------------------------------|--|-------------------------------------|
|                         | Local Fees  | Grant Requests (b) | Other Funds | Total Funds Available | Implement-ation        | Ongoing   | Upgrade   | Total Estimated Expenditures (c) |  |                                     |
| Ellsworth County        | \$59,000  | \$246,000          | \$39,000    | \$344,000             | \$276,000              | \$54,000  |           | \$330,000                        | \$14,000   |                                     |
| Finney County           | \$288,000   |                    |             | \$288,000             |                        | \$8,000   | \$300,000 | \$308,000                        | (\$20,000)   |                                     |
| Ford County             | \$174,000   |                    | \$114,000   | \$288,000             |                        | \$46,000  | \$70,000  | \$116,000                        | \$172,000  | Yes                                 |
| Franklin County         | \$202,000   | \$131,000          | \$5,000     | \$338,000             |                        | \$307,000 | \$224,000 | \$531,000                        | (\$193,000)  |                                     |
| Geary County            | <i>No information provided by local officials</i> |                    |             |                       |                        |           |           |                                  |  |                                     |
| Gove and Logan Counties | \$58,000  | \$140,000          |             | \$198,000             |                        | \$23,000  | \$143,000 | \$166,000                        | \$32,000   |                                     |
| Graham County           | \$28,000  | \$133,000          | \$3,000     | \$164,000             |                        | \$70,000  | \$95,000  | \$165,000                        | (\$1,000)  |                                     |
| Grant County            | \$86,000  | \$137,000          | \$43,000    | \$267,000             | \$137,000              | \$27,000  |           | \$164,000                        | \$103,000  |                                     |
| Gray County             | \$62,000  | \$94,000           |             | \$156,000             | \$114,000              | \$23,000  |           | \$137,000                        | \$19,000   |                                     |
| Greeley County          | \$22,000  | \$2,000            |             | \$24,000              | \$2,000                | \$7,000   |           | \$9,000                          | \$15,000   | Yes                                 |
| Greenwood County        | \$58,000  |                    |             | \$58,000              | \$40,000               | \$2,000   |           | \$42,000                         | \$16,000   | Yes                                 |
| Hamilton County         | \$23,000  | \$245,000          | \$26,000    | \$293,000             | \$244,000              | \$42,000  |           | \$286,000                        | \$7,000  |                                     |
| Harper County           | \$44,000  | \$160,000          | \$50,000    | \$254,000             | \$160,000              | \$66,000  |           | \$226,000                        | \$28,000   |                                     |
| Harvey County           | \$215,000   |                    |             | \$215,000             |                        | \$96,000  | \$362,000 | \$458,000                        | (\$243,000)  |                                     |
| Haskell County          | \$36,000  |                    | \$32,000    | \$68,000              |                        | \$27,000  |           | \$27,000                         | \$41,000   | Yes                                 |
| Hodgeman County         | \$14,000  | \$331,000          |             | \$345,000             | \$331,000              | \$35,000  |           | \$366,000                        | (\$21,000)   |                                     |
| Jackson County          | \$115,000   | \$24,000           | \$20,000    | \$159,000             |                        | \$42,000  |           | \$42,000                         | \$117,000  | Yes                                 |
| Jefferson County        | \$149,000   |                    | \$15,000    | \$164,000             | \$50,000               | \$47,000  |           | \$97,000                         | \$67,000   | Yes                                 |
| Jewell County           | \$26,000  | \$344,000          | \$86,000    | \$456,000             | \$382,000              | \$47,000  |           | \$429,000                        | \$27,000   |                                     |
| Johnson County          | \$1,033,000                                       |                    |             | \$1,033,000           |                        | \$439,000 | \$226,000 | \$665,000                        | \$368,000  | Yes                                 |
| Kearny County           | \$31,000  |                    |             | \$31,000              |                        | \$17,000  |           | \$17,000                         | \$14,000   | Yes                                 |
| Kingman County          | \$75,000  |                    |             | \$75,000              |                        | \$26,000  | \$50,000  | \$76,000                         | (\$1,000)  |                                     |
| Kiowa County            | \$24,000  | \$206,000          |             | \$231,000             | \$206,000              | \$1,000   |           | \$207,000                        | \$24,000   |                                     |
| Labette County          | \$186,000   | \$67,000           |             | \$253,000             | \$39,000               | \$49,000  |           | \$88,000                         | \$165,000  | Yes                                 |
| Lane County             | \$21,000  | \$55,000           | \$5,000     | \$80,000              | \$51,000               | \$12,000  |           | \$63,000                         | \$17,000   |                                     |
| Leavenworth County      | \$490,000   |                    | \$374,000   | \$864,000             |                        | \$493,000 | \$456,000 | \$949,000                        | (\$85,000)   |                                     |
| Leawood, City of        | \$348,000   |                    |             | \$348,000             |                        | \$171,000 | \$88,000  | \$259,000                        | \$89,000   | Yes                                 |
| Lenexa, City of         | \$753,000   |                    |             | \$753,000             |                        | \$248,000 | \$128,000 | \$376,000                        | \$377,000  | Yes                                 |
| Lincoln County          | \$28,000  | \$200,000          | \$3,000     | \$231,000             |                        | \$21,000  | \$200,000 | \$221,000                        | \$10,000   |                                     |
| Linn County             | \$70,000  | \$80,000           | \$20,000    | \$169,000             | \$75,000               | \$24,000  |           | \$99,000                         | \$70,000   |                                     |
| Lyon County             | \$257,000   |                    |             | \$257,000             |                        | \$39,000  | \$25,000  | \$64,000                         | \$193,000  | Yes                                 |
| Marion County           | \$97,000  | \$23,000           |             | \$120,000             |                        | \$78,000  | \$45,000  | \$123,000                        | (\$3,000)  |                                     |



| PSAP Coverage Area       | Projected Funds Available |                    |             |                       | Estimated Expenditures |           |           |                                  | Difference Between Funds and Expenditure Estimates | Are Local Fees Enough to Pay Costs? |
|--------------------------|---------------------------|--------------------|-------------|-----------------------|------------------------|-----------|-----------|----------------------------------|--|-------------------------------------|
|                          | Local Fees                | Grant Requests (b) | Other Funds | Total Funds Available | Implement-ation        | Ongoing   | Upgrade   | Total Estimated Expenditures (c) |  |                                     |
| Marshall County          | \$72,000                  | \$153,000          | \$6,000     | \$232,000             |                        | \$23,000  | \$153,000 | \$176,000                        | \$56,000   |                                     |
| McPherson County         | \$312,000                 |                    | \$11,000    | \$323,000             |                        | \$13,000  |           | \$13,000                         | \$310,000  | Yes                                 |
| Meade County             | \$33,000                  |                    |             | \$33,000              | \$24,000               | \$29,000  |           | \$53,000                         | (\$20,000)   |                                     |
| Miami County             | \$317,000                 |                    |             | \$317,000             |                        | \$219,000 |           | \$219,000                        | \$98,000   | Yes                                 |
| Mitchell County          | \$71,000                  | \$238,000          |             | \$309,000             |                        | \$92,000  | \$219,000 | \$311,000                        | (\$2,000)  |                                     |
| Montgomery County        | \$248,000                 | \$66,000           | \$2,000     | \$315,000             |                        | \$107,000 | \$107,000 | \$214,000                        | \$101,000  | Yes                                 |
| Morris County            | \$62,000                  | \$121,000          | \$18,000    | \$201,000             | \$121,000              | \$84,000  |           | \$205,000                        | (\$4,000)  |                                     |
| Morton County            | \$17,000                  | \$187,000          | \$29,000    | \$232,000             | \$187,000              | \$65,000  |           | \$252,000                        | (\$20,000)   |                                     |
| Nemaha County            | \$69,000                  |                    |             | \$69,000              |                        | \$18,000  |           | \$18,000                         | \$51,000   | Yes                                 |
| Neosho County            | \$148,000                 | \$10,000           |             | \$158,000             | \$5,000                | \$17,000  |           | \$22,000                         | \$136,000  | Yes                                 |
| Ness County              | \$43,000                  | \$264,000          | \$99,000    | \$406,000             | \$332,000              | \$26,000  |           | \$358,000                        | \$48,000   |                                     |
| Norton County            | \$53,000                  | \$210,000          |             | \$263,000             | \$185,000              | \$88,000  |           | \$273,000                        | (\$10,000)   |                                     |
| Olathe, City of          | \$1,222,000               |                    |             | \$1,222,000           |                        | \$574,000 | \$295,000 | \$869,000                        | \$353,000  | Yes                                 |
| Osage County             | \$156,000                 | \$19,000           |             | \$175,000             |                        | \$85,000  | \$40,000  | \$125,000                        | \$50,000   | Yes                                 |
| Osborne County           | \$44,000                  | \$207,000          | \$6,000     | \$256,000             |                        | \$18,000  | \$222,000 | \$240,000                        | \$16,000   |                                     |
| Ottawa County            | \$49,000                  | \$124,000          |             | \$173,000             |                        | \$35,000  | \$116,000 | \$151,000                        | \$22,000   |                                     |
| Overland Park, City of   | \$1,969,000               |                    |             | \$1,969,000           |                        | \$920,000 | \$473,000 | \$1,393,000                      | \$576,000  | Yes                                 |
| Pawnee County            | \$46,000                  |                    |             | \$46,000              |                        | \$52,000  |           | \$52,000                         | (\$6,000)  |                                     |
| Phillips County          | \$63,000                  | \$132,000          |             | \$194,000             | \$134,000              | \$21,000  |           | \$155,000                        | \$39,000   |                                     |
| Pottawatomie County      | \$259,000                 |                    | \$4,000     | \$262,000             |                        | \$8,000   | \$11,000  | \$19,000                         | \$243,000  | Yes                                 |
| Prairie Village, City of | \$247,000                 |                    |             | \$247,000             |                        | \$136,000 | \$70,000  | \$206,000                        | \$41,000   | Yes                                 |
| Pratt County             | \$83,000                  | \$176,000          |             | \$258,000             |                        | \$26,000  | \$200,000 | \$226,000                        | \$32,000   |                                     |
| Rawlins County           | \$22,000                  | \$281,000          | \$9,000     | \$313,000             | \$281,000              | \$35,000  |           | \$316,000                        | (\$3,000)  |                                     |
| Reno County              | \$573,000                 | \$15,000           | \$123,000   | \$711,000             | \$310,000              | \$133,000 |           | \$443,000                        | \$268,000  | Yes                                 |
| Republic County          | \$47,000                  | \$147,000          |             | \$194,000             | \$92,000               | \$74,000  |           | \$166,000                        | \$28,000   |                                     |
| Rice County              | \$104,000                 | \$300,000          | \$52,000    | \$456,000             |                        | \$61,000  | \$300,000 | \$361,000                        | \$95,000   |                                     |
| Riley County             | \$434,000                 |                    |             | \$434,000             |                        | \$46,000  | \$7,000   | \$53,000                         | \$381,000  | Yes                                 |
| Rooks County             | \$52,000                  | \$151,000          |             | \$203,000             |                        | \$53,000  | \$151,000 | \$204,000                        | (\$1,000)  |                                     |
| Rush County              | \$27,000                  | \$102,000          | \$121,000   | \$249,000             |                        | \$110,000 | \$97,000  | \$207,000                        | \$42,000   |                                     |
| Russell County           | \$60,000                  | \$284,000          |             | \$344,000             |                        | \$22,000  | \$284,000 | \$306,000                        | \$38,000   |                                     |
| Saline County            | \$371,000                 |                    | \$101,000   | \$473,000             |                        | \$427,000 | \$20,000  | \$447,000                        | \$26,000   |                                     |

