

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 a.m. on January 19, 2010, in Room 785 of the Docking State Office Building.

All members were present except:

Mike Slattery-Excused
Gail Finney-Excused

Committee staff present:

Matt Sterling, Office of the Revisor of Statutes
Mary Torrence, Office of the Revisor of Statutes
Cindy Lash, Kansas Legislative Research Department
Iraida Orr, Kansas Legislative Research Department
Rena Hansen, Committee Assistant

Conferees appearing before the Committee:

Kimberly Winn- KS League of Municipalities
Melissa Wangeman- KS Association of Counties
Dan Jacobson- AT&T
Patrick Fucik- Sprint

Others attending:

Forty-Four including the attached list.

Hearing on:

HB 2423 - Concerning Kansas 911 and the collection and distribution of fees.

Matt Sterling, Office of the Revisor of Statutes, (Attachment 1), gave the committee a briefing on **HB 2423**.

Questions were asked by Representative Tom Sloan.

Cindy Lash, Kansas Legislative Research Department, (Attachment 2), provided to the committee a comparison between **HB 2423** and the current law.

Proponents:

Kimberly Winn, League of Kansas Municipalities, (Attachment 3), spoke to the committee on **HB 2423**. She noted their particular goals as an organization and what motivated their position when this legislation was being crafted. The testimony included an amendment to **HB 2423** that would allow looking at this issue at least every 5 years. She also noted that there would be some amendments offered by other parties and that the League is aware of them and in favor of the amendments.

Melissa Wangeman, Kansas Association of Counties, (Attachment 4), spoke to the committee as a proponent on **HB 2423** offering the committee charts that explain why the conversation began to create the legislation.

Dan Jacobson, AT&T, (Attachments 5), offered testimony in support of **HB 2423**. He spoke to the committee on the long process they experienced to come to some sort of agreement with all the interested parties. Additionally, he offered an amendment, (Attachment 6), to **HB 2423**.

Patrick Fucik- Sprint, (Attachment 7) offered testimony in favor of **HB 2423**. He noted that his testimony included a flow chart as to what happens when a call comes in. He noted they are willing to support the bill without the proposed amendment.

CONTINUATION SHEET

Minutes of the House Energy and Utilities Committee at 9:00 a.m. on January 19, 2010, in Room 785 of the Docking State Office Building.

Written Proponents:

- Ed Klump, KS Association of Chiefs of Police, (Attachment 8)
- Jack Frick, Kansas Legislative Policy Group, (Attachment 9)
- Diane Gage, Sedgwick County Department of Emergency Communications, (Attachment 10)
- Walter Way, Johnson County Kansas Emergency Communications, (Attachment 11)
- Erik Sartorius, City of Overland Park Kansas, (Attachment 12)

Neutral:

Chris Clark, Legislative Post Audit, (Attachment 13), spoke to the committee about an audit and noted there were no financial issues found with PSAP's spending of grant fee monies. She offered some suggestions to the committee for the committee's consideration in working **HB 2423**.

Mike Murray, spoke to the committee on **HB 2423**, and noted that the proposed amendments to the bill need to be questioned and thoroughly explored.

Questions were asked and comments made by Representatives: Don Myers, Milack Talia, Tom Sloan, Cindy Neighbor, Tom Moxley, Forrest Knox, Robert Olson, Carl Holmes, and Annie Kuether.

Colin Jennison, Cox Communications, helped to answer some of the committees questions.

Secretary of Revenue Joan Wagon spoke to the committee concerning **HB 2423**, and noted the nationwide trend is for the E-911 monies to be collected by the department of Revenue. She commented that some monies are designated to the Department for the implementation of this collection process in the proposed legislation, and they appreciate that consideration in the drafting of this bill.

The hearing on **HB 2423** was closed.

Chairman Holmes reminded the committee that **HB 2423** will be worked on Thursday.

The next meeting is scheduled for January 20, 2010.

The meeting was adjourned at 10:35 a.m.

HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

DATE: January 19, 2010

NAME	REPRESENTING
Scott Jones	KCPK
Dina Fisk	VERIZON
TOM DAY	KCC
ERIK SARTORIUS	City of Overland Park
Bruce Ney	AT&T
Mark Schreiber	Western
John Idoux	CenturyLink
Carolyn Applegate	Norton Co.
TEB HENRICH	CAPITOL STRATEGIES.
Mike Murray	Capitol Advantage
Dave Gage	Sedgwick Co
Corey Mohr	KDOC
Mik Kuttles	Rural Ind. Telephone Co.
Kimberly Sotky	KMU
Colleen Jensen	Cox
Rob Jurish	Federal Consulting
Richard Carr	KDA
Whitney James	City of Topeka
Doug Smith	KLPG

Leigh Beck

KLF

HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

DATE: January 19, 2010

Melissa Wangemann

KAC

NAME	REPRESENTING
Dave Hotchkiss	KEC
Joe Duke	KCBPU
Mike Reed	SPRINT
Ron Gaches	SPRINT
Nelson Krueger	U.S. Cellular
Ed Krump	KACP / KPDA / KSA
WALT WAY	JOHNSON COUNTY ECL
Bill Sneed	DTY
DAW JACOBSEN	AT&T
Enca Heas	Gov's Office
Chris Clark	LPA
PHIL WAGES	KEPCO
CHRIS CARRON	AT&T
Patrick Fucik	Sprint
Lil Taylor	Sprint
Jim Enckes	AT&T
LON STANTON	NORTHERN NATURAL GAS
Travis Low	Little Fort relations
LARRY BERG	CITY OF HAY

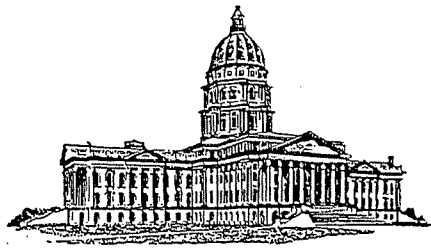
Ron Gaches

SPRINT

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

MEMORANDUM

To: Chairman Holmes and members of the House Committee on Energy and Utilities
From: Matt Sterling, Assistant Revisor of Statutes
Date: January 18, 2010
Subject: House Bill 2423

HB 2423 is an act concerning emergency telephone service and the implementation, collection and distribution of 911 fees. The current laws concerning the 911 system and fees are set to expire on July 1, 2010. This act would create a new fee structure for the 911 fees, as well as creating a 911 coordinating council. Most of the current laws would be extended for another six months, when they would be repealed and replaced with most of the provisions of this act. The following is a more detailed breakdown of each section of the bill.

Section 1: The title of the act, the Kansas 911 act.

Section 2: Definitions section, some of which are listed below:

- Exchange telecommunications service: means the service that provides local telecommunications of exchange access to a service user.
- Local Collection Point Administrator (LCPA): means the statewide association of cities established by K.S.A. 12-1610e and the statewide association of counties established by K.S.A. 19-2690.
- Place of primary use as defined in the mobile telecommunications act: means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be—
(A) the residential street address or the primary business street address of the customer; and
(B) within the licensed service area of the home service provider.
- Provider: means any person who provides exchange telecommunications service; wireless telecommunications services, VoIP service, or other service capable of contacting a PSAP.

- PSAP: means a public safety answering point operated by a city or county.
- Service user: means any person who is provided exchange telephone communications service, wireless telecommunications service, VoIP service, prepaid wireless service, or any other service capable of contacting a PSAP.
- Wholesaler of prepaid wireless service: means a person who purchases at wholesale wireless service from a wireless provider for resale as prepaid wireless service.

Section 3: Imposes a 911 fee of \$.55 per month per subscriber account to be remitted by each service provider to the LCPA, as well as a fee of 1% of the retail price of any prepaid wireless service sold in Kansas to be remitted by the wholesaler to the LCPA.

Section 4: Makes every service user liable for the 911 fee until it has been paid to the service provider. The fees are to be added to the billings and may be stated separately as "KS 911 fees". The provider has no legal obligation to enforce collection of the fees, but must provide an annual list to the LCPA of the amount owed and the names of service users who carry a balance. The fees collected are due on a monthly basis, no more than 15 days after the end of a calendar month. The providers and wholesalers are required to keep records of the fees collected for a period of three years from when the fees were obtained. The providers, wholesalers and LCPA may retain an administrative fee of up to 2% of the moneys collected.

Section 5: Within 30 days of receiving the fees, the LCPA must distribute 82% of the moneys to the PSAPs based upon place of primary use information provided by the providers and the remaining 18% is to be redistributed to the PSAPs located in counties with less than 75,000 in population. The LCPA is required to keep records of all 911 fees received and distributed. The information provided to the LCPA or the 911 coordinating council by the providers, will be treated as proprietary records and withheld from the public upon request of the party submitting the records. Moneys which cannot be allocated to a specific PSAP shall be transferred to the LCPA grant fund.

Section 6: The purposes for which the 911 fees may be used are: Implementation of 911 services; purchase of 911 equipment and upgrades; maintenance and license fees for 911 equipment; training of personnel; monthly recurring charges billed by service suppliers; installation, service establishment and nonrecurring start-up charges billed by the service supplier; charges for capital improvements and equipment or other physical enhancements to the 911 system; the acquisition and installation of road signs designed to aid in the delivery of emergency service, but shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities or the purchase of subscriber radio equipment.

Section 7: Creates the 911 coordinating council which is tasked with monitoring the delivery of 911 services, developing strategies for future enhancements to the 911 system and distributing funds to the PSAPs. The coordinating council would have authority to promulgate rules and regulations necessary to effectuate this act. The council also has the sole authority to impose civil

penalties for violation of this act.

The council is to consist of 12 members appointed by the governor: two members representing wireless telecommunications providers; one member representing a local exchange provider; one member representing a rural telecommunications company; one member representing VoIP providers; two members recommended by the League of Municipalities; two members recommended by the Kansas association of counties; one member recommended by the Kansas commission for the deaf and hard of hearing; one member recommended by the Kansas emergency medical services board and one member recommended by the adjutant general. The council shall also include three members from the Kansas House of Representatives and three members from the Kansas Senate.

The LCPA is to provide staff support to the council. Members may receive reimbursements for meals and travel expenses, but shall not receive any compensation. All expenses related to the council shall be paid from the LCPA grant fund.

Section 8: The LCPA, PSAPs, providers and wholesalers shall not be liable for any damages resulting from the performance of installing, maintaining or providing 911 service.

Section 9: The receipts and disbursements of the LCPA are to be audited annually by a licensed municipal accountant or a certified public accountant. The LCPA may require an audit, to be paid from the LCPA grant fund, of any provider's records pertaining to collection and remittance of fees pursuant to this act.

The division of post audit shall conduct an annual audit of the 911 system to determine: Whether moneys received by PSAPs are being used appropriately; whether the amount of moneys collected is adequate and the status of 911 service implementation. Audits are to be conducted on a random basis and no more than 35 PSAPs are to be audited during one calendar year. The cost of the audit is to be paid from the LCPA grant fund and the audit report shall be submitted to the 911 coordinating council, the LCPA, the house energy and utilities committee and the senate utilities committee.

Section 10: Nothing in this act will limit the ability of a provider to recover from its customers, its costs associated with designing, developing, deploying and maintaining 911 service, as well as the cost of collection and administration of the 911 fees imposed by this act, whether or not such costs are itemized on the customer's bill.

Section 11: Directs the LCPA to create and maintain a grant fund for PSAPs that is outside the state treasury. The 911 coordinating council shall develop criteria for grant applicants and make the final determination as to the allocation of the funds. The money in the grant fund may only be expended for: projects involving the development of next generation 911 services; costs associated with PSAP consolidation or cost-sharing projects and other purposes defined in section 6.

Section 12: On publication in the Kansas register, all funds remaining in the wireless enhanced 911 grant fund established pursuant to K.S.A. 12-5323, shall be transferred to the LCPA. Any funds received on or after the effective date of this act and prior to January 1, 2011, shall be transferred to the LCPA at least monthly. The LCPA shall deposit such funds in the LCPA grant

fund to be distributed as provided in section 11.

Section 13: Amends K.S.A. 2009 Supp. 12-5338 to expire on January 1, 2011 instead of July 1, 2010.

Section 14: Amends K.S.A. 2009 Supp. 12-5361 to expire on January 1, 2011 instead of July 1, 2010.

Section 15: Severability clause.

Section 16: Repeals K.S.A. 12-5305, requiring prior approval by a PSAP before a wireless service supplier may direct emergency calls to that PSAP; K.S.A. 12-5306, requiring wireless service suppliers to establish 911 as a unique emergency telephone number; K.S.A. 12-5307, requiring each city and county to provide or contract for 14-hour receipt of wireless emergency calls within its jurisdiction; K.S.A. 12-5309, establishing the enhanced 911 task force; K.S.A. 2009 Supp. 12-5338 and 12-5361 upon publication in the register.

Section 17: Repeals the remaining sections of the Emergency Telephone Services Act, the Wireless Enhanced 911 Act and the Voice over Internet Protocol Act on January 1, 2011.

Section 18: The act, unless stated otherwise, is effective upon publication in the Kansas Register. Sections 1 through 10 are effective on January 1, 2011 and sections 11 through 18 are effective upon publication in the Kansas Register.

Comparison of Provisions of HB 2423 to Current Law

Note: Existing Kansas law regarding 9-1-1 is organized in three sections - wireline service, wireless service, and VoIP service. Statutes related to VoIP mirror wireless statutes, but these two sections have significant differences from the wireline statutes. HB 2423 does not differentiate between service modality.

HB 2423

Current Law

Imposition of 9-1-1 service and charges

Wireline, Wireless, VoIP, or other service capable of contacting a PSAP

A 9-1-1 fee of \$0.55 per month per subscriber account is imposed. New Sec. 3(a)

No fee is imposed on more than 100 wireline users per location. New Sec. 3(a)

Pre-paid wireless

A fee equal to 1% of the retail price of prepaid wireless service sold in the state is established. New Sec 3(b)

Wireline Service

The governing body of a county or city may provide for operation of 9-1-1 service and may pay for it by imposing a tax not to exceed \$0.75 per month per exchange access line. 12-5302 (a)

Election processes are set out by which voters in a city or county can vote whether to install a 9-1-1 system, supported by a tax. 12-5302(b)(c)

No tax is imposed on more than 100 users per location 12-5302(d)

Wireless and VoIP Service

An enhanced 9-1-1 grant fee of \$0.25 per month per wireless subscriber account and per VoIP service user is established. 12-5330(a), 12-5356(a)

An enhanced 9-1-1 local fee of \$0.25 per month per wireless subscriber account and per VoIP service user is established. 12-5324(a), 12-5355(a)

Pre-paid wireless

Same, but labeled a grant fee. 12-5324(b)

HOUSE ENERGY AND UTILITIES
DATE: 1/19/2010
ATTACHMENT 2-1

2
2-2

Collection of tax/fees

Wireline, Wireless, VoIP, or other service capable of contacting a PSAP
Every billed service user is liable for 9-1-1 fees until paid to the provider
New Sec. 4(a)

The provider has no obligation to take legal action to enforce collection of 9-1-1 fees New Sec. 4(c)

9-1-1 fees are collected by the service supplier at the same time as charges for service. New Sec. 4(d)

Wireline, Wireless, VoIP

Same 12-5302(e), 12-5331(a), 12-5357(a)

Same 12-5302(g), 12-5331(c), 12-5357(c)

Same 12-5302(h), 12-5331(d), 12-5357(d)

Remittance of tax/fees

Wireline, Wireless, VoIP, Other service capable of contacting a PSAP, Wholesaler of Prepaid Wireless Service

Fees are **due monthly**. Amounts collected in one month must be **remitted to the local collection point administrator within 15 days** of the end of the calendar month, along with a return. The service supplier/wholesaler must **keep records of collections for three years**. New Sec 4(e)

Wireline

Taxes collected are **due quarterly**. Amounts collected in a quarter must be **remitted to the county/city within 60 days** of the end of the calendar quarter, along with a return. The service supplier must **keep records of collections for one year**. 12-5303(a)

Wireless, VoIP

Enhanced 9-1-1 **grant fees** are **due monthly**. Amounts collected in one month must be **remitted to the Secretary of Administration within 15 days** of the end of the calendar month, along with a return. The service supplier must **keep records of collections for three years**. 12-5331(e), 12-5357(e)

Enhanced 9-1-1 **local fees** are **due monthly**. Amounts collected in one month must be **remitted to the local collection point administrator within 15 days** of the end of the calendar month, along with a return. The service supplier must **keep records of collections for three years**. 12-5331(f) 12-5357(f)

Prepaid Wireless Service

Enhanced 9-1-1 **grant fees** must be **remitted to the Secretary of Administration** by the wholesaler **within 15 days** of the end of the calendar month in which the service was sold by the wholesaler. 12-5331(g)

Administrative Fees

Wireline, Wireless, VoIP, Other service capable of contacting a PSAP, Prepaid Wireless Service
The **service provider or wholesaler of prepaid wireless service** may retain a fee **not to exceed 2%** of moneys collected. New Sec. 4(f)

Local collection point administrator may retain a fee not to exceed 2% of **moneys** collected. New Sec 4(f)

Wireline

The **service supplier** may retain a **fee equal to 2%**.

Wireless, VoIP, Prepaid Wireless Service

No provision for service provider to retain a fee

Local collection point administrator may retain a fee not to exceed 2% of 9-1-1 **local fee** moneys collected. 12-533(h), 12-5357(g)

Costs of administering the grant fund, including expenses of the advisory board and audits can be paid from money (generally 9-1-1 grant fees) credited to the fund, not to exceed 5%. 12-5323(c)(1) The Secretary of Administration administers the grant fund.

Distribution

Wireline, Wireless, VoIP, Other service capable of contacting a PSAP
The **local collection point administrator** must **distribute fees to PSAPs** within 30 days of receipt, as follows: New Sec. 5(a)

- 82% returned to place of primary use**
- 18% re-distributed to PSAPs with population less than 75,000**
- Fees whose source cannot be identified go to the LCPA grant fund**

Prepaid Wireless Service
Fee moneys are transferred to the LCPA grant fund New Sec 5(b)

Wireline

Service provider must be **remit all amounts collected in a quarter to the county/city within 60 days** of the end of the calendar quarter, along with a return. 12-5303(a)

Wireless, VoIP

Local collection point administrator must distribute **local fee** moneys, within 30 days of receipt, **to PSAPS based on primary place of use**. 12-5331(h), 12-5357(g) Fees whose source cannot be identified are to be distributed first to PSAPS that have not achieved Phase II status. 12-5331(h)

Secretary of Administration deposits **grant fee** moneys in the **state treasury**; grants can be **awarded to** counties with a **population of less than 75,000** or a city located in such county, or two or more such cities or counties. 12-5324(c), 12-5322(c), 12-5355(b)

Prepaid Wireless Service
Same as wireless and VoIP grant fee. 12-5324(c)

Use of Proceeds (tax, fee, and grant)

Fee moneys (including earned interest) can be used only for necessary and reasonable costs incurred by PSAPs for the following:

- Implementation of 9-1-1 services
- Purchase of 9-1-1 equipment and upgrades
- Maintenance and license fees for 9-1-1 equipment
- Training of personnel
- Monthly recurring charges billed by service suppliers
- Installation, service establishment, and nonrecurring start-up charges billed by the service supplier
- Charges for capital improvements and equipment or other physical enhancements to the 9-1-1 system
- Acquisition and installation of road signs designed to aid in the delivery of emergency
- Costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair furnish or make improvements to buildings or similar facilities.
- Costs shall not include expenditures to purchase subscriber radio equipment. New Sec. 6
- Grant moneys (including earned interest) may be used for projects involving development of NG 9-1-1, costs associated with PSAP consolidation or cost-sharing projects, and uses identified above for fee moneys; and shall be used for expenses related to the 9-1-1 coordinating council, audits of providers, and audits of PSAPS conducted by Legislative Post Audit. New Sec. 11(a), New Sec. 7(g), New Sec. 9(b)(c)

Moneys may be used only for the following:

- Same except Wireless/VoIP/PP grant 12-5323(c) and local fee 12-5330(b) only apply to wireless and VoIP enhanced 9-1-1
- Same except Wireless/VoIP/PP grant 12-5323(c) and local fee 12-5330(b) only if used solely to process the data elements of wireless and VoIP enhanced 9-1-1
- Same Wireless/VoIP/PP grant 12-5323(c) and local fee 12-5330(b) Wireless/VoIP/PP grant 12-5323(c) and local fee 12-5330(b) limits training to operating the equipment, including training to provide effective service to users with communication disabilities
- Same Wireline12-5304(b)
- Same Wireline12-5304(b)
- Same Wireline12-5304(b)
- Same Wireline12-5304(b)
- Same Wireless/VoIP/PP grant 12-5323(c) and local fee 12-5330(b) but adds "...or for other capital outlay or equipment not expressly authorized by this act."
- Wireless/VoIP/PP grant 12-5323(c) - pay costs of administering the grant fund, including actual and necessary expenses of the advisory board and cost of audits, but aggregate costs cannot exceed 5%

Rules and
Regs/ Civil
Penalties

The **9-1-1 coordinating council** is authorized to adopt rules and regulations necessary to effect the provisions of the act, including civil penalties
Imposition of civil penalties requires a written **order of the 9-1-1 coordinating council**, stating the violation, the penalty, and the right to appeal in accordance with KAPA.
Any civil penalty recovered shall be **deposited in the local collection point administrator grant fund**.
New Sec. 7 (c)(d)(e)

Same, except the **Secretary of Administration** is authorized ...

Same, except the **Secretary of Administration** issues the order, and the provisions apply only to **wireless carriers and VoIP providers**.

Any civil penalty recovered shall be deposited with the local collection point administrator to be **routed back to the corresponding PSAP**.
12-5325, 12-5354

Immunity

PSAPS, the local collection point administrator, providers, and wholesalers of prepaid wireless service shall **not be liable for any form of damages** resulting directly or indirectly from the performance of installing, maintaining, or providing 9-1-1 service. New Sec. 8

Wireline - immunity only extended to failure to transmit. 12-5308 **Wireless and VoIP - Except as provided by the KS tort claims act**, in contracting for and in providing enhanced 9-1-1 service, **and except for failure to use ordinary care, or for intentional acts**, the Secretary, local collection point administrator, each governing body, each public agency, each wireless carrier, and each VoIP provider shall not be liable for **payment** of damages resulting from the performance of installing, maintaining or providing enhanced 9-1-1 service. 12-5333, 12-5359

5
2-5

Coordinating Council/
Advisory Body Creates the 9-1-1 coordinating council, charged with monitoring the delivery of 9-1-1 services, developing strategies for future enhancements to the 9-1-1 system, and distributing grant funds to PSAPS. Shall include individuals with technical expertise in 9-1-1 systems, internet technology, and GIS technology. New Sec. 7(a)

Council would have 18 members: 12 appointed by the Governor, 6 legislators

Governor's appointees:

- 2 representing wireless telecommunications providers
- 1 representing local exchange providers, recommended by KTIA
- 1 representing rural telecomm. company, rec. by KS Rural ITC
- 1 representing VoIP providers
- 2 recommended by League of KS Municipalities
- 2 recommended by KS Association of Counties
- 1 recommended by KS Commission on Deaf and Hard of Hearing
- 1 recommended by KS EMS Board
- 1 recommended by Adjutant General

Legislators, appointed by legislative leadership

- 3 Representatives, 2 majority/1 minority
- 3 Senators, 2 majority/1 minority

Governor designates chairperson

Creates the wireless enhanced 9-1-1 advisory board. Work with the Secretary of Administration to prepare an annual plan identifying intended uses of the grant money, including a project priority list, goals for deploying wireless enhanced 9-1-1, provisions for addressing the needs of persons with communications disabilities, informations on projects financed, and criteria for providing grants. Members shall be familiar with development and implementation of wireless enhanced 9-1-1 service. 12-5326, 12-5327

Advisory body has 9 members, all appointed by the Governor. No legislators

Governor's appointees:

- 1 representing wireless telecommunications providers
- 1 representing local exchange providers

- 1 representing League of KS Municipalities
- 1 representing KS. Association of Counties

1 representing local fire/EMS

- 1 representing local law enforcement
- 1 representing PSAPs, population less than 15,000
- 1 representing PSAPs, population of 15,000 or more
- 1 representing KS Highway Patrol

Further requirements to ensure small, medium and large counties are represented. 12-5326

2-4

6

Audits

Receipts and disbursements of the local collection point administrator shall be audited yearly by a licensed municipal accountant or a CPA New Sec. 9(a)

Same for wireless and VoIP local fee 12-5331(i), 12-5357(h)

The **local collection point administrator** may require an audit of any provider's books and records concerning collection and remittance of 9-1-1 fees. The **audit cost to be paid from the grant fund.** New Sec. 9(b)

Wireline - the governing body at its own expense may require an annual audit of the service supplier's books and records concerning collection and remittance of 9-1-1 tax. 12-5303(c) **Wireless - in 2006 the Secretary shall require, and thereafter may require,** audits of wireless carrier's books and records re: 9-1-1 fee **at the expense of the Secretary.** 12-5332 **VoIP - in 2008 the Secretary shall require, and thereafter may require,** audits of wireless carrier's books and records re: 9-1-1 fee **at the expense of the Secretary.** 12-5358

Legislative Post Audit shall conduct an **annual audit of the 9-1-1 service system** to determine the following:
whether PSAPs are using fee money appropriately
whether the amount of moneys collected is adequate
the status of 9-1-1 service implementation

Legislative Post Audit to conduct audits of the 9-1-1 service system in **2006 (wireless)** and in **2008 (wireline, wireless, VoIP)** to determine:
same
same
same
2008 audit also determined the need and level of continued funding for the 9-1-1 system. 12-5334
(Audit costs paid from Legislative Post Audit budget)

Audits shall be conducted on a **random basis, on not more than 35 PSAPs per year,** with the **cost to be paid from the grant fund.** New Sec. 9(d)

Provider Costs

Providers are not limited from recovering directly from their customers costs associated with designing, developing, deploying and maintaining 9-1-1 service and its cost of collection and administration of the 9-1-1 fees New Sec 10(a)

Same for **Wireless and VoIP** 12-5335, 12-5360

Grant Fund

The local collection point administrator shall establish and maintain a grant fund for PSAPS which shall not be part of the state treasury. Grant money, including earned interest can be expended only for purposes described under Use Of Proceeds (above). New Sec. 11(a)

The 9-1-1 coordinating council shall develop criteria for grant applicants and award and distribute grant funds. New Sec 11(b)

The wireless enhanced 9-1-1 grant fund is established in the state treasury. The Secretary of Administration (or designee) can approve payments from the fund. Grant moneys can be expended for purposes described under Use of Proceeds (above) 12-5323

The Secretary is authorized to review grant applications and select projects for awards, upon recommendation of the 9-1-1 Advisory Board. 12-532, 12-5328(b) The Advisory Board works with the Secretary to develop the criteria and method for providing grants. 12-5327 Selected grant processes are spelled out in statute. 12-5328

8-1

Dissolution of Current Grant Fund and Board

On January 1, 2011 the wireless enhanced 911 grant fee shall be discontinued, the advisory board shall be abolished, an unobligated balance in the grant fund shall be paid to the local collection point administrator for distribution to PSAPs based on the population served by the PSAP, and the fund shall be abolished. New Sec. 12

Same, except date is July 1, 2010. 12-5338

Effective July 1, 2010, in counties with a population of 125,000 or more, the tax on wireline cannot exceed \$0.25 per month per access line, and the local fee on wireless and VoIP shall be an equal amount. In counties with a population less than 125,000, the tax on wireline cannot exceed \$0.50 per month per access line, and the local fee on wireless and VoIP shall be an equal amount. 12-5338

8



League of Kansas Municipalities

To: House Energy and Utilities Committee
From: Kim Winn, Director of Policy Development & Communications
Date: January 19, 2010
Re: Support for HB 2423

The League of Kansas Municipalities (LKM) has worked with the Kansas Association of Counties (KAC) and representatives of the telecommunications industry over the summer and fall to develop legislation that we believe is a common sense approach to maintaining our current 911 system and moving forward as new technologies arise. We believe that this legislation accomplishes three primary goals:

- **Maintain the Current 911 System.** Over the past several years, we have made tremendous progress in the enhancement of the 911 system in Kansas and it is important for the safety of all Kansans that we maintain this state-of-the-art system. If no action is taken during this legislative session, cities and counties will lose nearly \$8 million statewide as a result of prior statutory changes. HB 2423 seeks to maintain funding for Public Safety Answering Points (PSAPs) at or near current levels. This bill actually represents a decrease in statewide tax revenue of \$1.4 million annually.

Most of the \$.55 fee (82%) will be distributed directly back to the PSAPs where the user is located (based on place of primary use). The remaining 18% will be distributed to PSAPs in counties with less than 75,000 population in an inverse relationship to their population (see attached table for PSAP-specific estimates). Monies from pre-paid wireless will go into a grant fund to be utilized to help develop "next generation" deployment, costs associated with consolidation, or for the other limited purposes set out in statute.

- **Statute Simplification.** There are 39 different statutes that currently deal with 911. There are different processes for wireline providers, wireless providers, and VOIP providers. All parties to this agreement see the need to streamline the statutes and provide a system for collection and distribution of 911 funds that treats all users the same regardless of the type of device they are using to call 911. HB 2423 will bring parity for all users and will provide a central mechanism for collecting all of these fees, while leaving the money outside of the state treasury so that it cannot be swept for other purposes.
- **Planning for the Future.** The 911 system is inherently based on technology and as such, will continue to evolve as communications evolve over time. HB 2423 establishes a 911 Coordinating Council to oversee our efforts to maintain and develop the best 911 system possible.

In conclusion, we strongly believe that HB 2423 provides a necessary path to maintain our current 911 system while working to develop the "next generation" of 911 services. For this reason, we respectfully request your favorable consideration of this bill. I would be happy to stand for questions at the appropriate time.

Proposed Amendment

The following was agreed to by all of the parties involved, but was inadvertently left out of the language that was sent to the revisor for bill preparation. We would request the following amendment:

New Section 9

(d) "The Legislature shall take up a review of this act during the 2015 legislative session and every five years thereafter."

And renumber accordingly thereafter....