| PSAP Coverage Area | Projected Funds Available |                    |             |                       | Estimated Expenditures |             |             |                                  | Difference Between Funds and Expenditure Estimates | Are Local Fees Enough to Pay Costs? |
|--------------------|---------------------------|--------------------|-------------|-----------------------|------------------------|-------------|-------------|----------------------------------|--|-------------------------------------|
|                    | Local Fees                | Grant Requests (b) | Other Funds | Total Funds Available | Implement-ation        | Ongoing     | Upgrade     | Total Estimated Expenditures (c) |  |                                     |
| Scott County       | \$55,000                  |                    | \$24,000    | \$79,000              |                        | \$28,000    | \$90,000    | \$118,000                        | (\$39,000)   |                                     |
| Sedgwick County    | \$3,507,000               |                    |             | \$3,507,000           |                        | \$1,625,000 | \$2,385,000 | \$4,010,000                      | (\$503,000)  |                                     |
| Seward County      | \$142,000                 |                    |             | \$142,000             |                        | \$179,000   |             | \$179,000                        | (\$37,000)   |                                     |
| Shawnee County     | \$1,244,000               |                    |             | \$1,244,000           |                        | \$608,000   | \$150,000   | \$758,000                        | \$486,000  | Yes                                 |
| Shawnee, City of   | \$587,000                 |                    |             | \$587,000             |                        | \$296,000   | \$152,000   | \$448,000                        | \$139,000  | Yes                                 |
| Sheridan County    | \$24,000                  | \$244,000          |             | \$267,000             | \$236,000              | \$28,000    |             | \$264,000                        | \$3,000  |                                     |
| Sherman County     | \$55,000                  |                    |             | \$55,000              |                        | \$130,000   | \$3,000     | \$133,000                        | (\$78,000)   |                                     |
| Smith County       | \$25,500                  | \$102,800          | \$38,400    | \$166,700             | \$82,000               | \$85,000    |             | \$167,000                        | (\$300)  |                                     |
| Stafford County    | \$45,000                  | \$20,000           |             | \$65,000              |                        | \$35,000    |             | \$35,000                         | \$30,000   | Yes                                 |
| Stanton County     | \$22,000                  | \$178,000          | \$10,000    | \$210,000             | \$200,000              | \$64,000    |             | \$264,000                        | (\$54,000)   |                                     |
| Stevens County     | \$54,000                  | \$165,000          | \$14,000    | \$233,000             | \$165,000              | \$18,000    |             | \$183,000                        | \$50,000   |                                     |
| Sumner County      | \$193,000                 |                    |             | \$193,000             |                        | \$42,000    | \$36,000    | \$78,000                         | \$115,000  | Yes                                 |
| Thomas County      | \$99,000                  |                    | \$6,000     | \$105,000             |                        | \$7,000     | \$8,000     | \$15,000                         | \$90,000   | Yes                                 |
| Trego County       | \$24,000                  | \$215,000          | \$51,000    | \$289,000             | \$215,000              | \$47,000    |             | \$262,000                        | \$27,000   |                                     |
| Wabaunsee County   | \$48,000                  |                    |             | \$48,000              |                        | \$14,000    |             | \$14,000                         | \$34,000   | Yes                                 |
| Wallace County     | \$16,000                  |                    | \$24,000    | \$40,000              |                        | \$23,000    |             | \$23,000                         | \$17,000   |                                     |
| Washington County  | \$57,000                  | \$12,000           |             | \$69,000              |                        | \$7,000     | \$20,000    | \$27,000                         | \$42,000   | Yes                                 |
| Wichita County     | \$21,000                  |                    |             | \$21,000              |                        | \$26,000    |             | \$26,000                         | (\$5,000)  |                                     |
| Wilson County      | \$76,000                  | \$57,000           |             | \$133,000             | \$36,000               | \$83,000    |             | \$119,000                        | \$14,000   |                                     |
| Woodson County     | \$29,000                  |                    | \$5,000     | \$34,000              |                        | \$4,000     |             | \$4,000                          | \$30,000   | Yes                                 |
| Wyandotte County   | \$1,506,000               |                    |             | \$1,506,000           |                        | \$69,000    | \$140,000   | \$209,000                        | \$1,297,000  | Yes                                 |

(a) Amounts rounded to nearest thousand, except Anderson and Smith Counties  
 (b) The questionnaire sent to PSAPs didn't ask for 2010 grant requests.  
 (c) 2010 through June 30 includes estimated expenditures based on wireless fees of 25¢ for six months, half of the 2010 estimated ongoing expenditures, and all of the 2010 estimated upgrades for fully implemented PSAPs.  
 Source: LPA analysis of revenue data and estimated expenditures.

## APPENDIX D

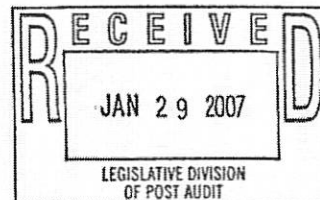
### Agency Responses

On January 24, 2007 we provided copies of the draft audit report to the Department of Administration, the Chair of the Wireless Enhanced 911 Advisory Board, and the Governor's Grants Program. Their responses are included as this Appendix; the Administrator of the Grants Program responded on behalf of the Advisory Board.

The agencies generally concurred with the report's findings, conclusions, and recommendations.

January 30, 2007

Barbara J. Hinton  
Legislative Post Auditor  
800 SW Jackson Street, Suite 1200  
Topeka, Kansas 66612-2212



Dear Ms. Hinton:

Thank you for the opportunity to respond to the Legislative Post Audit's report on *Wireless Enhanced 911: Reviewing Implementation of the 2004 Act*. We are pleased to present the following official response.

We appreciate the cooperation of your staff in the review of the state grant program. As you know, we have a memorandum of agreement with the Governor's Grants Program to administer the E-911 state grant program. This report continues to reflect the thoroughness the Program provides to overseeing these grant funds and ensuring the implementation of Wireless E-911 Services.

Currently the audit of the wireless carriers is taking place and should be completed by March 2007. There have been a number of challenges in completing the report with a number of wireless carrier companies insisting on a subpoena before completing the audit requirement. The current act does not provide subpoena power to the department. This is an issue that may need to be addressed once the findings of the audit are completed.

The recommendations outlined in the report state that periodic audits of wireless carriers and VoIP providers, other than those mandated by statute, should be conducted to ensure that these companies are remitting all the E-911 fees. In order to incorporate this additional procedure and to audit carriers and providers on site, additional resources will be needed. As we look to implement the recommendations, we will determine the costs to conduct the additional audits and if it exceeds the five percent allowed to administer the state funds, we will advise legislators.

We appreciate the opportunity to review the report and implement the recommendations.

Sincerely,



Carol L. Foreman  
Deputy Secretary of Administration

pc: Duane Goossen  
Juliene Maska

DEPUTY SECRETARY OF ADMINISTRATION  
1000 S.W. Jackson Street, Suite 500, Topeka, KS 66612-1368 • (785) 296-3011 • Fax: (785) 296-2702  
e-mail: [carol.foreman@da.ks.gov](mailto:carol.foreman@da.ks.gov)



# KANSAS

OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR

## KANSAS WIRELESS ENHANCED 911 ADVISORY BOARD

January 30, 2007

Barbara J. Hinton  
Legislative Post Auditor  
800 SW Jackson Street, Suite 1200  
Topeka, KS 66612-2212



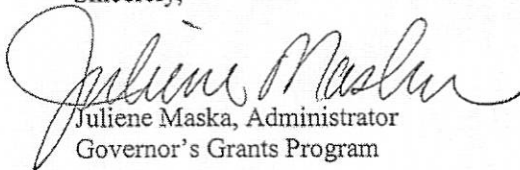
Dear Ms. Hinton:

On behalf of the Kansas Wireless Enhanced 911 Advisory Board, we want to thank you for the opportunity to respond to the audit report on *Wireless Enhanced 911: Reviewing Implementation of the 2004 Act*. The Board views its responsibilities seriously and diligently works to move Public Safety Answering Points (PSAPs) to wireless enhanced 911 compliance by 2010.

You can be assured that the Board will implement the recommendation to work closely with PSAPs in implementing Phase II. This recommendation also is included in the state plan that the Board developed in October 2005.

The Board appreciates the work of the Legislative Division of Post Audit staff and the findings in this report.

Sincerely,

  
Juliene Maska, Administrator  
Governor's Grants Program

Xc: Kansas Wireless Enhanced 911 Advisory Board

CAPITOL BUILDING, ROOM 212S, TOPEKA, KS 66612-1590  
Voice 785-291-3205 Fax 785-291-3204 <http://www.governor.ks.gov>



League of Kansas Municipalities

300 SW 8th Avenue  
Topeka, Kansas 66603-3912  
Phone: (785) 354-9565  
Fax: (785) 354-4186

To: Senate Utilities Committee  
From: Kimberly Winn, League of Kansas Municipalities  
Date: February 9, 2006  
Re: E-911 Update

Thank you for the opportunity to provide an update on enhanced wireless 911 in Kansas. The League of Kansas Municipalities (LKM), along with the Kansas Association of Counties (KAC), serves as the Local Collection Point Administrator (LCPA) for the local portion of the enhanced wireless 911 fees. In this capacity, we have distributed funds to PSAPs and provided technical assistance to the cities and counties charged with establishing enhanced wireless 911 across the state.

**LKM & KAC Audit Report.** Attached to my testimony is a copy of the latest LCPA audit report. The audit indicates that funds are being handled appropriately and makes only two suggestions for process changes. In addition, the audit notes that all suggestions from previous audits have been implemented.

**Deployment Progress.** In less than three years, tremendous progress has been made toward statewide deployment of enhanced wireless 911. Before the legislation that was passed in 2004, only 5 counties had implemented this life saving service. Now, only two and a half years later, 61 counties are completely Phase II operational, while another 26 counties have at least begun Phase II. An additional 11 counties are working on Phase I and only 17 counties remain with basic wireless services.

**Training Services.** LKM and KAC have been working to educate the PSAPs that need technical assistance in order to move toward deployment. We have answered hundreds of questions regarding the use of monies and deployment generally. Recently, we retained the services of a well-respected retired APCO professional to provide technical assistance to PSAPs at no charge. Bill Cade works out of his home office in Carthage, MO, and has established a help-line to answer questions and will even go out to individual PSAPs in need. In addition, we are setting up additional trainings focused on those PSAPs that are having the most difficulty with deployment. The next training is scheduled for February 22<sup>nd</sup> in Hays and is being provided free of charge to all PSAPs.

**Legislative Post Audit.** We are very pleased with the results of the Legislative Post Audit that was recently issued with regard to this issue. In this audit, they identified only one item that was not allowable under the law and that was an internal billing error, not an intentional misappropriation. In addition, there were only two items that were not accompanied by appropriate documentation. This positive audit shows a determination on the part of the PSAPs in this state to implement this service with great respect shown to the legislative intent established in the law.

There is one statement from the Post Audit report which we believes needs to be clarified. On Pg. 17 of the report, it is stated that on a statewide basis, estimated

[www.lkm.org](http://www.lkm.org)

Senate Utilities Committee  
February 12, 2007  
Attachment 2-1



wireless E-911 revenues will far exceed PSAPs estimated costs in the future. However, this statement makes the erroneous assumption that all PSAPs will levy the maximum amount allowed by law. In fact, when the bill was established in 2004, it was anticipated that the larger counties would actually be able to reduce the fees paid by their citizens to a figure well below the maximum. That is why the bill was written as a "cap" to be established by each PSAP separately. Secondly, this statement only takes into account the recurring costs of running the system. It fails to take into account what it will cost to upgrade equipment and software over time. It is estimated that the lifespan of much of the necessary equipment is 5-6 years. This means that any so-called "excess" in funds will need to be preserved in a capital improvement type fund so that equipment and software can be updated as needed. We believe that when these two issues are taken into account, it is clear that the revenues received will not exceed the PSAPs estimated costs.

In conclusion, it has been a privilege to work with the PSAPs over the past several years and we are thrilled with the progress that has been made so far. There is a lot of work to be done, but we believe that the PSAPs of this state are up to the task. We are cautiously optimistic that we will see statewide deployment by 2010.

I would be happy to answer any questions you might have.



STATUS REPORT  
Before the Senate Utilities Committee  
February 12, 2007  
E-911 Status Update

By Dennis Kriesel, Public Health Policy Fellow

Thank you, Chair Emler and Members of the Committee, for allowing the Kansas Association of Counties to provide a status update on the local-collection side of the E-911 system. My role at the KAC involves working with the providers in processing their remittance data, ensuring it matches their payments, and determining how those payments are to be allocated amongst the various Public Safety Answering Points (PSAPs) across the state.

The 2006 calendar year had a high level of local collection remittance compared to previous cycles. Most of the wireless companies understand the data requirements now and routinely submit proper data for corresponding payments or fix faulty data in a timely manner. The 2006 billing period (monies collected from wireless customers for January 2006 through December 2006) brought in \$4,961,389.51 to the Local Collection Point Administrator (roughly \$413,000 per month). Of that amount, we successfully processed \$4,958,648.75, or 99.94%. These totals do not include back payments that processed during this time period, of which there were several (mostly from the 2005 billing period).

The July 2006 billing month marked the start of Voice over Internet Protocol (VoIP) provider remittances to the Kansas E-911 system. It is difficult to say how overall VoIP provider compliance is going, as there is no official list to turn to for knowing which VoIP providers are operating in Kansas. Our information stems from the efforts of the Governor's Grants Program in identifying VoIP providers online that listed Kansas as a place of possible business. Currently, only one VoIP provider regularly complies with the law. Another VoIP provider was complying and then stopped sending money and data (no reason was given), another contacted us to state that they would not pay into the system (citing that they do not have an *interconnected* VoIP service under our definition, and thus not subject to the law), and another just paid for the first time in December 2006 and has not yet supplied compliant data. If some of the traditional wireless companies also offer VoIP services they may be complying in a way transparent to us (e.g., combining both VoIP and wireless payments on the same check). The VoIP provider monies for 2006 account for less than 1% of total monies received.

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The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its members. Inquiries concerning this report can be directed to Randall Allen or Judy Moler at the KAC by calling (785) 272-2585.