Local Fee	Redistribution	Fee to Customer				
0.45	0.10	\$0.55				
	Est. Total Units	Local Fee	Redistribution	Estimated Monthly Total	Estimated Yearly Total	Current Yearly Total
Greeley County	1076	\$464.83	\$3,154.91	\$3,619.74	\$43,436.91	\$4,387.56
Wallace County	1395	\$602.64	\$3,154.91	\$3,757.55	\$45,090.61	\$6,204.12
Comanche County	2147	\$927.50	\$3,154.91	\$4,082.41	\$48,988.98	\$12,263.10
Hodgeman County	2389	\$1,032.05	\$3,154.91	\$4,186.96	\$50,243.51	\$13,610.88
Wichita County	2535	\$1,095.12	\$3,154.91	\$4,250.03	\$51,000.37	\$14,870.34
Stanton County	2573	\$1,111.54	\$3,154.91	\$4,266.45	\$51,197.36	\$4,183.62
Elk County	2623	\$1,133.14	\$3,154.91	\$4,288.05	\$51,456.56	\$16,728.90
Clark County	2715	\$1,172.88	\$3,154.91	\$4,327.79	\$51,933.49	\$15,235.92
Morton County	2930	\$1,265.76	\$3,154.91	\$4,420.67	\$53,048.05	\$16,795.20
Kiowa County	2976	\$1,285.63	\$3,154.91	\$4,440.54	\$53,286.51	\$16,397.16
Lane County	3079	\$1,330.13	\$3,154.91	\$4,485.04	\$53,820.47	\$16,518.18
Cheyenne County	3173	\$1,370.74	\$3,154.91	\$4,525.65	\$54,307.76	\$18,376.20
Sheridan County	3210	\$1,386.72	\$3,154.91	\$4,541.63	\$54,499.57	\$17,182.08
Trego County	3300	\$1,425.60	\$3,154.91	\$4,580.51	\$54,966.13	\$20,107.02
Edwards County	3304	\$1,427.33	\$3,154.91	\$4,582.24	\$54,986.87	\$18,621.96
Jewell County	3499	\$1,511.57	\$3,154.91	\$4,666.48	\$55,997.75	\$20,952.66
Hamilton County	3519	\$1,520.21	\$3,154.91	\$4,675.12	\$56,101.43	\$15,061.32
Woodson County	3580	\$1,546.56	\$3,154.91	\$4,701.47	\$56,417.65	\$20,178.78
Decatur County	3599	\$1,554.77	\$3,154.91	\$4,709.68	\$56,516.15	\$19,949.82
Logan County	3603	\$1,556.50	\$3,154.91	\$4,711.41	\$56,536.88	\$17,210.34
Lincoln County	3637	\$1,571.18	\$3,154.91	\$4,726.09	\$56,713.14	\$19,910.04
Chase County	3763	\$1,625.62	\$3,154.91	\$4,780.53	\$57,366.32	\$24,152.82
Gove County	3850	\$1,663.20	\$3,154.91	\$4,818.11	\$57,817.33	\$22,027.02
Graham County	4081	\$1,762.99	\$3,154.91	\$4,917.90	\$59,014.83	\$21,451.74
Wabaunsee County	4217	\$1,821.74	\$3,154.91	\$4,976.65	\$59,719.86	\$18,754.92
Rush County	4341	\$1,875.31	\$3,154.91	\$5,030.22	\$60,362.67	\$23,264.52
Training Fund	4492	\$1,940.54	\$0.00	\$1,940.54	\$23,286.53	\$13,206.48
Smith County	4842	\$2,091.74	\$3,154.91	\$5,246.65	\$62,959.86	\$26,731.20
Ness County	4890	\$2,112.48	\$3,154.91	\$5,267.39	\$63,208.69	\$26,302.68
Meade County	4905	\$2,118.96	\$3,154.91	\$5,273.87	\$63,286.45	\$25,868.04
Kearny County	4914	\$2,122.85	\$3,154.91	\$5,277.76	\$63,333.11	\$7,979.16
Stafford County	4928	\$2,128.90	\$3,154.91	\$5,283.81	\$63,405.68	\$27,074.94
Rawlins County	4984	\$2,153.09	\$3,154.91	\$5,308.00	\$63,695.99	\$35,396.34
Stevens County	5058	\$2,185.06	\$2,971.90	\$5,156.95	\$61,883.46	\$22,633.38
Chautauqua County	5293	\$2,286.58	\$2,971.90	\$5,258.47	\$63,101.70	\$33,947.46
Doniphan County	5362	\$2,316.38	\$2,971.90	\$5,288.28	\$63,459.39	\$19,576.02

3-3

	Est. Total Units	Local Fee	Redistribution	Estimated Monthly Total	Estimated Yearly Total	Current Yearly Total
Osborne County	5369	\$2,319.41	\$2,971.90	\$5,291.31	\$63,495.68	\$29,365.32
Haskell County	5412	\$2,337.98	\$2,971.90	\$5,309.88	\$63,718.59	\$31,291.56
Republic County	5539	\$2,392.85	\$2,971.90	\$5,364.75	\$64,376.96	\$31,937.64
Larned City	5710	\$2,466.72	\$2,971.90	\$5,438.62	\$65,263.42	\$26,525.82
Scott County	6218	\$2,686.18	\$2,971.90	\$5,658.07	\$67,896.90	\$32,291.64
Barber County	6330	\$2,734.56	\$2,971.90	\$5,706.46	\$68,477.50	\$36,032.70
Anderson County	6341	\$2,739.31	\$2,971.90	\$5,711.21	\$68,534.53	\$37,270.98
Rooks County	6476	\$2,797.63	\$2,971.90	\$5,769.53	\$69,234.37	\$35,043.90
Washington County	6568	\$2,837.38	\$2,971.90	\$5,809.27	\$69,711.30	\$37,235.40
Morris County	6604	\$2,852.93	\$2,971.90	\$5,824.83	\$69,897.92	\$36,232.26
Phillips County	6610	\$2,855.52	\$2,971.90	\$5,827.42	\$69,929.02	\$25,802.46
Norton County	6641	\$2,868.91	\$2,971.90	\$5,840.81	\$70,089.73	\$35,850.18
Mitchell County	6796	\$2,935.87	\$2,971.90	\$5,907.77	\$70,893.25	\$34,396.98
Ellsworth County	6838	\$2,954.02	\$2,971.90	\$5,925.91	\$71,110.98	\$37,835.28
Kingman County	7074	\$3,055.97	\$2,971.90	\$6,027.87	\$72,334.40	\$35,838.48
Greenwood County	7129	\$3,079.73	\$2,971.90	\$6,051.63	\$72,619.52	\$40,636.08
Gray County	7278	\$3,144.10	\$2,971.90	\$6,115.99	\$73,391.94	\$38,947.08
Ottawa County	7597	\$3,281.90	\$2,971.90	\$6,253.80	\$75,045.63	\$43,684.56
Concorida City	7682	\$3,318.62	\$2,971.90	\$6,290.52	\$75,486.27	\$33,311.28
Sherman County	7686	\$3,320.35	\$2,971.90	\$6,292.25	\$75,507.01	\$43,103.88
Augusta City	8074	\$3,487.97	\$2,971.90	\$6,459.87	\$77,518.40	\$43,390.14
Harper County	8091	\$3,495.31	\$2,971.90	\$6,467.21	\$77,606.53	\$37,774.80
Wilson County	8392	\$3,625.34	\$2,971.90	\$6,597.24	\$79,166.91	\$45,458.28
Russell County	8646	\$3,735.07	\$2,971.90	\$6,706.97	\$80,483.65	\$45,986.88
Clay County	9047	\$3,908.30	\$2,971.90	\$6,880.20	\$82,562.43	\$48,396.00
Nemaha County	9178	\$3,964.90	\$2,971.90	\$6,936.79	\$83,241.54	\$55,035.06
Thomas County	9310	\$4,021.92	\$2,971.90	\$6,993.82	\$83,925.82	\$52,574.94
Linn County	9412	\$4,065.98	\$2,971.90	\$7,037.88	\$84,454.59	\$52,723.32
Coffey County	9736	\$4,205.95	\$2,971.90	\$7,177.85	\$86,134.21	\$50,415.60
Brown County	9811	\$4,238.35	\$2,971.90	\$7,210.25	\$86,523.01	\$50,696.70
Grant County	10522	\$4,545.50	\$2,523.93	\$7,069.43	\$84,833.19	\$31,205.82
Pratt County	10897	\$4,707.50	\$2,523.93	\$7,231.43	\$86,777.19	\$59,858.64
Rice County	10978	\$4,742.50	\$2,523.93	\$7,266.42	\$87,197.10	\$59,490.78
Marshall County	11219	\$4,846.61	\$2,523.93	\$7,370.54	\$88,446.44	\$65,150.34
Marion County	12444	\$5,375.81	\$2,523.93	\$7,899.74	\$94,796.84	\$69,406.32
Jackson County	12685	\$5,479.92	\$2,523.93	\$8,003.85	\$96,046.18	\$69,327.06
Allen County	13515	\$5,838.48	\$2,523.93	\$8,362.41	\$100,348.90	\$73,627.68
Andover City	15552	\$6,718.46	\$2,523.93	\$9,242.39	\$110,908.71	\$102,371.76
Neosho County	15676	\$6,772.03	\$2,523.93	\$9,295.96	\$111,551.53	\$75,569.34

3-4

	Est. Total Units	Local Fee	Redistribution	Estimated Monthly Total	Estimated Yearly Total	Current Yearly Total
Osage County	16117	\$6,962.54	\$2,523.93	\$9,486.47	\$113,837.67	\$85,792.26
Fort Scott City	16254	\$7,021.73	\$2,523.93	\$9,545.66	\$114,547.88	\$93,194.34
Atchison County	17417	\$7,524.14	\$2,523.93	\$10,048.07	\$120,576.87	\$98,946.66
Leavenworth City	17521	\$7,569.07	\$2,523.93	\$10,093.00	\$121,116.01	\$51,511.74
Prairie Village City	18085	\$7,975.49	\$2,523.93	\$10,499.41	\$125,992.96	\$53,169.90
Jefferson County	18948	\$8,185.54	\$2,523.93	\$10,709.46	\$128,513.58	\$96,575.76
Cherokee County	19110	\$8,255.52	\$2,523.93	\$10,779.45	\$129,353.38	\$106,045.08
Dickinson County	20496	\$8,854.27	\$2,360.04	\$11,214.31	\$134,571.71	\$110,180.52
Labette County	21046	\$9,091.87	\$2,360.04	\$11,451.91	\$137,422.91	\$115,160.82
Seward County	21501	\$9,288.43	\$2,360.04	\$11,648.47	\$139,781.63	\$113,620.02
Sumner County	23700	\$10,238.40	\$2,360.04	\$12,598.44	\$151,181.25	\$129,696.24
Pottawatomie County	25350	\$10,951.20	\$2,360.04	\$13,311.24	\$159,734.85	\$116,864.16
Franklin County	26352	\$11,384.06	\$2,360.04	\$13,744.10	\$164,929.21	\$134,069.22
Leawood City	26390	\$11,400.48	\$0.00	\$11,400.48	\$136,805.76	\$77,586.60
Arkansas City/Winfield	26945	\$11,640.24	\$2,360.04	\$14,000.28	\$168,003.33	\$113,208.84
Geary County	27496	\$11,878.27	\$2,360.04	\$14,238.31	\$170,859.71	\$98,484.96
Emporia City	27609	\$11,927.09	\$2,360.04	\$14,287.13	\$171,445.50	\$121,936.08
Independence City	29039	\$12,544.85	\$2,360.04	\$14,904.89	\$178,858.62	\$128,224.92
Ford County	29746	\$12,850.27	\$2,360.04	\$15,210.31	\$182,523.71	\$157,288.68
Barton County	30571	\$13,206.67	\$1,922.99	\$15,129.67	\$181,555.98	\$161,913.96
McPherson County	32210	\$13,914.72	\$1,922.99	\$15,837.71	\$190,052.56	\$168,205.20
Miami County	33103	\$14,300.50	\$1,922.99	\$16,223.49	\$194,681.87	\$171,963.84
Ellis County	33575	\$14,504.40	\$1,922.99	\$16,427.39	\$197,128.72	\$167,915.70
Garden City	33591	\$14,511.31	\$1,922.99	\$16,434.31	\$197,211.66	\$176,052.84
Harvey County	34124	\$14,741.57	\$1,922.99	\$16,664.56	\$199,974.74	\$177,565.32
Crawford County	37042	\$16,002.14	\$1,922.99	\$17,925.14	\$215,101.65	\$201,851.76
Shawnee City	43188	\$18,657.22	\$0.00	\$18,657.22	\$223,886.59	\$126,972.72
Butler County	43740	\$18,895.68	\$1,922.99	\$20,818.67	\$249,824.08	\$229,118.88
Riley County	45589	\$19,694.45	\$1,922.99	\$21,617.44	\$259,409.30	\$187,823.40
Lenexa City	46204	\$19,960.13	\$0.00	\$19,960.13	\$239,521.54	\$135,839.76
Leavenworth County	51003	\$22,033.30	\$1,922.99	\$23,956.29	\$287,475.47	\$298,939.98
Saline County	58888	\$25,439.62	\$1,922.99	\$27,362.61	\$328,351.31	\$320,540.22
Reno County	58982	\$25,480.22	\$1,922.99	\$27,403.22	\$328,838.61	\$306,163.50
Douglas County	78692	\$33,994.94	\$0.00	\$33,994.94	\$407,939.33	\$313,188.72
Olathe City	96583	\$41,723.86	\$0.00	\$41,723.86	\$500,686.27	\$283,954.02
Unifed Govt Wyco	144382	\$62,373.02	\$0.00	\$62,373.02	\$748,476.29	\$800,851.50
Overland Park City	151343	\$65,380.18	\$0.00	\$65,380.18	\$784,562.11	\$444,948.42
Shawnee County	194569	\$84,053.81	\$0.00	\$84,053.81	\$1,008,645.70	\$1,034,774.46
Johnson County	372897	\$161,091.50	\$0.00	\$161,091.50	\$1,933,098.05	\$1,664,087.76

3-5

3-6

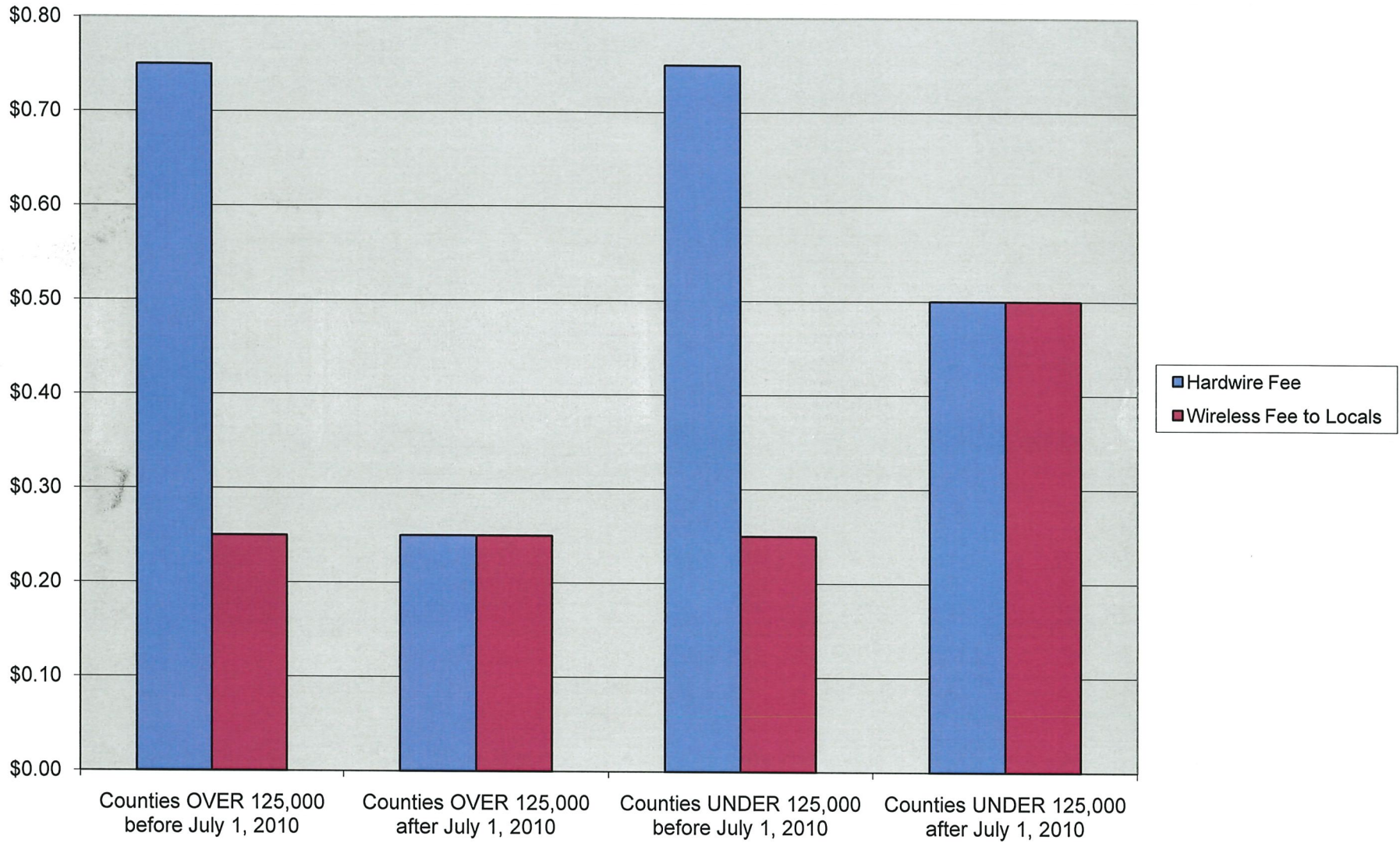
	Est. Total Units	Local Fee	Redistribution	Estimated Monthly Total	Estimated Yearly Total	Current Yearly Total
Sedgwick County	489414	\$211,426.85	\$0.00	\$211,426.85	\$2,537,122.18	\$2,643,459.72
				Sub-total	\$19,039,586.65	\$14,481,893.34
				Pre-Paid 1%	\$360,000.00	
				Current Grant Fund		\$6,362,490.64
Total Wireless Units	1839901			Total Statewide Revenue	\$19,399,586.65	\$20,844,383.98
Total Wireline Units	1164776					
	3004677			Difference	-\$1,444,797.33	
PLEASE NOTE: ALL FIGURES ARE ESTIMATES AND WILL CHANGE BASED UPON ACTUAL DOLLARS RECEIVED.						