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

Topeka ■ Overland Park ■ Lawrence ■ Meriden

5825 SW 29th Street  
Topeka, Kansas 66614  
Phone (785) 272-4484  
Fax (785) 272-1376

Internet - [www.SSCcpas.com](http://www.SSCcpas.com)

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

In planning and performing our audits of the statements of cash receipts and disbursements of the Wireless Enhanced 911 Local Fee Fund (the Fund) for the years ended June 30, 2006 and 2005, we considered its internal control in order to determine our auditing procedures for the purpose of expressing our opinion on the statements of cash receipts and disbursements and not to provide assurance on the internal control. However, we noted certain matters involving the internal control and its operation that we consider to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control that, in our judgment, could adversely affect the Fund's ability to initiate, record, process, and report financial data consistent with the assertions of management in the statement of cash receipts and disbursements.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and would not necessarily disclose all matters in the internal control that might be reportable conditions. In addition, because of inherent limitations in internal control, misstatements due to error or fraud may occur and not be detected by such controls.

This report is intended solely for the information and use of the boards of directors of the Local Collection Point Administrator, management and the Governor's Grant Program and is not intended to be and should not be used by anyone other than these specified parties.

*Summers, Spencer & Callison, CPAs, Chartered*  
Summers, Spencer & Callison, CPAs, Chartered  
October 17, 2006

## Reportable Conditions

### Improve Cash Receipts Controls

We noted instances where incoming mail is being opened by Dennis, who is the person responsible for recording income. We recommend someone other than Dennis open the incoming mail and document the receipts obtained. A comparison should then be made between the documented receipts from incoming mail to the spreadsheet prepared by Dennis and the amount actually deposited.

### Accounting for Statewide Fund

The current procedure to record allocations to the statewide fund is to debit an income account named "Statewide Receipts" with a corresponding credit to a liability account named "Statewide Training Fund." This process results in a negative income account balance and, therefore, income reported on financial statements produced by the accounting system does not reflect total cash received during the period. In addition, the liability balance does not reflect the balance of the Statewide Training Fund because 1) the procedures have not been consistently followed and 2) no corresponding procedures exist for statewide training expenses.

In order to preserve the cash receipts and disbursements basis of the income statement, we suggest using two sub-accounts for cash in the accounting system – one for general and one for statewide training. The cash itself would physically remain in the same bank account but, by selecting the appropriate sub-account when posting cash transactions, the balance of the statewide training cash sub-account would reflect the balance of funds available for statewide training. (Note: The main (header) cash account should be selected when reconciling to the bank statement in order to view both sub-accounts in an integrated fashion.)

## Other Matters

### Payment of Administrative Fees

We noted administrative fees were not paid in May and June. The oversight was detected and corrected by management prior to our audit. We recommend administrative fees be paid at the same time payment is made to PSAPs. To verify that all fees have been paid, the balance of the administrative payable account should be \$2,000 at the end of the month.

### Completeness of Fee Income

We noted that the Kansas Corporation Commission is to inform Fund management of new wireless carriers in Kansas. However, since the wireless carrier industry is not regulated and not required to register with the Kansas Corporation Commission the absence of new fees may go undetected.

**Matters identified for the year ended June 30, 2005 and resolutions to those comments.**  
(Please refer to the June 30, 2005 management letter for further details of the matters noted.)

| <b>Finding</b>   | <b>Resolution</b>   |
|--|---|
| Lack of information provided by wireless carriers.         | Kansas Statutes have been amended to include rules and regulations authorizing the assessment of civil penalties to wireless carriers.  |
| Account structure nets receipts and disbursements.         | Receipts and disbursements are now recorded at their gross amounts. The class function in Quickbooks is currently being utilized to summarize transactions in their respective collection periods.  |
| No accounting procedures manual.                           | An accounting procedures manual has been created. The manual includes thorough written procedures and instructions to ensure that transactions are recorded consistently and properly. Additionally, the manual will be a good tool to aid in the training of new employees.  |
| Fund not covered by blanket employee dishonesty insurance. | The necessary insurance coverage for this Fund has been obtained.   |
| Improvements needed to bank reconciliation procedures.     | Bank reconciliations have been improved due to the utilization of additional accounting personnel. Phyllis completes the bank reconciliation in a timely manner. Kim reviews both the unopened bank statements and the completed bank reconciliation and initials and dates both to provide documentation of her reviews. Kim also compares the spreadsheet sent by Dennis to the cash receipts on the bank statements. |
| No policy to approve journal entries.                      | A policy for journal entries is located in the newly created accounting procedures manual. Journal entries are accompanied with the spreadsheet provided by KAC as supporting documentation. Journal entries are reviewed and initialed by the LKM director.  |

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

***Statements of Cash Receipts and Disbursements***

*YEARS ENDED JUNE 30, 2006 AND 2005*

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



*Wireless Enhanced 911 Local Fee Fund  
Statements of Cash Receipts and Disbursements  
Years Ended June 30, 2006 and 2005*

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*Wireless Enhanced 911 Local Fee Fund*

**FINANCIAL STATEMENTS**

***Wireless Enhanced 911 Local Fee Fund***  
***Statements of Cash Receipts and Disbursements***  
***YEARS ENDED JUNE 30, 2006 AND 2005***

|   | <u>2006</u>       | <u>2005</u>       |
|---|-------------------|-------------------|
| <b>Receipts</b>                           |                   |                   |
| Fees                                      | \$ 4,529,814      | \$ 3,767,531      |
| Interest                                  | <u>17,658</u>     | <u>8,241</u>      |
| <i>Total receipts</i>                     | <u>4,547,472</u>  | <u>3,775,772</u>  |
| <b>Disbursements</b>                      |                   |                   |
| PSAPs                                     | 4,272,843         | 2,988,443         |
| Administrative fees                       | 70,598            | 59,574            |
| Statewide training expenses               | <u>1,030</u>      | <u>2,099</u>      |
| <i>Total disbursements</i>                | <u>4,344,471</u>  | <u>3,050,116</u>  |
| <b>Excess receipts over disbursements</b> | 203,001           | 725,656           |
| Cash at beginning of year                 | <u>725,656</u>    | <u>-</u>          |
| <b>Cash at end of year</b>                | <u>\$ 928,657</u> | <u>\$ 725,656</u> |

*The accompanying notes are an integral part of these statements.*

# Wireless Enhanced 911 Local Fee Fund

## Notes to the Financial Statements

YEARS ENDED JUNE 30, 2006 AND 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, 2006 and 2005 is restricted for payment to PSAPs and the related 2% administrative fee. Undistributed amounts are as follows:

|   | <u>2006</u>       | <u>2005</u>       |
|---|-------------------|-------------------|
| PSAPs   |                   |                   |
| Collected August 2004 through June 2005             | \$ 246,388        | \$ 662,044        |
| Collected July 2005 through June 2006               | 548,982           | -                 |
| Statewide training fund                             | 71,816            | 39,818            |
| Administrative fees                                 | 35,543            | 15,553            |
| Interest income (to be used for statewide training) | <u>25,928</u>     | <u>8,241</u>      |
| Fund balance at June 30, 2006                       | <u>\$ 928,657</u> | <u>\$ 725,656</u> |

***Wireless Enhanced 911 Local Fee Fund***

*Notes to the Financial Statements*

*YEARS ENDED JUNE 30, 2006 AND 2005*

**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. For the year ending June 30, 2006, the letter of credit expires October 27, 2006. For the year ending June 30, 2005, the letter of credit expires October 28, 2005.

**7. Subsequent events**

Effective July 1, 2006, the Wireless Enhanced 911 Act was amended to include a voice over internet protocol (VoIP) Enhanced 911 fee in the amount of 25 cents per month per VoIP service user. These fees are to be remitted by VoIP providers to the Local Point Collection Administrator for distribution to Public Safety Answering Points.

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Updated  
January 11, 2007

## 1998 Through 2006 Bills Impacting Energy Production and Transportation

The following summaries are of bills enacted during the 1998 through 2006 Legislative Sessions that have a direct impact on entities that produce and transport energy and certain fuels.

### 1998

#### **Kansas Municipal Energy Agency – Expanded Wholesale Transaction Authority**

**HB 2552** expands the pool of cities that are eligible to become members of the Kansas Municipal Energy Agency (KMEA) by deleting language that conditioned their eligibility upon the operation of electric generation facilities in 1976. Moreover, the bill authorizes the KMEA to sell electricity wholesale to any interested purchasers, in addition to those member cities previously authorized by law.

### 1999

#### **Tax Reform and Relief Act of 1999**

**SB 45** provides a property tax exemption for real property upon which is located facilities which utilize renewable energy resources and technologies for the purpose and as the primary means to produce and generate electricity and which is used predominantly for such purpose, to the extent necessary to accommodate such facilities. "Renewable energy resources or technologies" is defined to include wind, solar, thermal, photovoltaic, biomass, hydropower, geothermal, and land-fill gas resources to technologies.

#### **Omnibus Property Tax Bill—Property Taxation, Valuation, Exemptions, Various Related Issues**

**SB 78** increases from 50 to 100 the maximum number of customers who may be served by a nonprofit utility. (Determination of this maximum threshold does not take into account any

Senate Utilities Committee  
February 12, 2007  
Attachment 3-1



customers added due to sale or transfer to property or rights in tenancy.) This provision also includes shareholders in the statutory list of owners of a nonprofit public utility.

## 2000

### **Electric Generation Facility Siting Act—Amendments**

**Sub. for SB 243** exempts all electric generation facilities, other than nuclear generation facilities or additions to such facilities, from requirements of the Electric Generation Facility Siting Act. The bill applies the Kansas Corporation Commission's (KCC's) process for determining whether to issue a siting permit to all applications filed for siting of nuclear generation facilities. This process no longer applies, however, to siting of any other type of generation facilities. All jurisdictional electric utilities seeking to recover from ratepayers the costs of constructing new generation facilities would still be subject to rate proceedings before the Commission.

### **Electric Transmission Siting Act**

**House Sub. for Senate Sub. for SB 257** amends the Electric Transmission Siting Act with respect to: the circumstances under which a siting permit would be required; the information to be contained in the utility's siting application; and the requirements governing the Commission's hearing on that application; and the notice of hearing.

The bill provides that a permit is not required when a transmission line is to be constructed on an easement outside a city if the easement is currently occupied by an electric line, or if the line is to be constructed adjacent to the right-of-way along an Interstate highway. In addition, the bill exempts from environmental study, transmission lines built on a right-of-way where an electric line currently exists.

### **Public Utility Loans and Pledge of Credit**

**Sub. for HB 2290** repeals KSA 66-1213, which pertains to public utility loans or credit pledged to persons or companies having an affiliated interest in the company. KSA 66-1213 required a utility subject to the jurisdiction of the KCC to apply to the Commission for approval before the utility may loan money or pledge its credit to its affiliate.

Upon receipt of the application, the Commission had up to ten days to conduct an investigation, if deemed necessary, and either approve the application or schedule a hearing. The Commission had to approve the application unless it determined that the loan or pledge would substantially impair the utility's financial condition or its ability to maintain sufficient and efficient service.

Although a utility will no longer have to receive the Commission's approval as a precondition for making a loan or pledging credit to an affiliate, the utility must still report to the Commission the terms and conditions of the loan or pledge. The utility must notify the Commission within ten days after making the loan or pledging the credit.

## 2001

### **Parallel Electric Generation Services Act Amendments**

**HB 2245** amends and expands the law authorizing contracts for parallel generation service to include a provision to promote in Kansas the generation of electricity using renewable resources. The statutory provision will remain in effect that requires a public utility to enter into a contract with a customer authorizing that customer's generation facility to connect to the utility's delivery and metering system. The customer may continue to sell excess energy produced by the generation facility back to the utility and receive "fair and equitable" compensation for the sale. Although the specific terms are not statutorily defined, compensation has been generally determined by the utility at an amount equal to avoided fuel cost. The terms of compensation are included in information filed by the utility with the KCC. In addition to compensation provided customers of electric public utilities described above, an enhanced level of compensation will be provided to customers meeting certain conditions, as discussed below.

The bill applies parallel generation service requirements to customers of all utilities: investor-owned, all rural electric cooperatives, and municipally-owned or operated utilities. The bill makes utility payments to customers for excess energy sales more attractive by requiring that the compensable amount be not less than 150 percent of the utility's monthly system average cost of energy per kilowatt hour. However, this enhanced level of compensation will be offered only to residential customers who own renewable generators with a capacity of 25 kilowatts or less or commercial customers who own renewable generators with a capacity of 100 kilowatts or less. The bill also authorizes the utility to determine the method of compensation (credit on a customer's account or payment at least annually or when the total compensation due is \$25 or more).

Finally, the bill authorizes the Kansas Development Finance Authority (KDFA) to issue revenue bonds to pay for the construction, renovation, or repair of facilities which generate electricity solely by use of hydropower. To qualify for KDFA financing, such facilities must have a capacity of more than 2 but less than 25 megawatts.

### **Incentives for Independent Power Producers**

**HB 2266** defines "independent power producer (IPP) property" as all or any portion of property used solely in the generation, marketing, or sale of electricity generated by an electric generation facility or addition to a facility. An IPP must be newly constructed and placed in service on or after January 1, 2001. It may not be in the rate base of any electric public utility, rural electric cooperative, or municipal electric utility. It may not generate electricity by nuclear resources or renewable energy resources. However, additional generating capacity achieved through efficiency gains by refurbishing or replacing existing equipment at generating facilities placed in service before January 1, 2001, will not preclude such facilities from public utility regulation.

The bill provides IPPs with property tax exemptions and the use of revenue bond financing by the Kansas Development Finance Authority for the construction, purchase, or installation of pollution control devices at IPP facilities.

IPP property will be exempt from property taxation from and after commencement of construction of the generating facility and any pollution control devices installed at the facility and for

the 12 taxable years immediately following the taxable year in which construction or installation of the property is completed. For peak load plants and pollution control devices at such plants, the tax exemption will apply for six taxable years immediately following completion of construction or installation. These tax exemption provisions for both types of plants and pollution control devices became effective on January 1, 2001.

### **Electric Public Utilities—Expanded Use of Construction Work in Progress**

**HB 2268** provides the following incentives for the construction in Kansas of certain electric utility property which is owned or operated by Kansas public utilities.

The expanded application of an accounting treatment which allows into the rate base any public utility's construction work in progress (CWIP) of generation facilities and transmission lines to be placed in service on or after January 1, 2001. (Under prior law, construction costs of such facilities and lines could not be included in customers' rates until the facilities and transmission lines were completed and ready to provide service.) To qualify for CWIP in this bill, electric generation facilities may be newly constructed or additions to existing facilities. However, they may not be used to generate electricity using nuclear resources or renewable energy resources. Transmission lines eligible for CWIP may include towers, poles, and other necessary property. These lines also must be connected to an electric generation facility that is eligible for CWIP.

Public utilities will be eligible to receive revenue bond financing from the Kansas Development Finance Authority for the construction, purchase, and installation of pollution control devices at electric generation facilities that are eligible for CWIP.

Eligible electric generation facilities, pollution control devices at such facilities, and eligible transmission lines will be exempt from all property tax levies. That exemption will apply from and after commencement of construction of such facilities (except for peak load plants) or transmission lines and from and after purchase or commencement of construction or installation of pollution control devices at non-peaking plants for ten taxable years immediately following the year in which construction is completed. The exemption provisions for all this property took effect on January 1, 2001.

The term "peak load plant" is defined in the bill as an electric generation facility used during maximum load periods. The property tax exemption provisions for peak load plants and pollution control devices installed at such plants also took effect on January 1, 2001. However, the tax exemption is authorized for four years following the year in which construction is completed rather than ten years for the nonpeaking facilities described above.

### **Expanded Authority to Intervene in Rate Proceedings**

**HB 2397** authorizes any municipality to intervene on behalf of persons located within its boundaries in public utility rate proceedings before the KCC. Under prior law, municipalities could only intervene before the Commission in their capacity as consumers of public utility services but not on behalf of their residents (residential and small business customers). The Citizens' Utility Ratepayer Board continues to be statutorily authorized to intervene in such proceedings on behalf of residential and small business customers.

## **Income Tax Credit for Business Research and Development**

**HB 2055** provides a permanent income tax credit for business research and development. The bill authorizes a 6.5 percent credit for research and development expenditures in Kansas, based on the amount by which such expenditures exceed the business' actual expenditures for that purpose in the tax year and the two preceding tax years. In any tax year, the maximum deduction from tax liability is 25 percent of earned credit plus carryover amounts. Any amount by which the allowed portion of the credit exceeds the business' total Kansas tax liability in a given tax year can be carried forward.

Any expenditures that are eligible for a Kansas research and development tax credit also are eligible for a federal itemized income tax deduction or, for an expanded level of research activity, a federal research tax credit. However, if the business receives a federal or state grant and uses grant proceeds for research and development expenditures, that taxpayer cannot claim a state credit for those expenditures.

## **Agricultural Ethyl Alcohol Incentive**

**HB 2011** modifies the section of law dealing with incentives for the production of ethyl alcohol. Specifically, the bill provides for an incentive of \$.05 for each gallon of agricultural ethyl alcohol sold by the producer to an alcohol blender with an annual cap of \$2 million. This incentive is only for current producers. After three years, this incentive would end. Any amount of money left at the end of the year is to be transferred to meet the needs of the new production incentive described below. The bill creates the current production account in the Kansas Qualified Agricultural Ethyl Alcohol Producer Incentive Fund.

In addition, the bill creates an incentive for new production or expanded production of ethyl alcohol. This incentive is to be for facilities which have new production of at least 5,000,000 gallons. No incentive would be available for new or expanded production over 15,000,000 gallons. The incentive on expanded or new production would be \$.075 per gallon and would be limited to seven years. The bill creates the new production account in the Kansas Qualified Agricultural Ethyl Alcohol Producer Incentive Fund. When the current producer incentive ends, the total dollar amount of incentive for new or expanded production would be \$3.5 million. Any moneys left at the end of the year will be held in the new production account for the next year.

The provisions of the agricultural ethyl alcohol incentive are to expire on July 1, 2011.

## **2002**

### **Kansas Open Records Act and Security Measures**

**Sub. for SB 112** amends the Kansas Open Records Act (KORA). The bill exempts from KORA all records that pose a substantial likelihood of revealing security measures that protect systems, facilities, or equipment used in the production, transmission, or distribution of:

- Energy;
- Water;

- Communications services; or
- Sewer or wastewater treatment systems, facilities, or equipment.

Security measures are those that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion, or affect the operation of government by disruptions of public services, mass destruction, assassination, or kidnapping.

## **Electric Utilities and Cooperatives**

**SB 480** amends two statutes in the Retail Electric Suppliers Act that concern retail electric suppliers, the annexation by a city of territory served by such retail suppliers, and the termination of service rights by a city. The bill also amends a statute that concerns electric cooperatives.

The amendments provide, whenever a city proposes to annex land located within the certified territory of a retail electric supplier, the city shall (1) provide notice to the retail electric supplier; (2) negotiate for the issuance of a franchise agreement with the retail electric supplier certified to serve the annexed area; and (3) have the final selection of which supplier receives a franchise to operate within the annexed area. A retail supplier having both a certificate of convenience and a franchise is not required to obtain a new franchise for the annexed area. When selecting a supplier to operate within the annexed area, the city must consider nine factors set out in the bill. Under the new provisions, any retail electric supplier aggrieved by the decision made by the city annexing land may, within 30 days after the city's final decision, appeal the decision in the district court in the county in which the annexed area is located. In the event of an appeal, the supplier providing service at the time of annexation is to continue to serve the annexed area until the appeal is concluded. Another amendment changes one of the components in the formula for determining the compensation to be paid to the retail supplier when the supplier and the supplier who is newly authorized to provide electric service cannot reach a mutual agreement on the amount of compensation to be paid by the latter. The same change is made in a statute that concerns the termination of the service rights of a retail electric supplier holding a valid franchise when the service rights are terminated and assumed by a city.

A statute that concerns cooperatives that serve fewer than 15,000 customers, are principally retail suppliers of power, and which in certain circumstances may elect to be exempt from the jurisdiction of the KCC, is amended to require an exempt cooperative to maintain a schedule of rates and charges at its headquarters and to make copies available to the general public. An exempt cooperative failing to meet the requirement for making rates and charges available could be subject to a civil penalty of not more than \$500.

## **Public Utilities and Public Right-of-Way Fees**

**Sub. for SB 545** allows a public utility, which is assessed by a city and which collects and remits fees associated with the utility's use, occupancy, or maintenance of its facilities in the public right-of-way, to file a tariff with the KCC. The tariff could then be added to the end-user customer's bill, statement, or invoice as a surcharge equal to the pro rata share of any fee. Costs are not to include expenses covered by any other cost recovery mechanism in existence as of April 1, 2002, including franchise fee and relocation expenses. The bill provides the same relief for costs which are incurred by a public utility in excess of those normal and reasonable costs incurred applying good



utility practices due to actions of a city's governing body. The bill's provisions do not apply to telecommunications public utilities.

The provisions of the first three sections of the bill sunset on June 30, 2003.

The bill also allows the KCC to authorize electric and natural gas public utilities to recover costs incurred from implementing security measures used to protect electricity and natural gas production and transmission. Such authorization sunsets on July 1, 2004.

### **Retail Electric Service Statutes and Station Power**

**HB 2746** amends retail electric service statutes by defining station power and exempting it from being classified as retail electric service. Station power is the electricity used by a generating facility owned by a utility or a generating plant operated as a merchant power plant as specified in subsection (e) of KSA 66-104 to operate generating equipment, but not electricity used for heating, lighting, air conditioning, or other general office needs of the generating facility. The provisions only apply to those generating plants placed in use on or after January 1, 2002.

The electricity could originate from the same generating facility or be provided through the electrical grid via transformation. Station power is also included in the definition of "distribution line."

The bill allows the KCC to authorize an electric public utility to retain revenues from wholesale off-system sales of electricity generated from renewable power resources. Renewable resources include wind, solar, thermal, photovoltaic, biomass, hydropower, geothermal, waste incineration, and landfill gas located in Kansas.

The bill permits, upon authorization by the KCC, an electric public utility to retain 65 percent of wholesale off-system electricity sales if the electricity was purchased at not less than the average price paid by the utility in contracts lasting five or more years. The bill also permits retention of 50 percent of net revenues from all other wholesale off-system electricity sales, provided that its source is a renewable technology. Revenues also are permitted to be retained from sales of renewable attributes, which are tradeable energy or tradeable emission credits, or other market instruments originating from renewable energy sources.

### **Rural Kansas Self-Help Gas Act—Enactment**

**SB 547** enacts the Rural Kansas Self-Help Gas Act. Under the bill, any rural gas user who desires to construct a pipeline connection to a gas supply system and any gas provider assisting the rural gas user, would not be considered a public utility. If the rural gas service is provided within an area where a public utility holds a certificate, the rural gas user or its gas provider would first notify the existing gas service utility of the intent to provide a rural gas service. Under the bill a "rural gas user" means any person currently using natural gas from a wellhead or gathering facility for agricultural purposes on property they own, lease, or operate that is located outside city limits and not presently receiving gas service from an existing gas service utility.

When notified, an existing gas service utility has 30 days to develop plans and propose an offer to the potential rural gas user for providing rural gas service. The proposed plan is to include plans for installing facilities, price of natural gas, and projected completion date. Failure of the existing gas service utility to propose an offer or complete the project by the projected completion date, unless otherwise agreed to by the rural gas user and the existing gas service utility, would



cause the existing gas service utility to waive its exclusive right to serve the rural user. If the potential rural gas user does not accept the offer presented by the existing gas service utility, the existing gas service utility releases the rural gas user from the certificated area or may request from the State Corporation Commission (KCC) a determination to approve the utility's plan or allow the rural gas user to use a different public utility or gas provider to provide rural gas service. The KCC has 30 days to complete the determination. The KCC could suspend its determination for an additional 60 days for sufficient cause.

The bill also requires that all facilities comply with all applicable pipeline safety law.

## 2003

### **Determination of Rate-Making Principles and Treatment**

**Sub. for SB 104** permits a public utility to file with the KCC a petition for a determination of the rate-making principles and treatment that will apply to the recovery in wholesale or retail rates of the cost to be incurred by the public utility's investment in either a transmission facility or a generating facility. The petition has to occur prior to the undertaking of construction or participation in either the transmission facility or the generating facility.

If a public utility seeks a determination of rate-making principles and treatment for a generating facility, then as a part of the filing it must submit a description of its conservation measures, demand side management efforts, its ten-year generation and load forecasts, and a description of all power supply alternatives.

If the KCC fails to issue a determination within 180 days of the date a petition for a determination of rate-making principles and treatment is filed, those principles proposed by the public utility would be deemed to have been approved by the KCC and would be binding for rate-making purposes during the life of the generating facility or transmission facility or during the term of the contract on a generating facility.

The public utility has one year from the effective date of the determination by the KCC to notify the KCC whether it will construct or participate in the construction of the generating or transmission facility or whether it will perform under terms of the contract.

Under the bill, "transmission facility" means (1) any existing line, and supporting structures and equipment, being upgraded for the transfer of electricity with an operating voltage of 69 kilovolts or more of electricity; or (2) any new line, and supporting structures and equipment, being constructed for the transfer of electricity with an operating voltage of 230 kilovolts or more of electricity.

Also under the bill, the term "contract" means a public utility's contract for the purchase of electric power in the amount of at least \$5,000,000, annually.

## **Renewable Energy Cooperatives, Transmission Line Financing, and Interconnection Agreements**

**HB 2018** enacts the Renewable Energy Electric Generation Cooperative Act. The bill also authorizes the Kansas Development Finance Authority (KDFA) to issue revenue bonds to finance the construction, upgrade, or acquisition of electric transmission lines. Finally, the bill imposes duties on the KCC related to interconnection agreements between electric utilities and generators of electricity from renewable resources.