COMPARISON: CURRENT AND FUTURE STATUTORY COLLECTION/REMITTANCE OF E-911 FEES

Funds collected on:	Current	Effective July, 2010 per current statute
Land Line	\$.75 max all counties	\$.25 JO/SG/WY/SN \$.50 other 101 counties
Wireless	\$.50 statewide	\$.25 JO/SG/WY/SN \$.50 other 101 counties
Prepaid phones	1% of retail price collected by wholesaler	Fee expires
Funds distributed as follows:	Current	Effective July, 2010 per current statute
Land Line	100% locally to PSAPs	100% locally to PSAPs
Wireless	\$.25 direct to PSAPs and \$25 to State for grants to PSAPs in counties less than 75,000 pop	\$.25 direct to PSAPs in JO/SG/WY/SN and \$.50 direct to PSAPs in other 101 counties
Prepaid phones	State distributes as part of grant fund	Fee expires Grant fund discontinued. Advisory Board discontinued. Wireless E-911 funds can be used for all statutory purposes in K.S.A. 12-5304
	Total amount collected \$20,844,394	Total amount collected \$13,265,421 (loss of \$7,578,973)

HOUSE ENERGY AND UTILITIES
 DATE: 1/19/2010
 ATTACHMENT 4-1

Local PSAP Fees



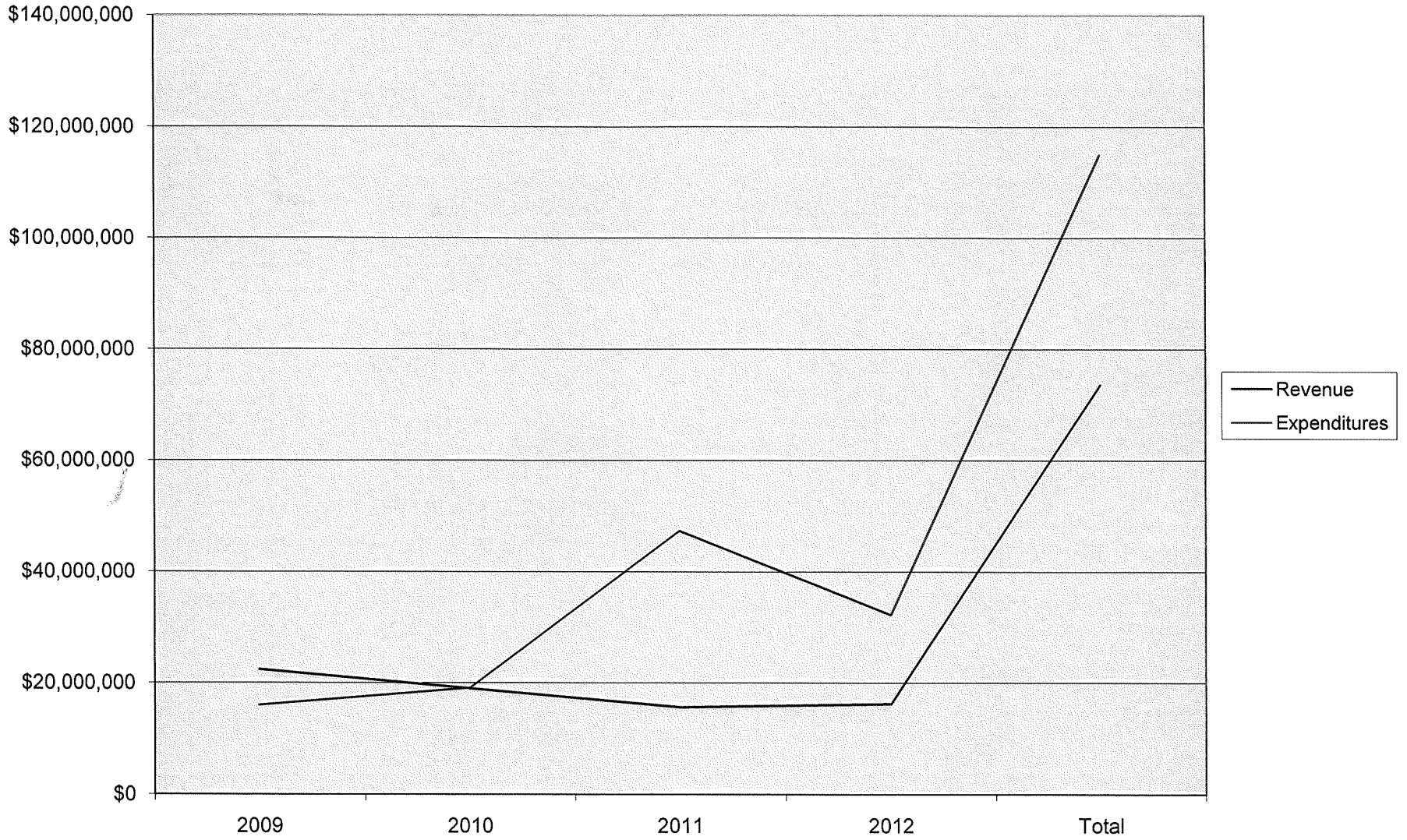
Costs of Operating E911 in Kansas

Statewide Estimated Revenues and Costs for operating E911 in years 2009-2012

* Source: Legislative Post Audit Report, December 2008

	2009	2010	2011	2012
Total Revenues	22,488,501	19,067,508	15,719,066	16,337,614
Total Costs	16,065,246	19,138,830	47,407,075	32,310,730
Difference	6,423,255	(71,322)	(31,688,009)	(15,973,116)

Statewide E911 Revenues and Costs



**Figure 3-4
 PSAPs That Would Need a Higher Wireless Fee
 Than Allowed After 2010 and 2012 to Cover
 Their Estimated Ongoing Operating Expenses**

PSAP Coverage Area	Location	Estimated 911 Fee Needed in 2011	Estimated 911 Fee Needed in 2013
Clark County	SW Kansas	\$1.18	\$1.24
Comanche County	SW Kansas	\$0.68	\$0.73
Rawlins County	NW Kansas	\$0.67	\$0.69
Stanton County	SW Kansas	\$0.66	\$0.69
Gray County	SW Kansas	\$0.58	\$0.66
Lane County	SW Kansas	\$0.62	\$0.64
Smith County	NW Kansas	\$0.62	\$0.62
Elk County	SE Kansas	\$0.58	\$0.58
Rush County	SW Kansas	\$0.56	\$0.56
Anderson County	SE Kansas	\$0.54	\$0.55
Coffey County	SE Kansas	—	\$0.54
Doniphan County	NE Kansas	—	\$0.51

Source: LPA analysis of projected revenues and estimated expenditures



Dan Jacobsen
President-Kansas

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Testimony of Dan Jacobsen, President – AT&T Kansas
Regarding HB 2423 – 911 Funding
Before the House Energy and Utilities Committee
January 19, 2010

Mr. Chairman and Members of the Committee,

My name is Dan Jacobsen. I am the President of AT&T Kansas. I appreciate this opportunity to speak with you regarding House bill 2423. I am speaking on behalf on the following industry members: Verizon, AT&T, the Kansas Cable Association, T-Mobile, Cox Communications and U.S. Cellular. This bill contains the changes to 911 funding that resulted from negotiations between the League of Kansas Municipalities and members of the telecommunications industry. The negotiations resulted in a comprehensive agreement that includes a five cent increase in 911 fees on wireless service from 50 to 55 cents, as well as a point of sale collection of 911 fees by retailers. One of the reasons that wireless companies were willing to agree to a five cent increase on wireless service is that the parties also agreed to point of sale collection on prepaid wireless services. When the industry and League presented our recommendations to the interim committee, they decided to have a bill drafted that would address all of the recommendations except for the provisions regarding the collection of 911 fees on prepaid wireless service. The interim committee suggested that the recommendation for 911 fees on prepaid wireless service be presented as an amendment to the bill. Accordingly, I also appear before you today in support of an amendment to address the collection of 911 fees on prepaid wireless service.

Background

In 2008 there were approximately 2.3M wireless phones in Kansas (based on FCC reports). Of these wireless phones, approximately 16% of them were prepaid wireless phones. Since then, the combination of the weak economy and the rollout of competitively-priced prepaid “unlimited monthly” calling plans have led to significant growth in the prepaid sector. The Cellular Telephone Industry Association (CTIA – the Wireless Association) and industry analysts estimate that the prepaid market share exceeded 19% of all wireless service in 2009, and will exceed 20% in early 2010. This is up from less than 10% of the market just five years ago.

The technology behind prepaid wireless service is very similar to traditional billed wireless service, but the marketing and sales of these plans is very different than monthly billed plans. For example, over 70% of prepaid wireless transactions occur in retail outlets where the seller is not the wireless service provider. These

HOUSE ENERGY AND UTILITIES

DATE: 1/19/2010

ATTACHMENT 5-1

third-party retailers, such as Wal-Mart, Best Buy, and Radio Shack, purchase prepaid telecommunications service in bulk at wholesale rates, and sell them at retail to the ultimate customer.

911 fees have traditionally been assessed on the end user, with a requirement that the wireless provider bill the customer each month and remit fees to the 911 agency. However, with over 70% of prepaid sales occurring via retailers, the wireless provider does not have any direct financial transaction with the end user and has no way to collect the fee from the end user. The only time there is a financial transaction with the customer for prepaid services is at the point-of-sale. Collection of the fee at the wholesale level is not reasonable either, because prepaid items are sold in bulk to national retailers who distribute them to retail stores across the country. Without knowing where the cards will ultimately be sold, the wireless provider has no precise way of knowing the amount of the 911 fee to charge on a wholesale transaction.

Drawbacks of Current Methods

Lacking a method to collect the public safety fee from users, some states, including Kansas, impose the 911 funding responsibility on the prepaid service provider. Under current Kansas law, the service provider is required to remit a 1% fee for each active prepaid wireless account. There are significant problems with this arrangement.

Service provider companies use national pricing plans, and since cards are distributed nationally, there is no equitable way to recoup the fee directly from consumers. If the carriers attempted to increase prices nationally to recoup the cost of payment of 911 fees, the result would be that customers in states with low 911 fees (or none) would end up paying more to subsidize customers in states like Arizona or Wisconsin. The average 911 fee for wireless customers nationwide is \$.80, and ranges from zero in Missouri to \$3.00 in West Virginia. As a result of these problems, many service providers end up paying the fees on behalf of the end-user customer.

Requiring prepaid service providers to pay 911 fees directly, without the ability to bill their customers, turns the longstanding policy of a "user fee for a benefit received" on its head. It prevents accountability and transparency because end users are getting a service that they don't have to pay for. In this case, prepaid wireless users have access to the Public Safety Answering Points (PSAP's) in an emergency, yet pay little or nothing to support them.

A National Solution

As wireless providers, we recognize that the ability to call 911 in an emergency is a very important feature for our customers. We also understand that it is not enough just to point out the drawbacks of the current system, but also to work to provide a solution.

Almost two years ago, the wireless industry approached some of our major national retail partners to develop a system that would allow 911 fees on prepaid wireless service to be collected from consumers at the point of sale. The key principles that governed these discussions were as follows:

- The fee must be transparent and disclosed to the purchaser;
- The system should piggyback on existing sales and use tax collection methodologies in order to minimize retailer compliance costs;
- The system should compensate retailers for compliance costs;
- The system should treat all transactions the same, whether in person or remote transactions and regardless of whether the sales are through a provider or through a third party retailer;
- The amount of the fee should reflect the fact that purchasers of prepaid wireless service tend to have lower incomes and generally spend less each month on their service.

The prepaid wireless industry developed proposed model legislation that incorporates these principles. This model legislation was presented to the National Conference of State Legislatures' (NCSL) Task Force on Telecommunications and Electronic Commerce in January, 2009. The Task Force held two hearings and ultimately endorsed the model act, with minor amendments, in July.

Three states have already adopted the proposed prepaid wireless point of sale solution based upon the industry's model bill: Louisiana, Maine, and Texas. We anticipate that at least half of the remaining states will consider the legislation in the current legislative session.

The proposed amendment incorporates the provisions of the NCSL-approved model act into the Kansas statutes. Key provisions include:

- A fee of 1.1% ¹per retail transaction collected by the retail seller and remitted to the Department of Revenue;
- The fee would apply to Kansas customers who buy from a retail store located in Kansas, from an Internet-based vendor, or through an “800” number;
- The fee would apply to both the initial purchase as well as every “recharge” of additional minutes;
- The fee would be remitted to the Kansas Department of Revenue, and all collection, audit, remittance, and other procedures would mirror the sales tax (which already applies to prepaid at the point of sale);
- Sellers would retain 2% of what they collect to offset their administrative costs;

The wireless industry estimates that the adoption of this amendment will generate \$1.4 million annually based on estimates of the number of prepaid wireless subscribers at the end of December 2009. Here is a chart showing the derivation of this estimate.

¹ The 1.1% fee is determined based on a 55 cent 911 fee on postpaid wireless service compared to an average \$50 monthly post paid bill. This equates to a 1.1% fee. If Kansas changes the 55 cent fee in the future, the percent applied to prepaid wireless service could also be changed commensurately.

Kansas Prepaid Wireless Point of Sale 911 Revenue Worksheet

FCC Reported Subscribers (Postpaid and Prepaid) as of June 2008	2,326,444
FCC Local Competition Report, July 2009	
Assumed 7.5% increase June 08 to December 09	174,483
CTIA and analyst estimates	
Estimated Kansas Wireless Subscribers 12/2009	2,500,927
Estimated Prepaid Wireless Market Share 12/09	16.4%
CTIA national estimate is 19.2%; KS estimate is 2.84 percentage points lower based on actual carrier data from 7/09	
Estimated KS Prepaid Subscribers 12/09 from FCC Data	409,152
Monthly Revenue @ \$27.50 avg. revenue per month	\$11,251,672
Morgan Stanley estimate, 9 11 2009 "Telecom Services" report	
Proposed % fee	1.10%
monthly revenue	\$ 123,768
months	X 12
annual revenue before deduction	\$ 1,485,221
Less 3% holdback (1% DOR, 2% Retailers)	\$ 44,557
911 Revenue from Prepaid Wireless	\$ 1,440,664

If the prepaid market share continues to grow, this estimate will increase accordingly. This estimate compares to less than \$350,000 that was remitted to the state on prepaid wireless in fiscal year 2009.

Conclusion

The wireless industry continues to make significant investments to make high quality wireless service available in Kansas. A very large amount of capital is also being invested to bring wireless broadband services to as many customers as possible. Implementing point of sale collection of 911 fees for prepaid wireless would provide more clarity and transparency for customers, increase the amount of 911 funds available to support 911 in all areas of the state and increase the efficiency of wireless operations in Kansas. It is time to upgrade the current system which is costly and imprecise. We ask for your support of this amendment.

Thank You.

HOUSE BILL No. 2423

By Committee on Energy and Utilities

1-12

9 AN ACT concerning emergency telephone service; relating to fees,
 10 charges, collection and distribution; amending K.S.A. 2009 Supp. 12-
 11 5338 and 12-5361 and repealing the existing sections; also repealing
 12 K.S.A. 12-5301, 12-5303, 12-5304, 12-5305, 12-5306, 12-5307, 12-
 13 5308, 12-5309 and K.S.A. 2009 Supp. 12-5302, 12-5310, 12-5321, 12-
 14 5322, 12-5323, 12-5324, 12-5325, 12-5326, 12-5327, 12-5328, 12-5329,
 15 12-5330, 12-5331, 12-5332, 12-5333, 12-5334, 12-5335, 12-5336, 12-
 16 5337, 12-5351, 12-5352, 12-5353, 12-5354, 12-5355, 12-5356, 12-5357,
 17 12-5358, 12-5359 and 12-5360 and K.S.A. 2009 Supp. 12-5338, as
 18 amended by section 13, and 12-5361, as amended by section 14.
 19

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

21 New Section 1. (a) Sections 1 through ~~12 and 15~~, and amendments
 22 thereto, shall be known and may be cited as the Kansas 911 act.