### ***Renewable Energy Cooperatives***

The Renewable Energy Electric Generation Cooperative Act provides for creation of a cooperative by five or more persons. The purpose of cooperatives created under the act is to generate electricity from renewable resources. All such cooperatives would be nonprofit, membership corporations. Electricity generated by these cooperatives may be sold only at wholesale. Members of these cooperatives must operate generation facilities that use renewable resources and have a capacity of at least 100 kilowatts of electricity.

Members also must agree to either sell at wholesale through the cooperative any excess electricity they generate, or sell through the cooperative any renewable attributes, or both. Renewable attributes are defined by existing law as tradeable renewable energy credits (with or without other features), tradeable emissions credits, emissions offsets or other market instruments created or obtained by use of renewable energy resources or technologies. Members who do not implement the agreement within, at most, two years, no longer qualify for membership in the cooperative. The bill provides for a cooperative's bylaws to place other conditions on membership.

The bill defines "renewable resources or technologies" to include wind, solar, thermal, photovoltaic, biomass, hydropower, geothermal, waste incineration, and landfill gas resources or technologies. "Person" under the bill is defined to include any natural person, firm, association, corporation, limited liability company, business trust, or partnership.

The bill establishes a framework for organization of renewable energy cooperatives that parallels the statutory framework in existing law for other electric cooperatives. In addition, these cooperatives are subject to the authority of the KCC as are other electric utilities. Further, the Commission must approve mergers of renewable energy electric cooperatives.

A renewable energy electric cooperative must pay for its use of existing distribution and transmission systems to transmit electricity, the costs of a generation interconnect study (if such a study is required), the costs of transmission system improvements, and other upgrades necessary for system operation. Any such costs are to be determined through negotiations between the cooperative and the owners of the distribution or transmission system.

Members of renewable energy electric cooperatives located in the territory of a retail electric supplier may be charged a monthly fee for services provided by the retail supplier. That fee would cover costs of providing standby electric service, distribution system repair and maintenance, and other reasonable costs of being a provider of last resort. Renewable energy cooperatives and cooperatives' members are specifically prohibited from reselling electricity to their providers of last resort.

### **Transmission Line Financing**

The bill also authorizes the Kansas Development Finance Authority to issue revenue bonds to pay for construction, upgrading, and acquisition of electric transmission lines, and certain related expenses. Transmission lines that are eligible for bond financing are those used for transfer of at least 69 kilovolts of electricity. "Electric transmission line" is defined to mean any line or line extension that is at least five miles long and used for bulk transfer of electricity. The availability of the bond financing mechanism created by the bill is not restricted to renewable energy electric cooperatives. Bonds issued under authority created by the bill are payable from revenue generated from the use of transmission lines.

### **Interconnection Agreements**

Finally, the bill requires that by September 30, 2003, the KCC establish standard provisions, including applicable fees of interconnection agreements between electric public utilities and generators of electricity from renewable resources. This provision of the bill is applicable to parallel electricity generators, as well as to renewable energy cooperatives.

### **Electricity Transmission**

**HB 2130** amends existing law regarding siting of electrical power transmission lines. The bill also enacts new law regarding recovery of electricity transmission costs.

In regard to transmission line siting, the bill requires the KCC to consider specific benefits during its decision-making process regarding the reasonableness and necessity of the proposed line location. Benefits enumerated in the bill are those accruing to consumers inside and outside the state and Kansas economic development.

The bill also enacts a new statute allowing electric utilities to pass through to retail customers costs of electric transmission in a manner consistent with the determination of transmission-related costs by an appropriate regulatory authority. Those costs will be added to customers' bills as a separate transmission delivery charge. The initial transmission delivery charge will be based on transmission-related costs approved by the KCC in the utility's most recent retail rate filing. When a transmission delivery charge initially becomes effective, the utility's retail rates will be reduced so that the sum of the retail rate and the transmission charge is equal to the retail rate in effect immediately before the transmission charge became effective.

The transmission delivery charge can subsequently be adjusted by the utility any time a transmission-related cost is incurred as a result of an order of a regulatory authority with jurisdiction over transmission. Electric utilities are required to file a report with the KCC at least 30 business days prior to changing the transmission delivery charge. If the KCC determines that all or part of the charge did not result from an order of a regulatory body, the Commission may require the charge to be changed and impose appropriate remedies. A change in the transmission charge will not trigger a review or adjustment of the retail rates in effect at the time of the transmission charge change.

## Energy Efficiency Standards

**HB 2131** amends the law regarding thermal efficiency standards of commercial, industrial, and residential buildings. Specifically, the bill:

- designates the International Energy Conservation Code 2003 as the thermal efficiency standard for new commercial and industrial buildings;
- requires disclosure of residential building energy efficiency information to the buyer or a prospective buyer, upon request or prior to closing; and
- provides for rewording of the residential energy efficiency disclosure form to refer to the International Energy Conservation Code 2003 and to a Home Energy Rating score of 80 or greater on the Mortgage Industry National Home Energy Rating System Accreditation Standard (June 15, 2002).

## Recovery of Security Costs

**HB 2374** enacts the Kansas Energy Security Act which directs the KCC to include specified provisions in its procedures to implement KSA 66-1233. (The cited statute was enacted in 2002 and provides for gas and electric utilities to recover from customers certain costs incurred from implementing security measures implemented to protect electricity and natural gas production and transmission. The 2002 enactment will sunset on July 1, 2004.)

Procedures implemented pursuant to the bill and provisions of the 2002 statute apply to security expenditures made after September 11, 2001. The KCC's determination of whether a security-related expenditure is prudent may not be based on standard regulatory principles and methods of recovery.

Specifically, the bill requires the KCC to:

- Treat as confidential information regarding the amount and method of cost recovery;
- Issue protective orders for filings connected with recovery of security costs to enable the Citizens' Utility Ratepayer Board to receive and review documents if it intervenes in these cases;
- Create procedures that reflect rules of other regulatory entities governing the release of information and documentation submitted to the KCC, its staff, or interveners;
- Prevent the security cost recovery from being identified on customers' bills;
- Provide that the security cost recovery charge be allocated and added to all wholesale and retail rates and future contracts (any contract existing on the effective date of the act, which does not specifically prohibit the addition of these charges, would have security cost recovery charges added);
- Provide for an expedited review of security-related filings;

- Provide for review only of security-related items to ensure that proposed items provide enhanced security;
- Deny any expenditure that is not prudent or is not related to security; and
- Allow recovery of capital expenditures over a period no greater than one-half the usable life of the capital investment.

### **Biodiesel Standard; State Purchases of Ethanol and Biodiesel**

**Sub. for HB 2036** adds a new provision to the illegal acts section of the Petroleum Products Inspection Act. The bill makes it a violation of the Act to represent that diesel fuel is or contains biodiesel fuel blend or otherwise to represent that diesel fuel is or contains biodiesel fuel blend or otherwise to represent that diesel fuel is made from renewable resources, unless not less than two percent of the diesel fuel mixture is mono-alkyl esters derived from vegetable oil, recycled cooking oil, or animal fat. The bill also provides that biodiesel fuel used in biodiesel fuel blends are to conform to specifications by the American Society of Testing and Materials, issued in March of 2002, or later versions adopted through rules and regulations of the Secretary of Agriculture.

In addition, the bill requires that all bulk motor-vehicle fuels purchased by any state agency for use in state-owned motor vehicles be fuel blends containing at least 10 percent ethanol as long as the price is not more than 10 cents per gallon greater than regular fuel.

Also, the bill requires that, where available under current state purchasing agreements, individual motor-vehicle purchases for state-owned motor vehicles are to be motor-vehicle blends containing at least 10 percent ethanol as long as the price is not more than 10 cents per gallon greater than regular fuel.

Lastly, the bill requires that when there are diesel fuel purchases for state-owned diesel powered vehicles and equipment, those purchases are to be a 2 percent or higher blend of biodiesel, where available, as long as the price is not greater than 10 cents more per gallon than the price of diesel fuel.

### **Kansas Propane Education and Research Council**

**HB 2038** creates the Kansas Propane Education and Research Council governed by 10-members. The council is to be appointed by the Governor from a list of nominees submitted by "qualified industry organizations." Four members of the council are to represent retail marketers; two members are to represent wholesalers, resellers, suppliers, and importers; two members are to represent manufacturers and distributors of propane equipment and transporters; one is to represent the public; and one, an ex-officio member, is the State Fire Marshal or that person's designee. The council reports annually to the House and Senate Agriculture Committees on its programs, projects, and activities. The report provided in 2004 to these committees is to include a review of propane safety policies, statutes, rules and regulations in Kansas and adjoining states and is to include recommendations the council deems appropriate for policy, statutory, or regulatory changes in Kansas to improve propane safety.

The council is required to develop programs and projects implementing the act. The programs and projects include enhancement of consumer and employee safety and training programs, with safety issues to receive the first priority. Moneys could not be used to purchase



equipment for programs or projects by a private, for profit corporation or other business association or entity. Also, no funds of the council could be used for purchase of propane products and equipment or replacement of propane products and equipment, including through cost-share programs, for Kansas consumers, except that the council may purchase propane products and equipment for display in programs or projects. Except as provided for in the reports to the standing agriculture committees, the moneys collected by the council could be expended only for the purposes of the legislation and could not be used in any manner for influencing legislation or for political campaign contributions. Meetings of the council and any committees and subcommittees of the council are subject to the Open Meetings Act. The bill permits the hiring of an executive director and other employees.

The expenses of the council are to be funded by the imposition of an initial assessment of not more than two-tenths of one cent per gallon of odorized propane. The bill establishes a maximum assessment at three-tenths cent per gallon and restricts the increase the council could make to one-tenth cent per gallon annually. The assessment is to be paid by owners of propane at the time of odorization or at the time of import of odorized propane. The bill limits the administrative costs of operating the council to 10 percent of the funds collected in any fiscal year.

## 2004

### **Security Measures—Recovery of Costs**

**SB 382** extends the authority of the State Corporation Commission to allow electric and natural gas public utilities to recover costs incurred as a result of implementing security measures for the protection of electric and natural gas production and transmission. The prior expiration date was July 1, 2004. The bill extends the sunset to July 1, 2007.

### **Electricity Transmission and Generation**

**HB 2516** enacts new law and amends prior law to provide incentives to increase electric transmission and generating capacity.

New provisions:

- Authorize the Kansas Development Finance Authority (KDFA) to assist electric transmission line owners or operators with marketing of bonds to finance construction and upgrade of transmission lines if a majority of the cost of construction and upgrade is in Kansas and, if the out-of-state portions are certified by the Kansas Corporation Commission (KCC) to improve reliability and security of the state's transmission system or contribute to the long-term economic well being of the state;
- Provide for the KCC to approve recovery, over a period of 15 years, of capital expenditures for construction or upgrade of transmission lines used for bulk transfer of 34.5 kV or more of electricity under certain circumstances;



- Authorize any entity that constructs a minimum 100 kW electric generation facility to grant or lease interconnection facilities to transmission operators;
- Authorize the KCC to approve:
  - The sale of transmission lines to a FERC-approved independent transmission company or system operator; and
  - Any contract for operation of transmission lines by a FERC-approved independent system operator or regional transmission organization. The KCC would have to afford any proceeds from such a sale or contract the appropriate rate-making treatment, including reasonable sharing of proceeds between ratepayers and the utility;
- Require the KCC to allow utilities to retain 10 percent of net revenue from sales of electricity generated by new or expanded capacity built in a county that had 5 percent or less population growth between the two most recent federal censuses. This provision does not apply to net revenue resulting from the sale of electricity generated from renewable resources and which is addressed under the law;
- Require the KCC to allow electric utilities to include in rates the utility's prudent expenditures for research and development by the utility or for investment in research and development by a nationally recognized research center provided that the research and development expenditures or investments are intended to enhance reliability or efficiency of electric utility service; and
- Define "electric transmission line" to mean any line or extension of a line with an operating voltage of 34.5 kV or more which is at least five miles in length and which is to be used for the bulk transfer of electricity.

Prior law is amended to:

- Define "electric transmission line," for purposes of determining the value of a utility's property during KCC rate-making action, to be any transmission line that is at least five miles long and used for bulk transfer of at least 34.5 kV of electricity. Those transmission lines will be considered to be completed and dedicated to commercial service even though construction is not complete;
- Lower from 69 kV to 34.5 kV the minimum capacity of transmission lines for which a utility may seek determination of rate-making principles from the KCC prior to construction; and
- Authorize KDFA to issue bonds for construction or upgrade of or acquisition of right-of-way for electric transmission lines that are owned and operated by a municipal electric utility or that will be used for the transfer of electricity with an operating voltage of a minimum of 34.5 kV (down from the 69 kV minimum in prior law).

## **Bonds—Prototype Electrical Generation**

**HB 2703** amends a statute that authorizes the Kansas Development Finance Authority to issue revenue bonds for the construction, renovation, repair and related costs of one or more facilities that generate electricity solely by the use of hydropower and which meet other statutory requirements. The amendment adds a second type of facility to those for which revenue bonds may be issued. The type of facilities added to the statute are those facilities or portions thereof that generate electricity; are a prototype for the generation of electricity and hydrogen with limited emissions; are for research in connection with related technologies; and that include a research or teaching component involving one or more postsecondary educational institutions or faculty members of such institution. Any revenue bonds issued by the Kansas Development Finance Authority are to be payable from revenues arising from the generation of electricity or from other revenues available to be pledged by the Authority.

## **Leases or Easements for Wind Energy Resource Development; "Mother Hubbard" Deeds and Conveyances**

**HB 2037** authorizes, but does not require, filing of every instrument that conveys any estate or interest created by a lease or easement involving wind resources to generate electricity. Any such instrument that is filed would be filed in the office of register of deeds of the county where the real estate is situated. The bill also specifies information to be included in such instrument regardless of whether it is filed with the county. Those instruments must contain:

- A description of the real property subject to the easement and a description of the real property benefitting from the wind lease or easement;
- A description of the vertical and horizontal angles, expressed in degrees, and distances from the site of the wind power system in which an obstruction to the wind is prohibited or limited;
- All terms or conditions under which the lease or easement is created or may be terminated; and
- Any other provision necessary or desirable to execute the instrument.

If any such instrument is filed with the county, provisions regarding the compensation received by the owner of the property need not be included.

The bill also requires that when a recorded deed or conveyance covering mineral or royalty rights purports to include such rights that are not owned by the grantor, the deed or conveyance must be corrected. This provision applies when the deed or conveyance includes a general provision (sometimes called a "mother hubbard" clause) that should not have been included in the instrument. In those instances, any party with an interest in the real estate covered by the instrument may request that the grantee or grantor, as applicable, correct any mistake caused by the general conveyance provision applicable to other property. The bill defines a "mother hubbard clause" to be a provision in a deed or other written instrument that is intended to convey an interest in real estate and which describes all of the grantor's property in a particular county.

Any grantee or grantor who refuses or neglects to correct the legal description within 30 days after a written request has been made will be liable for damages in the sum of up to \$10,000 per title affected, and reasonable attorney's fee. Additional damages could be awarded if warranted by the case. If the legal description has not been corrected within the time period specified, the court must expedite an action to quiet title. Any court ruling resulting from such action will not relieve the grantee or grantor from damages or other responsibilities imposed by the bill.

## **Kansas Economic Growth Act**

**HB 2647** creates the Kansas Economic Growth Act. The bill also creates or amends ten acts as outlined below.

**Bioscience Authority Act.** The bill enacts the Bioscience Authority Act and creates the Kansas Bioscience Authority, governed by an 11-member Board of Directors. Nine members will be voting members representing the general public who demonstrate leadership in finance, business, bioscience research, plant biotechnology, basic research, health care, legal affairs, bioscience manufacturing or product commercialization, education, or government. In addition, one member of the Board is to be an agricultural expert who is recognized for outstanding knowledge and leadership in the field of bioscience. Seven voting members of the Board must be Kansas residents. The Governor, the Speaker of the House, and the President of the Senate will each appoint two Board members, and the House Minority Leader, Senate Minority Leader, and Kansas Technology Enterprise Corporation (KTEC) will each appoint one member. No more than three voting members of the Authority could be appointed from any one congressional district. Two non-voting members of the Board are to be representing state research universities and have research expertise. The voting members are subject to Senate confirmation and will serve four-year terms after conclusion of the initial term, with no more than three consecutive four-year terms. All members of the Board and all officers of the Authority will be required to file a written statement of substantial interest.

The Board members will serve with compensation and will be required to meet at least four times per year. The Board members will appoint a president to serve as the Chief Executive Officer of the Authority. In executive session of the Board, the members are prohibited from taking action on any matter heard in an executive session. In addition, the Chairperson, the Vice-Chairperson, the Secretary, and two additional members of the Board to be chosen by the Chairperson from the remaining members will be the Executive Committee, which may transact business of the Authority. The Executive Committee membership must be voting members.

The Bioscience Authority is to be headquartered in the county with the highest number of bioscience employees associated with bioscience companies. The Authority will continue so long as the Authority has bonds outstanding unless adequate provisions are made for the payment or retirement of the Authority's debts or obligations. In addition, nothing in the Act will be construed to limit the constitutional powers of the Legislature.

The Authority, with state universities, will identify and recruit eminent and rising star scholars; jointly employ personnel to assist or complement eminent and rising star scholars; determine types of facilities and research; facilitate integrated bioscience research; and provide matching funds for federal grants.

The powers of the Authority will include:

- Oversee the commercialization of bioscience intellectual property created by eminent and rising star scholars;
- Own and possess patents, proprietary technology, and entering into contracts for commercialization of the research;
- Incur indebtedness and enter into contracts with Kansas Development Finance Authority (KDFA) for bonding to construct state-of-the art facilities owned by the Authority;
  - Neither the State of Kansas nor KDFA will be liable for the bonds of the Authority;
  - Employ as many employees as it requires; however, the employees are not considered state employees;
  - Allow the establishment of benefits for employees such as a health insurance plan, retirement plans, death and disability benefits, and affiliate with Kansas Public Employees Retirement System.
- Purchase, lease, trade, and transfer property; (Architecture and construction requirements similar to those affecting the research universities research facilities also will apply.)
- Solicit and study business plans and proposals;
- Establish a contractual relationship with KTEC and National Institute for Strategic Technology Acquisition and Commercialization (NISTAC) for the first five years of operation; and
- Require a repayment agreement for any bioscience company that receives grants, awards, tax credits or any other financial assistance, including financing for any bioscience development project, if the company relocates operations associated with the funding outside Kansas within 10 years after receiving such financial assistance. The Authority will be required to specify the terms of the repayment obligation and the amount to be repaid.

The Authority will be prohibited from creating any political action committee or contributing to any political action committee. Finally, the terms bioscience, biotechnology, and life sciences could not be construed to include: induced abortion in humans, performed after the date of enactment of this Act, or the use of cells or tissues derived therefrom; and any research, the federal funding of which would be contrary to federal laws that are in effect on the date of enactment of this Act.

Eminent domain would not be allowed to be used to secure agricultural land for a bioscience project. Finally, the Authority would be subjected to review by Kansas, Inc., to evaluate and report on the effectiveness of Authority activities.

**Emerging Industry Investment Act.** The bill creates the Bioscience Development Investment Fund which will not be a part of the State Treasury. Funds in the Bioscience Development Investment Fund would belong exclusively to the Authority. The Secretary of Revenue and the Authority will establish the base year of taxation for all bioscience companies and all state universities conducting bioscience research in the state.

The Secretary of Revenue, the Authority, and the Board of Regents will establish the number of bioscience employees associated with state universities and report annually and determine the incremental increase from the base annually for the following 15 years from the effective date of the Act. All of the incremental state taxes generated by the growth of bioscience companies and research institutions over and above the base taxation year will go into the Fund. The baseline amount of state taxes will go to the State General Fund each year. The Bioscience Development Investment Fund will be used to fund programs and repay bonds.

**Bioscience Development Financing Act.** The bill allows creation of tax increment financing districts for bioscience development. One or more bioscience development projects could occur within an established bioscience development district. The process for establishing the district will follow the tax increment financing statutes. However, no bioscience development district can be established without the approval of the Authority. The bill allows counties to establish bioscience development districts in unincorporated areas. K DFA may issue special obligation bonds to finance a bioscience development project. The bonds will be paid with ad valorem tax increments, private sources, contributions, or other financial assistance from the state and federal government. In addition, the bill creates the Bioscience Development Bond Fund which will be managed by the Authority and not be part of the State Treasury. A separate account will be created for each bioscience development district (BDD) and distributions will pay for the bioscience development project costs in a BDD.

**Bioscience Tax Investment Incentive Act.** The bill also makes additional cash resources available to start-up companies. The bill creates the Net Operating Loss (NOL) Transfer Program. The Program will allow the Bioscience Authority to pay up to 50 percent of a bioscience company's Kansas NOL during the claimed taxable year. The Program will be managed by the Kansas Department of Revenue and will be capped at \$1.0 million for any one fiscal year.

**Bioscience R & D Voucher Program Act.** The bill establishes the Bioscience R & D Fund in the State Treasury. The Fund could receive state appropriations, gifts, grants, federal funds, revolving funds, and any other public or private funds. The State Treasurer will disperse funds with the consent of the Bioscience Authority Chairperson. The Program requires that any Kansas companies conducting bioscience research and development apply to the Authority for a research voucher. After receiving a voucher, the company then locates a researcher at a Kansas university or college to conduct a directed research project. At least 51 percent of voucher award funds will be expended with the university in the state under contract and could not exceed 50 percent of the research cost. The maximum voucher funds awarded could not exceed \$1.0 million, each year for two years, and not to exceed 50 percent of the research costs. The company will be required to provide a one-to-one dollar match of the project award for each year of the project. A Bioscience Research and Development Voucher—Federal Fund is established to receive any federal funding.

**Bioscience Research Matching Funds Act.** The bill further establishes the Bioscience Research Matching Fund to be administered by the Authority. Recipients must be a bioscience research institution and are encouraged to jointly apply for funds. The funds will be used to promote bioscience research and to recruit, employ, fund, and endow bioscience faculty, research positions and scientists at universities in Kansas. Application for the matching funds will be made to the Authority.



**Kansas Center for Entrepreneurship.** The bill establishes the Kansas Center for Entrepreneurship within the Department of Commerce. The Secretary of Commerce will enter into a contract for the operations of the Center. An 11- member Board of Directors will be appointed by the Secretary of Commerce and specific qualifications for Board membership are outlined in the bill.

The purpose of the Center is to increase seed capital for entrepreneurs, especially those in distressed and rural communities; work with the Kansas Board of Regents and the Kansas Board of Education to create training and course work in entrepreneurship; and provide a resource center clearinghouse and referral source which is to include a website and a toll-free telephone number.

The bill also creates the Kansas Community Entrepreneurship Fund (KCEF), which is to receive state funds, donations, and gifts from any source. The Center will administer the fund under guidelines established by the Secretary of Commerce and the funds would be used for awards to regional and community organizations that provide seed capital to qualified entrepreneurs, especially those located in distressed and rural communities in Kansas. The Fund will not be subject to appropriation. A maximum of 10 percent of the fund each year could be used for the operation of the Center.

A new tax credit for entrepreneurship in distressed and rural communities also is established by the bill. Taxpayers that donate to the KCEF could claim a 50 percent tax credit of the amount donated. The first year that a tax credit could be claimed is 2006 and will be limited to a total amount of \$2.0 million for any one fiscal year. In addition, the minimum amount of investment will be \$250 to receive the credit. The Center and the Department of Commerce will control the distribution of the credits to investors.

After the third year of operation, the Center is to be reviewed by Kansas, Inc. for evaluation of the program in meeting its goals and objectives, and cost effectiveness of the program.

**The Kansas Investments in Major Projects and Comprehensive Training Act (IMPACT).** The bill amends IMPACT to allow the Secretary of the Department of Commerce to make direct investments in educational and related workforce development institutions. The bill also increases the Secretary's ability to invest in capital requirements of major facility expansions from 10.0 percent to 20.0 percent of IMPACT funds.

**The Rural Business Development Tax Credit.** The bill also establishes a rural business development tax credit. State income tax credits will be awarded to seven designated regional organizations to use to encourage individuals, businesses, financial institutions, and insurance companies to donate to regional foundations. The bill defines a "regional foundation" as an organization that demonstrates capacity to provide economic development services to various regions of the state. The Secretary of Commerce, with assistance of the Secretary of Revenue, will designate an organization as a regional foundation.

Over a three-year period, each region will receive \$1.0 million of tax credits, or a total of \$7.0 million statewide. A tax credit of 50 percent of the donation will be available under this program. The minimum donation is \$250. Any credits not sold by a date to be specified by the Department of Commerce would be reclaimed by the Department and redistributed to other regions that had used all of their credits.

**The Kansas Angel Investor Tax Credit Act.** The bill establishes the Kansas Angel Investor Tax Credit Act. An accredited investor will be allowed a 50 percent tax credit not to exceed \$50,000 of cash investment in a qualified Kansas business and limited to five such cash investments. The tax credit will be made available beginning January 1, 2005 with a cap of \$2.0 million per year. The



last year to receive a tax credit under the provisions of the bill will be 2016. The cumulative aggregate amount of tax credits allowed for the ten-year period will be \$20.0 million.

A qualified Kansas business will be certified KTEC. An accredited investor will be an accredited investor as defined by the U.S. Securities and Exchange Commission Rule 501 Regulation D and is incurring Kansas income tax. The tax credit could be sold if the investor is not subject to Kansas taxation and only the full credit for any one investment may be transferred. KTEC will be allowed to recover administration costs from the accredited investor or qualified Kansas business.