15 and 19,

23 (b) This section shall take effect on and after January 1, 2011.

24 New Sec. 2. (a) As used in the Kansas 911 act:

25 (1) "Exchange telecommunications service" means the service that
 26 provides local telecommunications exchange access to a service user.

(1) "Consumer" means a person who purchases
 prepaid wireless service in a retail transaction.

27 (2) "Local Collection Point Administrator (LCPA)" means the state-
 28 wide association of cities established by K.S.A. 12-1610e, and amend-
 29 ments thereto, and the statewide association of counties established by
 30 K.S.A. 19-2690, and amendments thereto.

(2) "Department" means the Kansas Department
 of Revenue.

31 (3) "Next generation 911" means 911 service that enables PSAP's to
 32 receive text, image, video, and data information from callers.

and by relettering the remaining subsections
 accordingly

33 (4) "Person" means any individual, firm, partnership, copartnership,
 34 joint venture, association, cooperative organization, corporation, municip-
 35 al or private, and whether organized for profit or not, state, county,
 political subdivision, state department, commission, board, bureau or fra-
 ternal organization, nonprofit organization, estate, trust, business or com-
 mon law trust, receiver, assignee for the benefit of creditors, trustee or
 trustee in bankruptcy or any other legal entity.

(5) "Prepaid wireless service" means a wireless telecommunications
 service that allows a caller to dial 911 to access the 911 system, which
 service must be paid for in advance and is sold in predetermined units or
 dollars of which the number declines with use in a known amount.

HOUSE ENERGY AND UTILITIES

DATE: 1/19/10

ATTACHMENT 6-1

HOUSE ENERGY AND UTILITIES
 DATE: 1/19/10
 ATTACHMENT 6

2-2

1 (6) "Place of primary use" has the meaning provided in the mobile
2 telecommunications act (4 U.S.C. 116, et. seq., as in effect on the effective
3 date of this act). (8)

4 (7) "Provider" means any person who provides exchange telecom-
5 munications service, wireless telecommunications service, VoIP service,
6 or other service capable of contacting a PSAP. (9)

7 (8) "PSAP" means a public safety answering point operated by a city
8 or county. (10)

9 (9) "Service user" means any person who is provided exchange tele-
10 communications service, wireless telecommunications service, VoIP serv-
11 ice, prepaid wireless service, or any other service capable of contacting a
12 PSAP.

13 (10) "Subscriber account" means the 10-digit access number assigned
14 to a service user regardless of whether more than one such number is
15 aggregated for the purpose of billing a service user.

16 (11) "Subscriber radio equipment" means mobile and portable radio
17 equipment installed in vehicles or carried by persons for voice commu-
18 nication with a radio system.

19 (12) "VoIP service" means voice over internet protocol.

20 (13) "Wholesaler of prepaid wireless service" means a person who
21 purchases at wholesale wireless service from a wireless provider for resale
22 as prepaid wireless service.

23 (14) "Wireless telecommunications service" means a two-way voice
24 service provided by a wireless provider.

25 (b) This section shall take effect on and after January 1, 2011.

26 New Sec. 3. (a) There is hereby imposed a 911 fee in the amount of
27 \$.55 per month per subscriber account of any exchange telecommuni-
28 cations service, wireless telecommunications service, VoIP service, or
29 other service capable of contacting a PSAP. Such fee shall not be imposed
30 on prepaid wireless service. No such fee shall be imposed upon more
31 than 100 exchange telecommunications service subscriber accounts per
32 person per location. It shall be the duty of each exchange telecommuni-
33 cations service provider, wireless telecommunications service provider,
34 VoIP service provider, or other service provider to remit such fees to the
35 local collection point administrator as provided in section 4, and amend-
36 ments thereto.

37 (b) There is hereby imposed a 911 fee in the amount of 1% of the
38 retail price of any prepaid wireless service sold in the state. It shall be
39 the duty of each wholesaler of prepaid wireless service to remit such fee
40 to the LGPA as provided in section 4, and amendments thereto.

41 (c) This section shall take effect on and after January 1, 2011. (b)

42 New Sec. 4. (a) Every billed service user shall be liable for the 911
43 fee until such fees have been paid to the exchange telecommunications

(11) "Retail transaction" means the purchase of prepaid wireless service from a seller for any purpose other than resale, not including the use, storage or consumption of such services.
(12) "Seller" means a person who sells prepaid wireless service to another person.

and by relettering the remaining subsections accordingly

(17) commercial mobile radio service as defined by Section 20.3 of title 47 of the Code of Federal Regulations (47 C.F.R. § 20.3) as amended.

6-3

1 service provider, wireless telecommunications service provider, VoIP
2 service provider, or other service provider.

3 (b) The duty to collect the fees imposed pursuant to this act shall
4 commence January 1, 2011. Such fees shall be added to and may be stated
5 separately in billings for the subscriber account. If stated separately in
6 billings, the fees shall be labeled "KS 911 fees."

7 (c) The provider shall have no obligation to take any legal action to
8 enforce the collection of the fees imposed by this act. The provider, other
9 than a wholesaler of prepaid wireless service, shall provide annually to
10 the LCPA a list of amount of uncollected 911 fees along with the names
11 and addresses of those service users which carry a balance that can be
12 determined by the provider to be nonpayment of such fees.

13 (d) The fees imposed by this act shall be collected insofar as practi-
14 cable at the same time as, and along with, the charges for local exchange,
15 wireless, VoIP, or other service in accordance with regular billing practice
16 of the provider.

17 (e) The 911 fees and the amounts required to be collected therefor
18 are due monthly. The amount of such fees collected in one month by the
19 provider or wholesaler of prepaid wireless service shall be remitted to the
20 LCPA not more than 15 days after the close of the calendar month. On
21 or before the 15th day of each calendar month following, a return for the
22 preceding month shall be filed with the LCPA. Such return shall be in
23 such form and shall contain such information as required by the LCPA.
24 The provider or wholesaler of prepaid wireless service required to file
25 the return shall deliver the return together with a remittance of the
26 amount of fees payable to the LCPA. The provider or wholesaler of pre-
27 paid wireless service shall maintain records of the amount of any such
28 fees collected in accordance with this act for a period of three years from
29 the time the fees are collected.

30 (f) The provider or wholesaler of prepaid wireless service may retain
31 an administrative fee of not more than 2% of moneys collected from such
32 fee. The LCPA may retain an administrative fee of not more than 2% of
33 moneys collected from such fee.

34 (g) This section shall take effect on and after January 1, 2011.

35 New Sec. 5 (a) Not later than 30 days after the receipt of moneys
36 from providers pursuant to this act, the LCPA shall distribute such mon-
37 eys to PSAPs based upon the following ratio: 82% shall be distributed to
38 PSAPs based upon place of primary use information provided by the
39 providers and 18% shall be redistributed to PSAPs located in counties
40 with less than 75,000 in population. Moneys which cannot be attributed
41 to a specific PSAP shall be transferred to the LCPA grant fund.

42 (b) Moneys collected from the fee on prepaid wireless service shall
43 be transferred to the LCPA grant fund.

(g) The provisions of this section shall not apply to prepaid wireless service.

(h)

See attached New Sec. 5, 6, 7

8

Sections 3 and 4 of

pursuant to Section 5 of this Act

New Sec. 5.(a) There is hereby imposed a prepaid wireless 911 fee of 1.1% per retail transaction or, on and after the effective date of an adjusted amount per retail transaction that is established under paragraph (f) of this section, such adjusted amount.

(b) The prepaid wireless 911 fee shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless 911 fee shall be either separately stated on an invoice, receipt, or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

(c) For purposes of paragraph (b) of this section, a retail transaction that is effected in person by a consumer in a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for the purposes of K.S.A. 79-3673(c)(3).

(d) The prepaid wireless 911 fee is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless 911 fees that the seller collects from consumers as provided in section 6 of this act, including all such fees that the seller is deemed to collect where the amount of the charge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

(e) The amount of the prepaid wireless 911 fee that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.

(f) The prepaid wireless 911 fee shall be proportionately increased or reduced, as applicable, upon any change to the fee imposed by section 3(a) of this Act. The adjusted amount shall be determined by dividing the amount of the fee imposed by section 3(a) of this Act by \$50 (fifty dollars). Such increase or reduction shall be effective on the effective date of the change to the fee imposed by section 3(a) of this Act or, if later, the first day of the calendar quarter to occur at least 60 days after the enactment to the change to the fee imposed by section 3(a) of this act. The Department shall provide not less than 60-day notice of such increase or decrease on the Department's website.

5-9

(g) When prepaid wireless service is sold with one or more other products or services for a single, non-itemized price, then the percentage specified in paragraph (a) of this section shall apply to the entire non-itemized price unless the seller elects to apply such percentage to (i) if the amount of the prepaid wireless service is disclosed to the consumer as a dollar amount, such dollar amount, or (ii) if the seller can identify the portion of the price that is attributable to the prepaid wireless service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes, including but not limited to, non-tax purposes, such portion.

(h) This section shall take effect on January 1, 2011.

New Sec. 6. (a) Prepaid wireless 911 fees collected by sellers shall be remitted to the Department by electronic filing that is consistent with the provisions of Chapter 79, Article 36. The Department shall establish registration and payment procedures for the collection of the prepaid wireless 911 fee.

(b) A seller shall be permitted to retain an administrative fee not to exceed two percent (2%) of prepaid wireless 911 fees that are collected by the seller from consumers.

(c) To minimize additional costs to the Department, the Department may conduct audits of sellers in conjunction with sales and use tax audits. The Department is authorized to provide the LCPA with information obtained in such audits if such information indicates that a seller may not be complying with the provisions of sections 5 and 6 of this Act. The LCPA may request the department to initiate collection or audit procedures on individual sellers if collection efforts by LCPA are unsuccessful.

(d) The Department shall establish procedures by which a seller may document that a sale is not a retail sale, which procedures shall substantially coincide with procedures for documenting sale for resale transactions for K.S.A. Chapter 70, Article 36.

(e) The Department shall transfer all remitted prepaid wireless 911 fees to the LCPA within 30 days of receipt for distribution as provided in section 8 of this Act. Prior to such transfer, the Department may retain up to one percent (1%) of remitted charges for use in administering the provisions of this Section.

(f) In addition to retaining 1% of remitted charges for administrative uses, the Department may retain up to \$70,000 of remitted funds in fiscal year 2011 only for use in paying for programming and other one-time costs for establishing a system for collecting the prepaid wireless 911 fee.

(g) This section shall take effect on January 1, 2011.

New Sec. 7. (a) The prepaid wireless 911 fee imposed in this Act shall be the only 911 funding obligation imposed with respect to prepaid wireless service in this state. No tax, fee, surcharge, or other charge shall be imposed by this state, any political subdivision of this state, or any intergovernmental agency for 911 funding purposes upon any provider of prepaid wireless service, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless service.

(b) This section shall take effect on January 1, 2011.

9-6

1 (c) The LCPA shall keep accurate accounts of all receipts and dis-
2 bursements of moneys from the 911 fees.

3 (d) Information provided by providers to the LCPA or to the 911
4 coordinating council pursuant to this act will be treated as proprietary
5 records which will be withheld from the public upon request of the party
6 submitting such records.

7 (e) This section shall take effect on and after January 1, 2011.

8 New Sec. 6. (a) The proceeds of the 911 fees imposed pursuant to
9 this act, and any interest earned on revenue derived from such fee, shall
10 be used only for necessary and reasonable costs incurred or to be incurred
11 by PSAPs for: (1) Implementation of 911 services; (2) purchase of 911
12 equipment and upgrades; (3) maintenance and license fees for 911 equip-
13 ment; (4) training of personnel; (5) monthly recurring charges billed by
14 service suppliers; (6) installation, service establishment, and nonrecurring
15 start-up charges billed by the service supplier; (7) charges for capital
16 improvements and equipment or other physical enhancements to the 911
17 system; (8) the acquisition and installation of road signs designed to aid
18 in the delivery of emergency service. Such costs shall not include ex-
19 penditures to lease, construct, expand, acquire, remodel, renovate, repair,
20 furnish or make improvements to buildings or similar facilities. Such costs
21 shall also not include expenditures to purchase subscriber radio
22 equipment.

23 (b) This section shall take effect on and after January 1, 2011.

24 New Sec. 7. (a) There is hereby created a 911 coordinating council
25 which shall monitor the delivery of 911 services, develop strategies for
26 future enhancements to the 911 system, and distribute available grant
27 funds to PSAPs. In as much as possible, the 911 coordinating council shall
28 include individuals with technical expertise regarding 911 systems, inter-
29 net technology, and GIS technology. The coordinating council shall con-
30 sist of 12 members to be appointed by the governor: two members rep-
31 resenting wireless telecommunications providers; one member
32 representing a local exchange provider to be recommended by the Kansas
33 telecommunications industry association; one member representing a ru-
34 ral telecommunications company recommended by the Kansas rural in-
35 dependent telephone companies; one member representing VoIP pro-
36 viders; two members recommended by the league of Kansas
37 municipalities; two members recommended by the Kansas association of
38 counties; one member recommended by the Kansas commission for the
39 deaf and hard of hearing; one member recommended by the Kansas
40 emergency medical services board; and, one member recommended by
41 the adjutant general. The council shall also include two members of the
42 Kansas house of representatives as appointed by the speaker of the house;
43 one member of the Kansas house of representatives as appointed by the

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8-9

1 minority leader of the house; two members of the Kansas senate as ap-
2 pointed by the senate president and one member of the Kansas senate
3 as appointed by the senate minority leader. The governor shall designate
4 one member as chair of the council.

5 (b) The terms of office for members of the 911 coordinating council
6 shall commence January 1, 2011 and shall be subject to reappointment
7 every three years.

8 (c) The 911 coordinating council is hereby authorized to adopt rules
9 and regulations necessary for effectuation of the provisions of this act,
10 including, but not limited to, assessing civil penalties.

11 (d) No civil penalty shall be imposed pursuant to this section except
12 upon the written order of the 911 coordinating council. Such order shall
13 state the violation, the penalty to be imposed and the right of such pro-
14 vider to appeal the penalty in accordance with the provisions of the Kansas
15 administrative procedure act.

16 (e) Any civil penalty recovered pursuant to this section shall be de-
17 posited with the LCPA grant fund.

18 (f) So long as the provider is working in good faith to comply with
19 the provisions of this act, no civil penalty shall be imposed prior to January
20 1, 2012.

21 (g) The LCPA shall provide staff support to the 911 coordinating
22 council. Members of the 911 coordinating council may receive reimburse-
23 ment for meals and travel expenses, but shall serve without other com-
24 pensation. All expenses related to the 911 coordinating council shall be
25 paid from the LCPA grant fund.

26 (h) This section shall take effect on and after January 1, 2011.

27 New Sec. 8. (a) PSAPs, the LCPA, providers, and ~~wholesalers of pre-~~
28 ~~paid wireless service~~ shall not be liable for any form of damages resulting
29 directly or indirectly from the performance of installing, maintaining or
30 providing 911 service.

11

sellers

31 (b) This section shall be in force and effective on and after January
32 1, 2011.

33 New Sec. 9. (a) The receipts and disbursements of the LCPA shall
34 be audited yearly by a licensed municipal accountant or certified public
35 accountant.

12

36 (b) The LCPA may require an audit of any provider's books and re-
37 cords concerning the collection and remittance of fees pursuant to this
38 act. The cost of any such audit shall be paid from the LCPA grant fund.

39 (c) Annually, the division of post audit shall conduct an audit of the
40 911 service system to determine: (1) Whether moneys received by PSAPs
41 pursuant to the act are being used appropriately; (2) whether the amount
42 of moneys collected pursuant to this act is adequate; and (3) the status of
43 911 service implementation. The audit shall be in accordance with a scope

6-9

1 statement authorized and approved by the legislative post audit commit-
2 tee. Audits under this section shall be conducted on a random basis and
3 not more than 35 PSAPs shall be audited during any one calendar year.
4 The cost of such audit shall be paid from the LCPA grant fund. The audit
5 report shall be submitted to the 911 coordinating council, the LCPA, the
6 house energy and utilities committee, and the senate utilities committee.