The bill requires repayment of state investments if the business no longer qualifies or moves out of the state within 10 years and abolishes the Kansas Certified Capital Formation Company Act.

**The Kansas Downtown Redevelopment Act.** The bill further creates the Kansas Downtown Redevelopment Act. The Secretary of Commerce will approve applications from cities or counties for the designation of downtown redevelopment areas that also will receive a rebate of property tax collected on the properties which have undergone approved improvements. The criteria the Secretary will use when reviewing the applications includes:

- The proposed redevelopment area is located in a well-defined, core commercial district of the city;
- The structures located within the proposed redevelopment area have a vacancy rate that exceeds 15 percent; or
- The average appraised valuation of the properties located within the proposed area has not increased by more than 15 percent in the past 10 years.

The property owner will be required to submit a written application to the governing body of the city to request the rebates. The real property approved for the tax rebates will be assessed and taxed as if it had not been approved. A rebate for five years will be made available to the property owner of the incremental tax increase between the base year, prior to the improvements, and the new assessed evaluation. During the sixth year, 80 percent of the tax increment will be subject to rebate. For the seventh, eighth, and ninth years, the percentage of the tax increment that will not be subject to rebate will be a 20 percent increase per year. Finally, in the tenth year, no rebate will be awarded.

## 2005

### **Corporation Commission Participation in Regional Transmission Organization**

**HB 2407** enacts a new statute authorizing the Kansas Corporation Commission's representative to a regional transmission organization (RTO) to participate fully in the decision-making activities of the RTO, if the organization is recognized by the Federal Energy Regulatory Commission (FERC) and at least one Kansas electric public utility is a member of the RTO. The bill also provides that authority contained in the bill neither limits the Commission's regulatory

jurisdiction nor its authority to appeal decisions of an RTO. The bill specifically would not relieve the Commission of its obligation and authority to ensure that electric public utilities provide efficient and sufficient service.

## Utility Emergencies

**HB 2461** enacts a new statute as part of the Kansas Emergency Management Act authorizing the Division of Emergency Management to declare a limited emergency related to utility services in certain circumstances. The Division may declare an emergency at the request of any utility when conditions exist that constitute an emergency as described in regulations of the Federal Motor Carrier Safety Administration of the U.S. Department of Transportation.

The bill specifies that an emergency could be declared only for the purpose of exempting drivers of utility service vehicles from limitations on hours of service prescribed by regulations of the Kansas Corporation Commission (KCC). The exemption would be further limited by federal regulations pertinent to such exemptions.

The Adjutant General would be authorized to adopt rules and regulations to implement the act.

## Municipal Energy Agencies

**HB 2045** amends three statutes that govern municipal energy agencies. Under Kansas law, municipal energy agencies may be formed by two or more cities to secure electricity for the participating cities.

The bill repeals the:

- Minimum size requirement for energy agencies' boards of directors and the requirement that board members reside within one of the participating cities;
- Requirement that energy agencies abide by state budget and cash-basis laws; and
- Requirement that municipal energy agencies make filings with the Secretary of State pursuant to the Uniform Commercial Code to perfect a security interest against personal property or fixtures of the agency.

## Kansas Electric Transmission Authority

**HB 2263** enacts the Kansas Electric Transmission Authority Act creating the Kansas Electric Transmission Authority (Authority). The purpose of the Authority is to further ensure reliable operation of the integrated electrical transmission system, diversify and expand the state's economy, and facilitate the consumption of Kansas energy through improvements in the state's electric transmission infrastructure. The Authority will fulfill that purpose through building electric transmission facilities or by facilitating the construction, upgrade, and repair of third party transmission facilities.

The bill also enacts a new law authorizing the Kansas Corporation Commission to approve inclusion in retail electric rates of regulated electric utilities, electric cooperatives, and municipal electric utilities costs associated with the construction or improvement of electric transmission facilities under certain circumstances. Costs covered by the bill are those incurred for construction or upgrading of electric lines with an operating voltage of at least 115 kilovolts. Electric cooperatives and municipal electric utilities are subject to the jurisdiction of the Corporation Commission for implementation of the Act.

Finally, the bill amends prior law to authorize the Kansas Corporation Commission (KCC) to determine the reasonableness of and regulate and supervise curtailment of service from a gas gathering system to an end-use customer.

### ***Transmission Authority Governance***

The Transmission Authority Board of Directors will be composed of seven voting members:

- Three appointed to staggered four-year terms by the Governor, subject to Senate confirmation; and
- The chairpersons and ranking minority members of the House and Senate utilities committees.

The Governor's appointees must be qualified Kansas voters who possess special knowledge or have at least five years' managerial experience in the field of electric transmission or generation development. No more than two gubernatorial appointees may be members of the same political party. A member of the Board appointed by the Governor may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty, but only after reasonable notice and a public hearing conducted in accordance with the provisions of the Kansas Administrative Procedure Act. Board members will be paid compensation (\$35/day, or legislative pay), subsistence, expenses, and mileage as provided by statute for other state boards and commissions.

### ***Transmission Authority Powers***

In order to carry out the purposes of the Act, the Authority has broad, general authority including the ability to adopt rules and regulations. The Authority also may plan, finance, construct, develop, acquire, own, and dispose of transmission facilities. In addition to general authority to function as a public entity and to implement the Act, the Authority may contract for maintenance and operation of transmission facilities. The Authority cannot directly operate or maintain transmission facilities. The Authority will continue in existence until terminated by law.

Other specific powers of the Authority include the ability to enter into contracts with the Kansas Development Finance Authority (K DFA) which is authorized to issue bonds and provide financing for construction, upgrading, or repair of the Authority's transmission facilities and acquisition of right-of-way for those facilities. K DFA bond revenue also may be used to make loans to finance construction, upgrading, or repair of transmission facilities owned by third parties and acquisition of right-of-way for those facilities.

Transmission facilities financed with K DFA-issued bonds need not be wholly located in Kansas if the majority of the cost of the project is for facilities located within the state and the Kansas

Corporation Commission (KCC) certifies that those portions of the project located outside the state will improve the reliability and security of the state's transmission system or will contribute to the long-term well being of Kansas.

The Authority will recover its costs through tariffs of the Southwest Power Pool (SPP) Regional Transmission Organization. If all costs are not recovered through SPP tariffs, the Authority will recover the remainder of its costs through assessments against utilities that benefit from Authority projects and that have retail customers in Kansas. Each utility's assessment will be based on its benefit from the project as determined by the KCC. Electric utilities will recover costs attributable to such assessments from their customers in a manner approved by the KCC, or, in the case of municipal and cooperative electric utilities, by their governing boards.

### ***Transmission Authority Limitations***

The Authority may exercise the rights and powers granted by the Act in regard to transmission infrastructure only:

- If private entities are not meeting the need and are not willing to finance and own required new infrastructure; and
- In regard to transmission facilities approved by the SPP.

The Authority is required to publish notice of its intent to provide facilities or services in the *Kansas Register* and a newspaper and trade magazine in the area where the service or facilities will be provided. Private entities will have three months to notify the Authority of their intention and ability to perform the acts, finance, and construct the facilities, or provide the service contemplated by the Authority. If no private entity expresses its intent to build the facility or provide the service, or if the private entity fails to begin the project within six months, the Authority may proceed with the project. If a private entity begins, but fails to make satisfactory progress toward completion of a project, the Authority may provide notice of its intent to complete the project and proceed to do so if no private entity expresses willingness to complete the project.

### ***Transmission Authority Oversight and Regulation***

The Authority is required to provide an annual report to the Governor and the Legislature. The report must include any audit of the Authority performed under the Act. The Legislative Post Audit Committee may authorize financial compliance audits of the Authority. The cost of any post audit will be borne by the Authority.

The Authority is not supervised or subject to regulation by the KCC, except in regard to wire stringing and transmission line siting. In those instances, other existing statutes govern.

### ***Transmission Authority Taxation***

The Authority is not required to pay Kansas income tax and its purchases would be exempt from sales tax. The Authority's transmission facilities would be exempt from property tax to the extent they would be exempt if privately owned.

### ***Transmission Authority Cooperation with State and Local Entities***

State agencies and local units of government must provide information, assistance, and advice requested by the Authority. Those entities will be reimbursed by the Authority. State agencies and local governments also are authorized to lease, lend, grant, or convey land to the Authority without advertising or obtaining a court order for the transaction.

### ***Transmission Authority State General Fund Loan***

Any State General Fund financing provided by the Legislature to the Authority would be a loan to be repaid with interest in a single payment within ten years. Any such loan will not be considered an indebtedness of the state and would accrue interest at the statutory rate set for inactive state accounts.

### ***Transmission Authority Open Meetings and Open Records Acts Exceptions***

Exceptions to the Open Meetings and Open Records acts are provided to protect competitive positions of third parties and the security of transmission facilities. Those exceptions apply to:

- Proprietary information obtained with a promise of confidentiality;
- Information about the location of transmission facilities and related security measures; and
- Information about transmission capacity or availability that is not generally available to all electricity market participants.

Other exemptions to the Open Meetings and Open Records Acts also are available to the Authority.

### ***Transmission Authority Board Conflicts of Interest***

Board members and staff are required to disclose in writing any interest in contracts or transactions with the Authority. No Authority member or staff with an interest in an Authority transaction may participate in authorization of the transaction.

Board members are required to file statements of substantial interest as required by Kansas' ethics laws. Employees, agents, and advisors of the Authority who have a substantial interest in contracts or transactions with the Authority also are required to file statements of substantial interest.

### ***Recovery of Costs of Electric Transmission Facility Construction and Improvement***

In addition, the bill authorizes the KCC to approve inclusion in retail electric rates of regulated electric utilities, electric cooperatives, and municipal electric utilities costs associated with the construction or improvement of electric transmission facilities under certain circumstances. Costs covered by the bill are those incurred for construction or upgrading of electric lines with an operating voltage of at least 115 kilovolts. Electric cooperatives and municipal electric utilities are subject to

the jurisdiction of the Corporation Commission for implementation of the Act. The KCC is authorized to approve inclusion of the specified costs in retail utility rates if it finds:

- That a regional transmission organization identified the construction or upgrade as appropriate for reliability of the electric transmission system or for economic benefit to transmission owners and customers; and
- A state agency has determined that the project will provide measurable economic benefit to Kansas electric consumers that would exceed anticipated project costs.

The KCC is authorized to approve recovery of project costs in retail electric rates only if those costs are not otherwise being recovered. The KCC is authorized to consider the following when determining whether to approve inclusion of project costs in retail rates:

- The speed with which electric consumers will benefit from the transmission facility;
- The long-term benefits of the facility to Kansas electric customers; and
- Whether those factors outweigh other less costly options.

Applications for cost recovery for projects covered by the Act must include information required by the KCC to enable it to make those determinations.

The KCC will be required to conduct an expedited review of any request filed pursuant to the Act if the application includes evidence that expedited construction or upgrade will provide significant, measurable economic benefit to Kansas electric consumers. Regional transmission organization recommendation or approval of a project covered by the Act creates a rebuttable presumption of the appropriateness of the project for system reliability or economic benefit.

Any project cost recovery authorized by the KCC pursuant to the Act must be assessed against all utilities that have customers in Kansas and that receive benefits from the project. Individual assessments will be based on benefits received by the utility from the project. In making its decision regarding benefit and cost allocation, the KCC may consider funding and cost recovery mechanisms developed by regional transmission organizations and is required to consider transmission users' payments approved by the Federal Energy Regulatory Commission or the regional transmission organization.

### ***Curtailment of Consumer Service From Gas Gathering Systems***

Finally, the bill requires providers of end-user services from a gas gathering system to give notice to the KCC and to customers at least 30 days prior to curtailment of services, except in the case of an emergency.

In the case of an emergency, service to a residence or to a commercial office may be cut off immediately. Notice in cases of immediate termination of service must be given immediately to the end-user and to the public utility. The company that turned off the gas service is required to report the curtailment within 24 hours to the KCC along with the evidence upon which the company based its good faith belief that immediate curtailment of service was necessary. If the KCC determines that a good-faith basis for the curtailment did not exist and that the curtailment was unnecessary, the



company will be responsible for the cost of the service curtailment, including reconnection and temporary heating costs.

### **Eminent Domain and Siting of Wind Powered Generators**

Among other provisions, **SB 63** adds a new provision to the statutory definition of "public utility." The bill provides that, for the purpose of taking property through the exercise of eminent domain, the term "public utility" does not include siting or placement of wind-powered electrical generators or turbines including towers.

### **Property Tax — Exemption for Landfill Gas Property**

**SB 192** provides a property tax exemption retroactive to tax year 2002 for all personal property actually and regularly used predominantly to collect, refine, or treat landfill gas; all such property used to transport the gas from a landfill to a transmission pipeline; and the gas itself.