7 (d) This section shall take effect on and after January 1, 2011.

8 New Sec. ~~10~~. (a) Nothing in this act shall be construed to limit the
9 ability of a provider from recovering directly from the provider's custom-
10 ers its costs associated with designing, developing, deploying and main-
11 taining 911 service and its cost of collection and administration of the
12 fees imposed by this act, whether such costs are itemized on the cus-
13 tomer's bill as a surcharge or by any other lawful method.

13

14 (b) This section shall take effect on and after January 1, 2011.

15 New Sec. ~~11~~. (a) The LCPA shall establish and maintain a grant fund
16 for PSAPs, which shall not be part of the state treasury. Such money and
17 any interest earned on such money may only be expended for the follow-
18 ing purposes: projects involving the development of next generation 911
19 services; costs associated with PSAP consolidation or cost-sharing pro-
20 jects; other purposes as defined in section ~~6~~ on its effective date, and
21 amendments thereto.

14

9

22 (b) The 911 coordinating council shall develop criteria for grant ap-
23 plicants and make the final determination as to the distribution of grant
24 funds.

25 New Sec. ~~12~~. On the effective date of this act, all funds remaining
26 in the wireless enhanced 911 grant fund established pursuant to K.S.A.
27 12-5323, and amendments thereto, shall be transferred to the LCPA. Any
28 funds received on or after the effective date of this act and prior to January
29 1, 2011, shall be transferred to the LCPA at least monthly. The LCPA
30 shall deposit such amount in the LCPA grant fund to be distributed as
31 provided in section H, and amendments thereto.

15

14

32 Sec. 13. K.S.A. 2009 Supp. 12-5338 is hereby amended to read as
33 follows: 12-5338. (a) On ~~July 1, 2010~~ January 1, 2011:

16

34 (1) The wireless enhanced 911 grant fee shall be discontinued, the
35 advisory board shall be abolished, any unobligated balance of the wireless
36 enhanced 911 grant fund shall be paid to the local collection point ad-
37 ministrator for distribution to PSAP's based on the population of the
38 municipality or municipalities served by the respective PSAP and the fund
39 shall be abolished.

40 (2) Within any county which has a population of 125,000 or more,
41 the amount of the tax imposed pursuant to K.S.A. 12-5302, and amend-
42 ments thereto, shall not exceed \$.25 per month per access line or its
43 equivalent and the amount of the wireless enhanced 911 local fee within

6-10

1 such jurisdiction shall be an equal amount per month per wireless sub-
2 scriber account.

3 (3) Within any county which has a population of less than 125,000
4 the amount of the tax imposed to K.S.A. 12-5302, and amendments
5 thereto, shall not exceed \$.50 per month per access line or its equivalent
6 and the amount of the wireless enhanced 911 local fee shall be an equal
7 amount per month per wireless subscriber account.

8 (4) The provisions of K.S.A. 2009 Supp. 12-5323 through 12-5329,
9 and amendments thereto, shall expire.

10 (b) On and after ~~July 1, 2010~~ *January 1, 2011*, the proceeds of the
11 wireless enhanced 911 local fee shall be used only to pay for costs of
12 emergency telephone service described in K.S.A. 12-5304, and amend-
13 ments thereto, and expenditures authorized by K.S.A. 2009 Supp. 12-
14 5330, and amendments thereto.

15 ~~Sec. 14.~~ K.S.A. 2009 Supp. 12-5361 is hereby amended to read as
16 follows: 12-5361. (a) On ~~July 1, 2010~~ *January 1, 2011*: 17

17 (1) The VoIP enhanced 911 grant fee shall be discontinued.

18 (2) The amount of the tax per access line or its equivalent imposed
19 within a jurisdiction pursuant to K.S.A. 12-5302, and amendments
20 thereto, and the amount of the VoIP enhanced 911 local fee per VoIP
21 subscriber whose primary residence is within such jurisdiction shall be an
22 equal amount per month.

23 (3) The provisions of K.S.A. 2009 Supp. 12-5354 and 12-5355, and
24 amendments thereto, shall expire.

25 (b) On and after ~~July 1, 2010~~ *January 1, 2011*, the proceeds of the
26 VoIP local fee shall be used only to pay for costs of emergency telephone
27 service described in K.S.A. 12-5304, and amendments thereto, and ex-
28 penditures authorized by K.S.A. 2009 Supp. 12-5330, and amendments
29 thereto.

30 ~~New Sec. 15.~~ The provisions of this act are declared to be severable
31 and if any provision, word, phrase or clause of the act or the application
32 thereof to any person shall be held invalid, such invalidity shall not effect
33 the validity of the remaining portions of this act. New Sec. 18. See attached
19

34 ~~Sec. 16.~~ K.S.A. 12-5305, 12-5306, 12-5307 and 12-5309 and K.S.A.
35 2009 Supp. 12-5338 and 12-5361 are hereby repealed. 20

36 ~~Sec. 17.~~ On and after January 1, 2011, K.S.A. 12-5301, 12-5303, 12-
37 5304 and 12-5308 and K.S.A. 2009 Supp. 12-5302, 12-5310, 12-5321, 12-
38 5322, 12-5323, 12-5324, 12-5325, 12-5326, 12-5327, 12-5328, 12-5329,
39 12-5330, 12-5331, 12-5332, 12-5333, 12-5334, 12-5335, 12-5336, 12-
40 5337, 12-5351, 12-5352, 12-5353, 12-5354, 12-5355, 12-5356, 12-5357,
41 12-5358, 12-5359 and 12-5360 and K.S.A. 2009 Supp. 12-5338, as
42 amended by section 13, and 12-5361, as amended by section 14, are
43 hereby repealed. 21

6-11
New Sec. 18. K.S.A. 2009 Supp. 75-5133 is hereby amended to read as follows: 75-5133. (a) Except as otherwise more specifically provided by law, all information received by the secretary of revenue, the director of taxation or the director of alcoholic beverage control from returns, reports, license applications or registration documents made or filed under the provisions of any law imposing any sales, use or other excise tax administered by the secretary of revenue, the director of taxation, or the director of alcoholic beverage control, or from any investigation conducted under such provisions, shall be confidential, and it shall be unlawful for any officer or employee of the department of revenue to divulge any such information except in accordance with other provisions of law respecting the enforcement and collection of such tax, in accordance with proper judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

(b) The secretary of revenue or the secretary's designee may:

- (1) Publish statistics, so classified as to prevent identification of particular reports or returns and the items thereof;
- (2) allow the inspection of returns by the attorney general or the attorney general's designee;
- (3) provide the post auditor access to all such excise tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106, and amendments thereto;

(4) disclose taxpayer information from excise tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) provide information from returns and reports filed under article 42 of chapter 79 of the Kansas Statutes Annotated to county appraisers as is necessary to insure proper valuations of property. Information from such returns and reports may also be exchanged with any other state agency administering and collecting conservation or other taxes and fees imposed on or measured by mineral production;

(6) provide, upon request by a city or county clerk or treasurer or finance officer of any city or county receiving distributions from a local excise tax, monthly reports identifying each retailer doing business in such city or county or making taxable sales sourced to such city or county, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month, and identifying each business location maintained by the retailer and such retailer's sales or use tax registration or account number;

(7) provide information from returns and applications for registration filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-3601, and amendments thereto, to a city or county treasurer or clerk or finance officer to explain the basis of statistics contained in reports provided by subsection (b)(6);

(8) disclose the following oil and gas production statistics received by the department of revenue in accordance with K.S.A. 79-4216 et seq. and amendments thereto: Volumes of production by well name, well number, operator's name and identification number assigned by the state corporation commission, lease name, leasehold property description, county of production or zone of production, name of purchaser and purchaser's tax identification number assigned by the department of revenue, name of transporter, field code number or lease code, tax period, exempt production volumes by well name or lease, or any combination of this information;

(9) release or publish liquor brand registration information provided by suppliers, farm wineries and microbreweries in accordance with the liquor control act. The information to be released is limited to: Item number, universal numeric code, type status, product description, alcohol percentage, selling units, unit size, unit of measurement, supplier number, supplier name, distributor number and distributor name;

(10) release or publish liquor license information provided by liquor licensees, distributors, suppliers, farm wineries and microbreweries in accordance with the liquor control act. The information to be released is limited to: County name, owner, business name, address, license type, license number, license expiration date and the process agent contact information;

(11) release or publish cigarette and tobacco license information obtained from cigarette and tobacco licensees in accordance with the Kansas cigarette and tobacco products act. The information to be released is limited to: County name, owner, business name, address, license type and license number;

(12) provide environmental surcharge or solvent fee, or both, information from returns and applications for registration filed pursuant to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary of health and environment or the secretary's designee for the sole purpose of ensuring that retailers collect the environmental surcharge tax or solvent fee, or both;

(13) provide water protection fee information from returns and applications for registration filed pursuant to K.S.A. 82a-954, and amendments thereto, to the secretary of the state board of agriculture or the secretary's designee and the secretary of the Kansas water office or the secretary's designee for the sole purpose of verifying revenues deposited to the state water plan fund;

(14) provide to the secretary of commerce copies of applications for project exemption certificates sought by any taxpayer under the enterprise zone sales tax exemption pursuant to subsection (cc) of K.S.A. 79-3606, and amendments thereto;

(15) disclose information received pursuant to the Kansas cigarette and tobacco act and subject to the confidentiality provisions of this act to any criminal justice agency, as defined in subsection (c) of K.S.A. 22-4701, and amendments thereto, or to any law enforcement officer, as defined in subsection (c)(10) of K.S.A. 21-3110, and amendments thereto, on behalf of a criminal justice agency, when requested in writing in

6-13

conjunction with a pending investigation; and

(16) provide to retailers tax exemption information for the sole purpose of verifying the authenticity of tax exemption numbers issued by the department; and

(17) provide information concerning remittance by sellers of prepaid wireless 911 fees from returns to the LPCA for purposes of verifying seller compliance with collection and remittance of such fees.

(c) Any person receiving any information under the provisions of subsection (b) shall be subject to the confidentiality provisions of subsection (a) and to the penalty provisions of subsection (d).

(d) Any violation of this section shall be a class A, nonperson misdemeanor, and if the offender is an officer or employee of this state, such officer or employee shall be dismissed from office. Reports of violations of this paragraph shall be investigated by the attorney general. The district attorney or county attorney and the attorney general shall have authority to prosecute any violation of this section if the offender is a city or county clerk or treasurer or finance officer of a city or county.

1 Sec. 18. This act shall take effect and be in force from and after its
2 publication in the Kansas register.

6-14



Together with NEXTEL

Sprint Nextel
6450 Sprint Parkway
Overland Park, KS 66251
Mailstop: KSOPHN212-2A353

Patrick R. Fucik
Director, West Region
State Government Affairs
913-315-9155

**Testimony of Patrick Fucik in Support of Amending HB 2423
To Allow for Wireless Carrier Cost Recovery
Before the House Energy and Utilities Committee
January 19, 2010**

Thank you Chairman Holmes and members of the Committee. My name is Patrick Fucik and I am the Director of State Government Affairs for Sprint in the West Region.

First off, let me state that Sprint supports the continuation of a sound 911 funding mechanism for Kansas in order to provide the necessary funding to the counties and PSAPs for this vital public safety tool.

However, just as some carriers are seeking parity in the amount of the 911 surcharge imposed on all customers, Sprint believes there should be parity in the ability of wireless carriers to recover some of our costs for Phase I deployment of 'Enhanced' or E911 wireless services. Currently, wireline carriers are able to recover a portion of their costs through tariffed rates directly from the PSAP while wireless carriers are not. The only option that wireless carriers have to recover our ongoing costs is to assess an additional charge on our customer's bills.

Given the already high rate of taxation on wireless services nationwide, and the proposed 5 cent increase contained in HB 2423, adding an additional surcharge for cost recovery on our customers in Kansas is not something that Sprint supports.

Sprint is currently able to collect our Phase I costs in 23 states from funds collected through E911 surcharges on wireless customers in those states (see attached list). While cost recovery for wireless carriers was not part of the current Kansas law when it was enacted, the current rewrite of the Kansas 911 statute is the opportunity to provide cost recovery for wireless carriers that seek it.

Sprint continues to expend costs on three major components related to Phase I E911 delivery on a monthly basis which causes budget shortfalls if not allowed the opportunity to recover. The reoccurring costs that Sprint would seek to recovery are:

1. Contractual obligation to a 3rd Party Vendor for monthly ongoing costs for Automatic Location Identification (ALI) Gateway, database and support expense;
2. Sprint E911 Engineering support to the PSAP community for implementation of Phase I as well as support for outages statewide; and
3. Local Exchange Carrier costs for connectivity to the Selective Router which includes monthly charges for trunks and routes connecting points.

Sprint believes that revenues generated from the current \$0.50 surcharge imposed on wireless carriers should provide funding to support the implementation of the 911 throughout Kansas including costs borne by the PSAPs and carriers. Adjusting that rate to \$0.55 as proposed in the agreement reached between the PSAPs and industry maintains current funding levels for the PSAPs but does not earmark any funding for wireless carrier cost recovery.

HOUSE ENERGY AND UTILITIES
DATE: 1/19/2010
ATTACHMENT 7-1

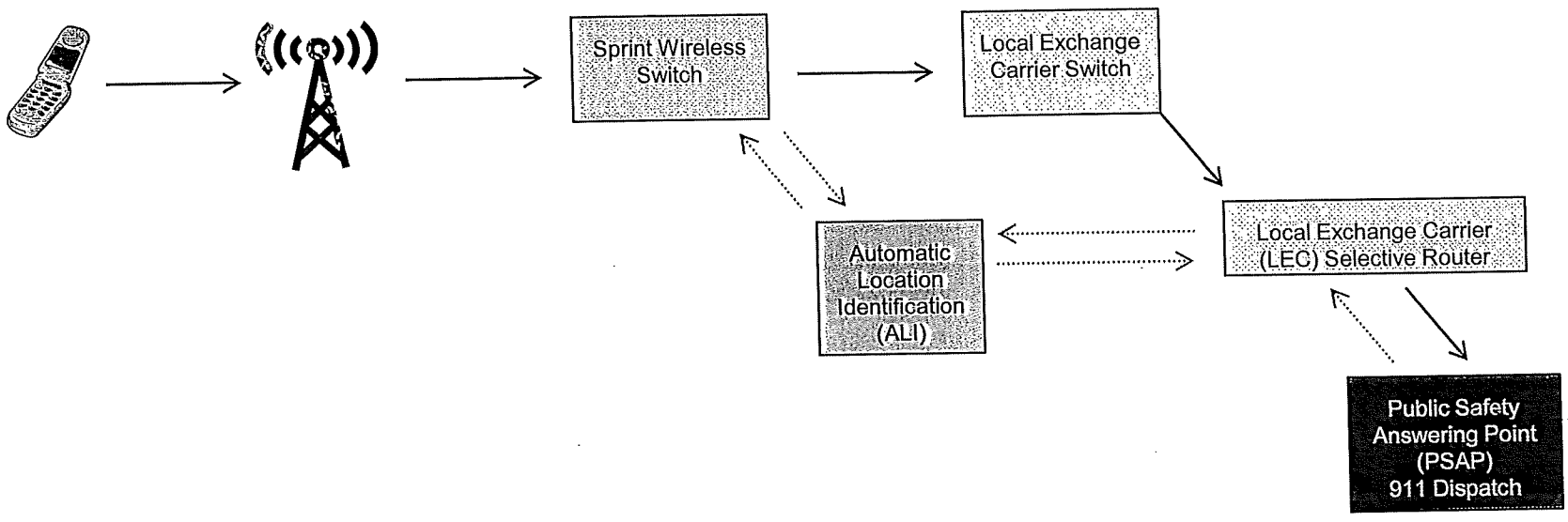
Sprint proposes that the Committee consider the attached amendment that would earmark a portion of the new revenues generated from the point of sale E911 fee on prepaid products for wireless carrier cost recovery. It is estimated that \$1 million in new revenues will be generated through the point of sale model annually. By earmarking just 50 percent of those new funds for carrier cost recovery, additional new funding would still be available to PSAPs but at the same time eliminate the need for Sprint to impose a new fee on its customer's bills to generate funds for Phase I cost recovery.

Sprint asks for your vote in support of amending HB 2423 to provide for wireless carrier cost recovery.

States that Currently Allow for Wireless Carrier Cost Recovery:

STATE	PSAP OR COUNTY NAME
AL	State of Alabama
AZ	Various Counties
CA	State of California
DE	State of Delaware
FL	State of Florida
GA	Various Counties
HI	State of Hawaii
IA	State of Iowa
ID	Various Counties
IL	State of Illinois
KY	State of Kentucky
LA	Various Counties
MN	State of Minnesota - Minneapolis Metro
MN	State of Minnesota - Wireline
MS	State of Mississippi
NC	State of North Carolina
NE	State of Nebraska
NM	Various Counties
OR	State of Oregon
SC	State of South Carolina
TN	State of Tennessee
TX	Texas Districts & Home Rule & COG
TX	Various COGs - Wireline
VA	State of Virginia
WA	State of Washington
WA	Grant County
WA	King County

Phase 1 911 Call Route



Phase 1 vs. Phase 2

- **Phase 1:** Sprint must identify, for PSAPs, the phone number of the caller and cell phone tower location used to place the call.
Note: The ALI and selective router are key pieces of equipment in this process.
- **Phase 2:** Sprint must provide the above information along with the latitude and longitude of the caller. During the Phase 2 call process, PSAPs have the ability to re-bid (request) for the updated location of caller.

HOUSE BILL No. 2423

By Committee on Energy and Utilities

1-12

9 AN ACT concerning emergency telephone service; relating to fees,
 10 charges, collection and distribution; amending K.S.A. 2009 Supp. 12-
 11 5338 and 12-5361 and repealing the existing sections; also repealing
 12 K.S.A. 12-5301, 12-5303, 12-5304, 12-5305, 12-5306, 12-5307, 12-
 13 5308, 12-5309 and K.S.A. 2009 Supp. 12-5302, 12-5310, 12-5321, 12-
 14 5322, 12-5323, 12-5324, 12-5325, 12-5326, 12-5327, 12-5328, 12-5329,
 15 12-5330, 12-5331, 12-5332, 12-5333, 12-5334, 12-5335, 12-5336, 12-
 16 5337, 12-5351, 12-5352, 12-5353, 12-5354, 12-5355, 12-5356, 12-5357,
 17 12-5358, 12-5359 and 12-5360 and K.S.A. 2009 Supp. 12-5338, as
 18 amended by section 13, and 12-5361, as amended by section 14.

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

20 New Section 1. (a) Sections 1 through 12 and 15, and amendments
 21 thereto, shall be known and may be cited as the Kansas 911 act.

22 (b) This section shall take effect on and after January 1, 2011.

23 New Sec. 2. (a) As used in the Kansas 911 act:

24 (1) "Exchange telecommunications service" means the service that
 25 provides local telecommunications exchange access to a service user.

26 (2) "Local Collection Point Administrator (LCPA)" means the state-
 27 wide association of cities established by K.S.A. 12-1610e, and amend-
 28 ments thereto, and the statewide association of counties established by
 29 K.S.A. 19-2690, and amendments thereto.

30 (3) "Next generation 911" means 911 service that enables PSAP's to
 31 receive text, image, video, and data information from callers.

32 (4) "Person" means any individual, firm, partnership, copartnership,
 33 joint venture, association, cooperative organization, corporation, municipi-
 34 pal or private, and whether organized for profit or not, state, county,
 35 political subdivision, state department, commission, board, bureau or fra-
 36 ternal organization, nonprofit organization, estate, trust, business or com-
 37 mon law trust, receiver, assignee for the benefit of creditors, trustee or
 38 trustee in bankruptcy or any other legal entity.

39 (5) "Prepaid wireless service" means a wireless telecommunications
 40 service that allows a caller to dial 911 to access the 911 system, which
 41 service must be paid for in advance and is sold in predetermined units or
 42 dollars of which the number declines with use in a known amount.
 43

(5) "Phase I E911 Service" means the provision by a wireless telecommunications service provider of the subscriber account, if available, of the originator of an emergency 911 call and the location of the cell site or base station receiving an emergency 911 call from any wireless handset accessing that system to the designed PSAP.

7-5

1 ⁷ (6) "Place of primary use" has the meaning provided in the mobile
2 telecommunications act (4 U.S.C. 116, et. seq., as in effect on the effective
3 date of this act).

4 ⁸ (7) "Provider" means any person who provides exchange telecom-
5 munications service, wireless telecommunications service, VoIP service,
6 or other service capable of contacting a PSAP.

7 ⁹ (8) "PSAP" means a public safety answering point operated by a city
8 or county.

9 ¹⁰ (9) "Service user" means any person who is provided exchange tele-
10 communications service, wireless telecommunications service, VoIP serv-
11 ice, prepaid wireless service, or any other service capable of contacting a
12 PSAP.

13 ¹¹ (10) "Subscriber account" means the 10-digit access number assigned
14 to a service user regardless of whether more than one such number is
15 aggregated for the purpose of billing a service user.

16 ¹² (11) "Subscriber radio equipment" means mobile and portable radio
17 equipment installed in vehicles or carried by persons for voice commu-
18 nication with a radio system.

19 ¹³ (12) "VoIP service" means voice over internet protocol.

20 ¹⁴ (13) "Wholesaler of prepaid wireless service" means a person who
21 purchases at wholesale wireless service from a wireless provider for resale
22 as prepaid wireless service.

23 ¹⁵ (14) "Wireless telecommunications service" means a two-way voice
24 service provided by a wireless provider.

25 (b) This section shall take effect on and after January 1, 2011.

26 New Sec. 3. (a) There is hereby imposed a 911 fee in the amount of
27 \$.55 per month per subscriber account of any exchange telecommuni-
28 cations service, wireless telecommunications service, VoIP service, or
29 other service capable of contacting a PSAP. Such fee shall not be imposed
30 on prepaid wireless service. No such fee shall be imposed upon more
31 than 100 exchange telecommunications service subscriber accounts per
32 person per location. It shall be the duty of each exchange telecommuni-
33 cations service provider, wireless telecommunications service provider,
34 VoIP service provider, or other service provider to remit such fees to the
35 local collection point administrator as provided in section 4, and amend-
36 ments thereto.

37 (b) There is hereby imposed a 911 fee in the amount of 1% of the
38 retail price of any prepaid wireless service sold in the state. It shall be
39 the duty of each wholesaler of prepaid wireless service to remit such fee
40 to the LCPA as provided in section 4, and amendments thereto.

41 (c) This section shall take effect on and after January 1, 2011.

42 New Sec. 4. (a) Every billed service user shall be liable for the 911
43 fee until such fees have been paid to the exchange telecommunications

1 service provider, wireless telecommunications service provider, VoIP
2 service provider, or other service provider.

3 (b) The duty to collect the fees imposed pursuant to this act shall
4 commence January 1, 2011. Such fees shall be added to and may be stated
5 separately in billings for the subscriber account. If stated separately in
6 billings, the fees shall be labeled "KS 911 fees."

7 (c) The provider shall have no obligation to take any legal action to
8 enforce the collection of the fees imposed by this act. The provider, other
9 than a wholesaler of prepaid wireless service, shall provide annually to
10 the LCPA a list of amount of uncollected 911 fees along with the names
11 and addresses of those service users which carry a balance that can be
12 determined by the provider to be nonpayment of such fees.

13 (d) The fees imposed by this act shall be collected insofar as practi-
14 cable at the same time as, and along with, the charges for local exchange,
15 wireless, VoIP, or other service in accordance with regular billing practice
16 of the provider.

17 (e) The 911 fees and the amounts required to be collected therefor
18 are due monthly. The amount of such fees collected in one month by the
19 provider or wholesaler of prepaid wireless service shall be remitted to the
20 LCPA not more than 15 days after the close of the calendar month. On
21 or before the 15th day of each calendar month following, a return for the
22 preceding month shall be filed with the LCPA. Such return shall be in
23 such form and shall contain such information as required by the LCPA.
24 The provider or wholesaler of prepaid wireless service required to file
25 the return shall deliver the return together with a remittance of the
26 amount of fees payable to the LCPA. The provider or wholesaler of pre-
27 paid wireless service shall maintain records of the amount of any such
28 fees collected in accordance with this act for a period of three years from
29 the time the fees are collected.

30 (f) The provider or wholesaler of prepaid wireless service may retain
31 an administrative fee of not more than 2% of moneys collected from such
32 fee. The LCPA may retain an administrative fee of not more than 2% of
33 moneys collected from such fee.

34 (g) This section shall take effect on and after January 1, 2011.

35 New Sec. 5. (a) Not later than 30 days after the receipt of moneys
36 from providers pursuant to this act, the LCPA shall distribute such mon-
37 eys to PSAPs based upon the following ratio: 82% shall be distributed to
38 PSAPs based upon place of primary use information provided by the
39 providers and 18% shall be redistributed to PSAPs located in counties
40 with less than 75,000 in population. Moneys which cannot be attributed
41 to a specific PSAP shall be transferred to the LCPA grant fund.

42 (b) Moneys collected from the fee on prepaid wireless service shall
43 be transferred to the LCPA grant fund. ←

Of the moneys transferred,
50% shall be allocated for
cost recovery for wireless
telecommunications service
providers as set forth in
section 11.

7-7

1 (c) The LCPA shall keep accurate accounts of all receipts and dis-
2 bursements of moneys from the 911 fees.

3 (d) Information provided by providers to the LCPA or to the 911
4 coordinating council pursuant to this act will be treated as proprietary
5 records which will be withheld from the public upon request of the party
6 submitting such records.

7 (e) This section shall take effect on and after January 1, 2011.

8 New Sec. 6. (a) The proceeds of the 911 fees imposed pursuant to
9 this act, and any interest earned on revenue derived from such fee, shall
10 be used only for necessary and reasonable costs incurred or to be incurred
11 by PSAPs for: (1) Implementation of 911 services; (2) purchase of 911
12 equipment and upgrades; (3) maintenance and license fees for 911 equip-
13 ment; (4) training of personnel; (5) monthly recurring charges billed by
14 service suppliers; (6) installation, service establishment, and nonrecurring
15 start-up charges billed by the service supplier; (7) charges for capital
16 improvements and equipment or other physical enhancements to the 911
17 system; (8) the acquisition and installation of road signs designed to aid
18 in the delivery of emergency service. Such costs shall not include ex-
19 penditures to lease, construct, expand, acquire, remodel, renovate, repair,
20 furnish or make improvements to buildings or similar facilities. Such costs
21 shall also not include expenditures to purchase subscriber radio
22 equipment.

23 (b) This section shall take effect on and after January 1, 2011.

24 New Sec. 7. (a) There is hereby created a 911 coordinating council
25 which shall monitor the delivery of 911 services, develop strategies for
26 future enhancements to the 911 system, and distribute available grant
27 funds to PSAPs. In as much as possible, the 911 coordinating council shall
28 include individuals with technical expertise regarding 911 systems, inter-
29 net technology, and GIS technology. The coordinating council shall con-
30 sist of 12 members to be appointed by the governor: two members rep-
31 resenting wireless telecommunications providers; one member
32 representing a local exchange provider to be recommended by the Kansas
33 telecommunications industry association; one member representing a ru-
34 ral telecommunications company recommended by the Kansas rural in-
35 dependent telephone companies; one member representing VoIP pro-
36 viders; two members recommended by the league of Kansas
37 municipalities; two members recommended by the Kansas association of
38 counties; one member recommended by the Kansas commission for the
39 deaf and hard of hearing; one member recommended by the Kansas
40 emergency medical services board; and, one member recommended by
41 the adjutant general. The council shall also include two members of the
42 Kansas house of representatives as appointed by the speaker of the house;
43 one member of the Kansas house of representatives as appointed by the

1 minority leader of the house; two members of the Kansas senate as ap-
2 pointed by the senate president and one member of the Kansas senate
3 as appointed by the senate minority leader. The governor shall designate
4 one member as chair of the council.

5 (b) The terms of office for members of the 911 coordinating council
6 shall commence January 1, 2011 and shall be subject to reappointment
7 every three years.

8 (c) The 911 coordinating council is hereby authorized to adopt rules
9 and regulations necessary for effectuation of the provisions of this act,
10 including, but not limited to, assessing civil penalties.

11 (d) No civil penalty shall be imposed pursuant to this section except
12 upon the written order of the 911 coordinating council. Such order shall
13 state the violation, the penalty to be imposed and the right of such pro-
14 vider to appeal the penalty in accordance with the provisions of the Kansas
15 administrative procedure act.

16 (e) Any civil penalty recovered pursuant to this section shall be de-
17 posited with the LCPA grant fund.

18 (f) So long as the provider is working in good faith to comply with
19 the provisions of this act, no civil penalty shall be imposed prior to January
20 1, 2012.

21 (g) The LCPA shall provide staff support to the 911 coordinating
22 council. Members of the 911 coordinating council may receive reimburse-
23 ment for meals and travel expenses, but shall serve without other com-
24 pensation. All expenses related to the 911 coordinating council shall be
25 paid from the LCPA grant fund.

26 (h) This section shall take effect on and after January 1, 2011.

27 New Sec. 8. (a) PSAPs, the LCPA, providers, and wholesalers of pre-
28 paid wireless service shall not be liable for any form of damages resulting
29 directly or indirectly from the performance of installing, maintaining or
30 providing 911 service.

31 (b) This section shall be in force and effective on and after January
32 1, 2011.

33 New Sec. 9. (a) The receipts and disbursements of the LCPA shall
34 be audited yearly by a licensed municipal accountant or certified public
35 accountant.

36 (b) The LCPA may require an audit of any provider's books and re-
37 cords concerning the collection and remittance of fees pursuant to this
38 act. The cost of any such audit shall be paid from the LCPA grant fund.

39 (c) Annually, the division of post audit shall conduct an audit of the
40 911 service system to determine: (1) Whether moneys received by PSAPs
41 pursuant to the act are being used appropriately; (2) whether the amount
42 of moneys collected pursuant to this act is adequate; and (3) the status of
43 911 service implementation. The audit shall be in accordance with a scope

7-10

1 statement authorized and approved by the legislative post audit commit-
2 tee. Audits under this section shall be conducted on a random basis and
3 not more than 35 PSAPs shall be audited during any one calendar year.
4 The cost of such audit shall be paid from the LCPA grant fund. The audit
5 report shall be submitted to the 911 coordinating council, the LCPA, the
6 house energy and utilities committee, and the senate utilities committee.

7 (d) This section shall take effect on and after January 1, 2011.

8 New Sec. 10. (a) Nothing in this act shall be construed to limit the
9 ability of a provider from recovering directly from the provider's custom-
10 ers its costs associated with designing, developing, deploying and main-
11 taining 911 service and its cost of collection and administration of the
12 fees imposed by this act, whether such costs are itemized on the cus-
13 tomer's bill as a surcharge or by any other lawful method.

and wireless
telecommunications
service providers

14 (b) This section shall take effect on and after January 1, 2011.

15 New Sec. 11. (a) ~~The LCPA shall establish and maintain a grant fund~~
16 ~~for PSAPs, which shall not be part of the state treasury. Such money and~~
17 ~~any interest earned on such money may only be expended for the follow-~~
18 ~~ing purposes: projects involving the development of next generation 911~~
19 ~~services; costs associated with PSAP consolidation or cost-sharing pro-~~
20 ~~jects; other purposes as defined in section 6 on its effective date, and~~
21 ~~amendments thereto.~~

From the money collected for the 911 fee on prepaid wireless services, 50% shall be allocated for cost recovery of phase I E911 service for wireless telecommunications service providers pursuant to rules and regulations adopted by the 911 coordinating council. Any of the moneys allocated for cost recovery of phase I E911 service for wireless telecommunications service providers that is unused, shall be expended for the purposes otherwise provided in this section. From the remaining funds, such

22 (b) The 911 coordinating council shall develop criteria for grant ap-
23 plicants and make the final determination as to the distribution of grant
24 funds.