### **Ethyl Alcohol— Labeling Requirement**

**SB 56** deletes a provision in prior law requiring that every retail pump for motor-vehicle fuels be labeled conspicuously to show the content and percent of any ethyl alcohol or other alcohol combined or alone in excess of one percent by volume.

## **2006**

### **Kansas Petroleum Education and Marketing Act**

**House Sub. for SB 93** enacts the Kansas Petroleum Education and Marketing Act (KPEMA) and authorizes the establishment of the Kansas Oil and Gas Resources Board. The Board, which is a voluntary private organization with authority to organize as a not-for-profit entity, is not to be deemed in any manner a governmental or quasi-governmental organization. The purpose of the Board is to:

- Coordinate public education regarding the oil and natural gas industry;
- Encourage energy efficiency;
- Promote environmentally sound production;
- Support research and educational activities concerning the industry;
- Promote exploration and production safety;
- Support job training and research activities; and
- Implement and comply with other provisions of KPEMA.

The Board's governing body is composed of 15 trustees appointed by the governing bodies of various qualified producer associations and one representative of nonindustry interests. The nonindustry representative is appointed by the Board, at the Board's discretion. Trustees serve three-year, staggered terms and are prohibited from receiving salaries for duties performed but could

receive reimbursements for travel expenses incurred in association with such duties. The Board is authorized to elect a presiding officer and any other officers deemed necessary, and to appoint a director to help carry out the provisions of KPEMA. The Board also is authorized to employ personnel and enter into contracts for research studies or other projects associated with the Act.

The Board is authorized to levy assessments on oil and gas production in an amount up to 0.05 percent of the gross revenue from oil or natural gas produced. For producers who participate in the program, the assessment is deducted from the proceeds paid by the first purchaser to each interest owner. Producers are able to opt out of the assessment program. Interest owners also are entitled to seek refunds of assessments, including interest thereon, within 15 months. All assessments are construed as not constituting a tax or a governmental assessment of any kind. An annual cap of \$20,000 is placed on assessments imposed on an a single owner. The Board is specifically prohibited from using funds collected under the assessment provisions for influencing government action or policy, except to recommend amendments to KPEMA.

## **Kansas Energy Development Act**

**House Sub. for SB 303** enacts the Kansas Energy Development Act authorizing income tax credits, accelerated depreciation, and property tax exemptions for several types of energy- related projects. Projects for which those tax incentives are created by the Act are oil refineries, crude oil and natural gas liquids pipelines, integrated coal or coke gasification (ICCG) nitrogen fertilizer plants, cellulosic alcohol plants, and integrated coal gasification power plants (ICGPP).

The bill creates the following tax incentives:

- An income tax credit, beginning with the 2006 tax year, for investments in new construction or expansion of an existing entity, if the taxpayer agrees to operate the entity for at least ten years.
  - For all projects except ICCG nitrogen fertilizer plants and pipelines, expansion of an existing plant has to be at least 10 percent of capacity in order to qualify for the tax credit. For ICCG nitrogen fertilizer plants, the minimum qualifying expansion is 20 percent of capacity. Expansion of a pipeline does not qualify for the tax credit.
  - The credit is in an amount equal to the sum of 10 percent of the investment for the first \$250 million invested and 5 percent of the amount of investment over \$250 million.
  - The credit is awarded in ten equal annual installments, beginning with the year the entity or its expanded capacity is placed into service.
  - If an installment amount exceeds the taxpayer's income tax liability for a tax year, the remainder may be carried over for deduction from the taxpayer's income tax liability in the next tax year. The carry-forward provision is authorized for no more than four years, in addition to the ten years for which installment payments are authorized.
- If the entity (or portion thereof to which the tax credit applies) fails to operate for the required ten-year period, the tax credit is to be paid back.

- A deduction from Kansas adjusted gross income for amortization of the amortizable costs (this amortization will be subject to accelerated depreciation for ten years (55 percent first year, 5 percent for nine years).
- Kansas Development Financing Authority (KDFA) financing assistance for projects provided with tax incentives under the bill.
- A property tax exemption, (beginning with the purchase or the start of construction or installation,) for new equipment and construction or expansion of capacity by at least 10 percent. The property tax exemption for refineries, pipelines, ICCG nitrogen fertilizer plants and cellulosic alcohol plants would continue for 10 years after the completion of construction or installation. The property tax exemption for ICGPP projects would continue for 12 years after completion of the construction or installation. Property purchased for or constructed or installed at an ICGPP in order to comply with federal or state air emission standards also would be exempt from property tax from the time of purchase or the beginning of construction or installation and for 12 years after the completion of construction or installation.
- An income tax credit for qualified expenditures made by refineries and certified by the Secretary of Health and Environment as required for an existing refinery to meet federal or state environmental standards established after December 31, 2006. If the amount of the credit exceeds the taxpayer's liability for the year in which the expenditure is made, the remainder of the credit could be carried forward to subsequent years. The bill creates procedures for applying to the Secretary of Health and Environment for the required certification.

### **Nuclear Generating Facility Security Guard Act**

**HB 2703** enacts the Nuclear Generating Facility Security Guard Act which, among other things, creates a new crime of trespass on a nuclear generating facility. In addition, the bill provides that armed nuclear security guards are justified in using physical force, up to and including deadly force, under certain circumstances.

The bill defines an "armed nuclear security guard" as a guard working at a nuclear generating facility, who is employed as part of the security plan approved by the Nuclear Regulatory Commission, and who meets the Commission's requirements for carrying a firearm. A guard who meets those requirements may use physical force if the guard reasonably believes that level of force is necessary to prevent or stop the commission of or an attempt to commit criminal damage to property, criminal use of weapons, or criminal trespass on a nuclear generating facility, as those crimes are defined in existing law and by the bill. Those guards also may use physical force, up to and including deadly force, if the guard reasonably believes that level of force is necessary to prevent the commission of manslaughter, first or second degree murder, aggravated assault, kidnapping, aggravated kidnapping, aggravated burglary, arson, aggravated arson, or aggravated robbery. Use of deadly force by a guard also is justified in self defense or to defend another from the use or imminent use of deadly physical force.

An armed nuclear security guard may threaten to use physical or deadly force if necessary in self defense or in order to defend others from the potential use of physical or deadly force.

Neither the guard, the guard's employer, nor the owner of the nuclear generating facility will be civilly liable for the conduct of an armed nuclear security guard whose use of physical or deadly force was justified under the Act.

Armed nuclear security guards may detain any person suspected of or attempting to commit any of the crimes for which the use of physical or deadly force would be justified by the Act. The detention must be conducted in a reasonable manner, for a reasonable time, and for the purpose of summoning a law enforcement officer. The reasonable belief that the person detained was attempting to commit one of the enumerated crimes is a defense to a civil or criminal action against the guard for false arrest, false or unlawful imprisonment, or wrongful detention. The defense provided in the Act also accrues to the guard's employer or the owner of the nuclear facility where the guard is employed.

Criminal trespass on a nuclear generating facility is knowingly either:

- Entering or remaining unlawfully in or on a nuclear generating facility; or
- Entering or remaining unlawfully within a structure or fenced yard of a nuclear generating facility.

The crime is a severity level 6, person felony.

The bill defines a "nuclear generating facility" as an electric generating facility, and the property on which the facility is located, that is owned by one or more electric utilities and that uses a nuclear reactor to produce electricity. A "structure or fenced yard" is defined by the bill to be any structure, fenced yard, wall, building or other similar barrier, or combination of those elements, that surrounds a nuclear generating facility and upon which is posted signs indicating that it is a felony to trespass.

## **Franchise Fees in Newly Annexed Areas**

**HB 2927** enacts a new statute impacting municipal franchise fees in newly annexed areas. The bill provides that franchise fees imposed by cities on electric and natural gas utilities cannot take effect until 30 days after the city clerk provides the affected utility with a certified copy of the annexation ordinance, proof of publication of the ordinance, and a map of the city detailing the annexed area.

## **E85 Fuels**

**SB 544** reduces the motor vehicle fuel tax rate on E85 fuels by \$.07 per gallon effective January 1, 2007 to \$.17 per gallon until July 1, 2020. On and after July 1, 2020, the tax on E85 fuels \$.11 per gallon or \$.07 below the tax on most other fuels. The bill defines E85 fuels to mean an alternative fuel that is a blend of denatured ethanol and hydrocarbon that typically contains 85 percent ethanol by volume, but at a minimum must contain 70 percent ethanol by volume and complies with ASTM specification D5798-99.

The bill also pertains to the tax paid on motor fuel or special fuels by out-of-state importers and ensures that these taxes are paid by such individuals.

## Energy Conservation Projects—Technical and Community Colleges

**HB 2602** amends an existing statute to authorize the board of any community or technical college that implements eligible energy conservation measures to enter into a contract or lease-purchase agreement for those measures for a period of time that may exceed ten years. The amendment contained in the bill gives community and technical colleges the same flexibility for financing energy conservation measures as is currently available to municipalities, school districts and state agencies under the statute.

The bill also authorizes the Secretary of Administration to provide administrative support and resources under the facility conservation improvement program if requested to do so by school districts or private or public colleges. Under prior law, only municipalities and state agencies were eligible to receive those services.

## Gas Safety and Reliability Policy Act

**SB 414** enacts the Gas Safety and Reliability Policy Act. Beginning July 1, 2006, a natural gas public utility may petition and propose rate schedules with the Kansas Corporation Commission (KCC) to establish or change gas system reliability surcharge (GSRS) rate schedules. These changes allow for the adjustment of rates in order to recover the costs for eligible infrastructure system replacements.

The bill defines an eligible infrastructure system replacement to mean natural gas utility plant projects that:

- Do not increase revenues by directly connecting the infrastructure replacement to new customers;
- Are in service and used and required to be used; and
- Were not included in the natural gas public utility's rate base in its most recent general rate case.

The "natural gas utility plant projects" are defined under the bill to consist only of the following:

- Mains, valves, service lines, regulator stations, vaults and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities;
- Main relining projects, service line insertion projects, joint encapsulation projects and other similar projects extending the useful life or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and
- Facility relocations required due to construction or improvement of certain public works on behalf of the United States, this state, a political subdivision of the state or another entity having the power of eminent domain provided the costs have not been reimbursed to the natural gas utility.



The KCC could not approve a GSRS to the extent it produces a total annualized GSRS revenue below the lesser of \$1,000,000 or ½ percent of the utility's base revenue level or exceeding 10 percent of the base revenue approved by the KCC at the utility's most recent general rate proceeding.

The bill prohibits the KCC from approving a GSRS for a utility that has not had a general rate proceeding decided or dismissed within the past 60 months, unless the utility has filed for one or is the subject of a new proceeding. The bill prohibits a utility from collecting a GSRS for any period exceeding 60 months unless a filing has been made or is subject to a new proceeding.

The bill also requires the utility which files a petition with the KCC for a GSRS, to submit a proposed GSRS and supporting documentation. Staff of the KCC is required to confirm underlying costs and submit a report not later than 60 days after the filing. The bill permits the KCC to hold a hearing and requires that the KCC issue an order not later than 120 days after the filing. The bill prohibits a utility from effectuating a change in its rates no more often than once every 12 months.

The KCC is required to determine the appropriate amount of pretax revenue. The bill establishes the factors in determining the appropriate amount of pretax revenue.

The monthly GSRS change is allocated among classes of customers in the same manner as was allocated at the utility's last general rate proceeding. The GSRS is charged to customers as a monthly fixed charge and not based on volumetric consumption. The monthly charge cannot increase more than \$.40 per residential customer per year.

Nothing in the bill is to be construed to limit the authority of the KCC to review and consider infrastructure system replacement costs along with other costs during any general rate proceeding.

### **Biodiesel Fuel Producer Production Incentive**

**SB 388** establishes a biodiesel fuel producer production incentive in the amount of \$.30 for each gallon of biodiesel fuel sold by a Kansas qualified biodiesel fuel producer, as defined by the bill. The incentive will be payable to a producer from the Kansas Qualified Biodiesel Fuel Producer Incentive Fund (Incentive Fund) which will be created by the bill in the state treasury.

The bill requires the Director of Accounts and Reports to transfer \$437,500 on April 1, 2007 from the State Economic Development Initiatives Fund (EDIF) to the Incentive Fund. Also, on July 1, 2007, and every quarter thereafter, the Director of Accounts and Reports is to transfer \$875,000 from the EDIF to the Incentive Fund. The Secretary of Revenue will make the payments to the producers upon a filing by the producer of a form furnished by the Department of Revenue. Moneys remaining in the Fund upon expiration of the act are to be credited by the State Treasurer to the EDIF. In the event funds from the EDIF are insufficient, then funds will be transferred from the State General Fund.

The bill authorizes the Secretary of Revenue to adopt rules and regulations necessary to administer the provisions of the bill. Those rules and regulations will include the development of a procedure for the payment of the production incentive on a pro rata basis.

Finally, the bill provides for a sunset of the incentive program on July 1, 2016.