25 New Sec. 12. On the effective date of this act, all funds remaining
26 in the wireless enhanced 911 grant fund established pursuant to K.S.A.
27 12-5323, and amendments thereto, shall be transferred to the LCPA. Any
28 funds received on or after the effective date of this act and prior to January
29 1, 2011, shall be transferred to the LCPA at least monthly. The LCPA
30 shall deposit such amount in the LCPA grant fund to be distributed as
31 provided in section 11, and amendments thereto.

32 Sec. 13. K.S.A. 2009 Supp. 12-5338 is hereby amended to read as
33 follows: 12-5338. (a) ~~On July 1, 2010~~ January 1, 2011:

34 (1) The wireless enhanced 911 grant fee shall be discontinued, the
35 advisory board shall be abolished, any unobligated balance of the wireless
36 enhanced 911 grant fund shall be paid to the local collection point ad-
37 ministrator for distribution to PSAP's based on the population of the
38 municipality or municipalities served by the respective PSAP and the fund
39 shall be abolished.

40 (2) Within any county which has a population of 125,000 or more,
41 the amount of the tax imposed pursuant to K.S.A. 12-5302, and amend-
42 ments thereto, shall not exceed \$.25 per month per access line or its
43 equivalent and the amount of the wireless enhanced 911 local fee within

1 such jurisdiction shall be an equal amount per month per wireless sub-
2 scriber account.

3 (3) Within any county which has a population of less than 125,000
4 the amount of the tax imposed to K.S.A. 12-5302, and amendments
5 thereto, shall not exceed \$.50 per month per access line or its equivalent
6 and the amount of the wireless enhanced 911 local fee shall be an equal
7 amount per month per wireless subscriber account.

8 (4) The provisions of K.S.A. 2009 Supp. 12-5323 through 12-5329,
9 and amendments thereto, shall expire.

10 (b) On and after ~~July 1, 2010~~ *January 1, 2011*, the proceeds of the
11 wireless enhanced 911 local fee shall be used only to pay for costs of
12 emergency telephone service described in K.S.A. 12-5304, and amend-
13 ments thereto, and expenditures authorized by K.S.A. 2009 Supp. 12-
14 5330, and amendments thereto.

15 Sec. 14. K.S.A. 2009 Supp. 12-5361 is hereby amended to read as
16 follows: 12-5361. (a) On ~~July 1, 2010~~ *January 1, 2011*:

17 (1) The VoIP enhanced 911 grant fee shall be discontinued.

18 (2) The amount of the tax per access line or its equivalent imposed
19 within a jurisdiction pursuant to K.S.A. 12-5302, and amendments
20 thereto, and the amount of the VoIP enhanced 911 local fee per VoIP
21 subscriber whose primary residence is within such jurisdiction shall be an
22 equal amount per month.

23 (3) The provisions of K.S.A. 2009 Supp. 12-5354 and 12-5355, and
24 amendments thereto, shall expire.

25 (b) On and after ~~July 1, 2010~~ *January 1, 2011*, the proceeds of the
26 VoIP local fee shall be used only to pay for costs of emergency telephone
27 service described in K.S.A. 12-5304, and amendments thereto, and ex-
28 penditures authorized by K.S.A. 2009 Supp. 12-5330, and amendments
29 thereto.

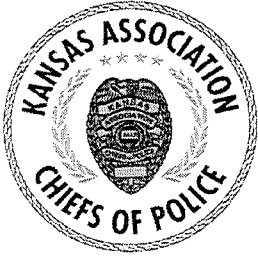
30 New Sec. 15. The provisions of this act are declared to be severable
31 and if any provision, word, phrase or clause of the act or the application
32 thereof to any person shall be held invalid, such invalidity shall not effect
33 the validity of the remaining portions of this act.

34 Sec. 16. K.S.A. 12-5305, 12-5306, 12-5307 and 12-5309 and K.S.A.
35 2009 Supp. 12-5338 and 12-5361 are hereby repealed.

36 Sec. 17. On and after January 1, 2011, K.S.A. 12-5301, 12-5303, 12-
37 5304 and 12-5308 and K.S.A. 2009 Supp. 12-5302, 12-5310, 12-5321, 12-
38 5322, 12-5323, 12-5324, 12-5325, 12-5326, 12-5327, 12-5328, 12-5329,
39 12-5330, 12-5331, 12-5332, 12-5333, 12-5334, 12-5335, 12-5336, 12-
40 5337, 12-5351, 12-5352, 12-5353, 12-5354, 12-5355, 12-5356, 12-5357,
41 12-5358, 12-5359 and 12-5360 and K.S.A. 2009 Supp. 12-5338, as
42 amended by section 13, and 12-5361, as amended by section 14, are
43 hereby repealed.

1 Sec. 18. This act shall take effect and be in force from and after its
2 publication in the Kansas register.

7-12



Kansas Association of Chiefs of Police
PO Box 780603, Wichita, KS 67278 (316)733-7301

Kansas Peace Officers Association
PO Box 2592, Wichita, KS 67201 (316)722-8433



**Testimony to the House Energy and Utilities Committee
In Support of HB2423
911 Funding**

January 19, 2010

Mr. Chairman and Committee Members,

The Kansas Association of Chiefs of Police and the Kansas Peace Officers Association support the passage of HB2423. Without the passage of this bill, Kansas PSAPs will lose over \$7 million in funding to support the critical public safety function of emergency dispatching.

During the interim, a group of interested entities worked diligently to put together a proposal with minimal differences of opinions. This bill is the result of that effort. This bill has provisions that are important to public safety in Kansas. It increases the financial support of the smaller PSAPs which cover a large geographic portion of Kansas. This is desperately needed by those agencies. This comes at a cost of reduced funding for the largest PSAPs, but it is a cost the larger agencies are willing to accept realizing the difficulties the smaller PSAPs face. The bill also addresses the expanding use of prepaid phones and a method to collect the 911 fee for those phones. It also contains a provision to assist PSAPs desiring to explore consolidation. These are all important factors.

Certainly there are things in this bill that concern law enforcement. The most significant of those concerns is the new limitations placed on the use of the funds for communications components in the field necessary to transfer the call information to the emergency responders. This has been allowed for years and we are concerned this is going to put new financial burdens on local governments at a time when their budgets are as challenging as the state's budget. It also comes at a time when there are needs to upgrade many of those systems to digital communications from analog communications, replacement of devices to meet FCC mandates to narrower band widths, and of course the ongoing effort to convert to communications devices allowing interoperability between agencies which is critical for interagency or multiple agency emergency responses.

In spite of these concerns, we encourage you to recommend a 911 funding bill favorably for passage by the House. We simply need this funding to keep our emergency dispatch centers operating efficiently and maintaining our abilities to accept, process, and dispatch emergency 911 calls across our state.

A handwritten signature in black ink, appearing to read "Ed Klumpp".

Ed Klumpp
Legislative Committee Chair – Kansas Association of Chiefs of Police
Legislative Liaison – Kansas Peace Officers Association
eklumpp@cox.net
(785) 640-1102

HOUSE ENERGY AND UTILITIES
DATE: 1/19/2010
ATTACHMENT 8



KANSAS LEGISLATIVE POLICY GROUP
P.O. Box 555 • Topeka, Kansas 66601 • 785-235-6245 • Fax 785-235-8676

**Testimony of
Commissioner Jack Frick
Scott County Commissioner
President, Kansas Legislative Policy Group**

Before the House Committee on Energy and Utilities

House Bill 2423

January 19, 2010

Dear Chairman Holmes and Members of the Committee:

The Kansas Legislative Policy Group (KLPG) is pleased to provide written testimony in support of House Bill 2423. The KLPG is a bipartisan, non-profit corporation of elected commissioners from 30 western Kansas counties. We appreciate the opportunity to submit remarks on this issue, which is of great importance to our member counties.

House Bill 2423 is necessary for our member counties to provide quality emergency 911 services. The legislation will allow our counties to continue to make available the best possible emergency telephone service with improved technology and the latest equipment.

We appreciate the willingness of all the interested parties to work together on this important issue and arrive at the compromise legislation you see before you today. As with all compromises, concessions are made and the greater good of projects are always the goal. In this case, all the parties kept a watchful eye on the end product, the safety of those who reside and travel throughout this State. Failure of the parties to be mindful and attentive to that end product could have resulted in a tremendous loss for our county members and all Kansans.

We encourage the Committee to favorably consider House Bill No. 2423.

Thank you for your consideration and the opportunity to present these written remarks.

HOUSE ENERGY AND UTILITIES
DATE: 1/19/2010
ATTACHMENT 9



**SEDGWICK COUNTY, KANSAS
DEPARTMENT OF
EMERGENCY COMMUNICATIONS**

Diane M. Gage, Director
714 N. Main
Wichita, KS 67203-3707
(316) 660-4977
(316) 383-8060 (FAX)
dgage@sedgwick.gov

January 19, 2010

House Utilities Committee

Regarding: House Bill 2423

Chairperson Carl Holmes:

Sedgwick County supports House Bill 2423. This bill helps provide for the funding of 911 communications services now and into the future. It supports both the funding for maintaining current levels of service and the future of 911 services. The technologies used to access public safety for assistance is ever expanding; such being able to text message your local 911 center, being able to coordinate information received from on-board vehicle services, and sending of images from accident and crime scenes. As technologies and methods of communication change, emergency communications centers need to be able to communicate with those in need and continue to provide current services.

As the chair of the Kansas Enhanced Wireless Advisory Board, I see the need to continue to support all of the counties in Kansas. Currently, every county is providing Enhanced 911 Services to both hardwire and wireless telephones. However, this equipment does have a life span and House Bill 2423 supports the funding for those communities needing additional resources through the continuation of the grant program. It also provides the resources needed for the future.

Thank you for your time.

Sincerely,

Diane M. Gage
Director

Sedgwick County...working for you.

*HOUSE ENERGY AND UTILITIES
DATE: 1/19/2010
ATTACHMENT 10*



JOHNSON COUNTY, KANSAS
Emergency Communications

www.jocoks911.org • 11880 S. Sunset Drive, Olathe, KS 66061

Written Testimony of:

Director Walter Way
Johnson County Emergency Communications
Olathe, Kansas

House Bill 2423

January 19, 2010

Chairman Holmes and Members of the Energy and Utilities Committee:

I represent Johnson County Government and the Kansas City Regional E911 System that serves Johnson, Wyandotte, Leavenworth and Miami Counties and five Missouri counties. I am providing written testimony in support of House Bill 2423.

This Committee has been presented with information previously concerning the significant functional limitations of the legacy analog based 911 system in Kansas and of the important need to upgrade to a digital based Next Generation 911 (NG911) capable system that will allow our citizens to contact 911 with the communication devices and technologies they use every day.

Kansas 911 Public Safety Answering Points (PSAPs) must have the capability to receive and process digital voice, text messages, images, video and other data sent from citizens and from automatic crash notification systems. Such Next Generation 911 calls and associated data must be transmitted immediately to the law enforcement, fire and emergency medical responders who will act on the 911 call information and images. This need can be illustrated by the example of a PSAP receiving a 911 call with the image of a missing child or of a robbery suspect. Without the ability of the NG911 system to rapidly transmit the image to the responding law enforcement officer, the image stops at the PSAP and is not available to the emergency responder who needs it the most to identify a missing or wanted person.

The opportunities for PSAP consolidation and the sharing of 911 system infrastructure between local governments can be furthered with the development of NG911 networks. NG911 networks are secure, regional broadband Intranets accessed by multiple PSAPs and which allow PSAPs to receive and transmit NG911 calls, radio communications and Computer Aided Dispatch system information between PSAPs and with emergency responders. As an example, two PSAPs located one hundred miles apart and on a common NG911 network would have the ability to receive each other's NG911 calls and

HOUSE ENERGY AND UTILITIES
DATE: 1/19/2010
ATTACHMENT 11-1

associated data, to use a common Computer Aided Dispatch system to manage deployment of emergency responders, and to dispatch calls with associated images and data by radio and mobile data to emergency responders served by the other PSAP.

In July 2010, statutory authority for the collection of the wireless and VoIP enhanced 911 grant fees will expire, and for counties with a population over 125,000, the authority to assess a monthly 911 surcharge on wireline phones will be reduced from 75 cents/phone to no more than 25 cents/phone, and the authority to collect wireless 911 fees will be capped at 25 cents/phone. Counties under 125,000 population may impose a monthly 911 surcharge up to 50 cents/phone and may also collect 50 cents per wireless phone.

The upcoming reduction in 911 revenues is of great concern to public safety agencies of all sizes in Kansas. This funding concern was a significant topic at the hearings of the Special Committee on Utilities which received a *Joint Statement Between PSAPs and the Telecommunications Industry* on November 11, 2009. That joint statement contained recommendations for the continued funding of the 911 system that would meet existing and future 911 funding needs of Kansas PSAPs, and those recommendations are represented in HB 2423.

I would request your favorable consideration of HB 2423.

Walter Way, Director
Johnson County Emergency Communications
11880 S. Sunset Drive
Olathe, Kansas 66061
913-826-1010



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8500 Santa Fe Drive
Overland Park, Kansas 66212
913-895-6000 | www.opkansas.org

Testimony before the House Energy & Utilities Committee
Regarding House Bill 2423
By Erik Sartorius

January 19, 2010

The City of Overland Park appreciates the opportunity to appear before the committee and present testimony in support of House Bill 2423. This legislation provides a broadly-supported solution to the challenge of funding emergency 911 services now and into the future.

In the Kansas City metropolitan region, local governments recognize the need for a quick-responding emergency system. We have worked jointly to create a system to meet the needs of the public by working hard to provide enhanced 911 service to the metro area.

Receiving and dispatching emergency calls with the utmost speed and accuracy is a vital public service. One of the challenges in our increasingly technologically-driven society is to be able to adapt governments' methods of receiving pleas for help to the means utilized by those contacting emergency responders.

The ongoing changes in telecommunications technology require technology and equipment enhancements to ensure the provision of E911 services. Continuation of funding mechanisms is critical to accomplishing this important task.

Again, the City appreciates the opportunity to offer testimony before this committee. We respectfully ask that you recommend House Bill 2423 favorably for passage.

HOUSE ENERGY AND UTILITIES
DATE: 1/19/2010
ATTACHMENT 12



LEGISLATURE OF KANSAS
LEGISLATIVE DIVISION OF POST AUDIT

800 SOUTHWEST JACKSON STREET, SUITE 1200
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**House Energy and Utilities Committee
Testimony on HB 2423
Chris Clarke, Legislative Post Audit
January 19, 2010**

Mr. Chairman and members of the Committee, thank you for allowing me to provide neutral testimony on HB 2423. The bill requires Legislative Post Audit to conduct audits of the 911 system annually.

As a bit of background, Post Audit has conducted several audits of the system in recent years. The audits haven't found any financial issues with PSAPs' spending of grant or fee monies. The most recent audit, issued in December 2008, found that E-911 should be implemented in all PSAPs by 2010.

I would respectfully offer the following suggestions for the Committee's consideration in working this bill:

1. For routine on-going annual audits, the State has a precedent of contracting those audits out. For example, audits of the Lottery, KPERS, and the Pooled Money Investment Board are conducted regularly by contract. Legislative Post Audit is usually sent out to audit issues that arise on an ad hoc basis, rather than on-going annual reviews.
2. Section 9 (c) could be changed as follows:
 - a. Amending the audit language with the following, or something to this effect: On or before December 31, 2010, and at least once every three years thereafter, there shall be conducted an audit of the 911 system. This audit shall determine 1) whether the monies received by PSAPs pursuant to the act are being used appropriately; (2) whether the amount of moneys collected pursuant to this act is adequate; and (3) the status of 911 service implementation. The auditor to conduct such audit shall be specified in accordance with K.S.A. 46-1122, and amendments thereto. The post auditor shall compute the reasonably anticipated cost of providing audits pursuant to this subsection, subject to review and approval by the contract audit committee established by K.S.A. 46-1120, and amendments thereto. Upon such approval, the LCPA grant fund shall reimburse the division of post audit for the amount approved by the contract audit committee.

HOUSE ENERGY AND UTILITIES

DATE: 1/19/2010

ATTACHMENT 13