

Approved: March 19, 2010
Date

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:15 a.m. on January 21, 2010, in Room 785 of the Docking State Office Building.

All members were present except:
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
Renaë Hansen, Committee Assistant

There were no Conferees appearing before the Committee.

Others attending:
Forty-One including the attached list.

Hearing on:

SB 48 - Sub for S 48 by Committee on Utilities – Enhanced wireless and VoIP 911 services amendments, collection and disbursement of certain funds.

There were no conferees.

The hearing on **SB 48** was closed.

Action on:

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

Cindy Lash, Kansas Legislative Research Department, (Attachment 1), presented information about neighboring states and their cost recovery laws and regulations.

Kimberly Winn, League of Kansas Municipalities, (Attachment 2), offered the Leagues' stand on various proposed amendments to **HB 2423**.

Matt Sterling, Office of the Revisor of Statutes, (Attachment 3), passed out a proposed staff amendment with a few technical amendments included for **HB 2423** and explained those proposed changes.

Representative Cindy Neighbor moved to amend HB 2423 as proposed (Attachment 3). Seconded by Representative Mike Slattery. Motion passed.

The proposed amendment by Legislative Post Audit (Attachment 4), was considered.

Representative Tom Sloan moved to amend HB 2423 per Legislative Post Audits' (Attachment 4) suggestion. Seconded by Representative Rob Olson.

Discussion ensued between Representatives: Tom Sloan, Mike Slattery, Cindy Neighbor, and Annie Kuether.

The motion to amend passed.

The proposed amendment by The League of Kansas Municipalities, (Attachment 5), was considered.

Representative Vern Swanson moved to amend HB 2423 per The League of Kansas Municipalities' suggestion. Seconded by Representative Annie Kuether.

CONTINUATION SHEET

Minutes of the House Energy and Utilities Committee at 9:15 a.m. on January 21, 2010, in Room 785 of the Docking State Office Building.

Discussion ensued between Representatives: Tom Sloan, Annie Kuether, Carl Holmes, Tom Moxley, and Forrest Knox.

The motion to amend passed.

The suggested amendment by AT&T, (Attachment 6) was considered.

Representative Joe Seiwert moved to adopt the balloon on the so called AT&T amendment for **HB 2423**. Seconded by Representative Cindy Neighbor.

Discussion ensued between Representatives: Vern Swanson, Mike Burgess, Annie Kuether, and Joe Seiwert.

The motion to amend passed.

Representative Mike Burgess asked to be recorded as a no vote on the AT&T amendment.

The suggested amendment by Sprint, (Attachment 7) was considered.

Representative Rob Olson moved to adopt the proposed so called Sprint amendment for **HB 2423**. Seconded by Representative Mike Slattery.

Discussion ensued between Representatives: Rob Olson, Joe Seiwert, Tom Sloan, Annie Kuether, and Tom Moxley.

Motion to amend failed 8-10.

Debate on the bill as amended ensued.

Representative Cindy Neighbor moved to pass out of committee as amended **HB 2423**. Seconded by Representative Annie Kuether.

Discussion ensued by Representatives: Tom Sloan and Carl Holmes. The motion was withdrawn.

Representative Cindy Neighbor move to amend **HB 2423** as amended into **SB 48**, taking out the current language, and pass it out favorably. Seconded by Representative Annie Kuether. Motion carried.

Representative Joe Seiwert will carry **SB 48** on the floor.

The next meeting is scheduled for January 25, 2010.

The meeting was adjourned at 9:54 a.m.

HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

DATE: January 21, 2010

NAME	REPRESENTING
Dina Fisk	VERIZON WIRELESS
CHRIS CARON	AT&T
Aileen Jensen	Dereg
TOM DAY	KCC
Mike Murray	CenturyLink
John Idoux	CenturyLink
Judy Gaddy	CenturyLink
Jackson Lindsey	Heim Law
Jim Gartzner	AT&T
MIKE TAYLOR	Unified Government
Melvin Wrayana	KAC
Michelle Peterson	Capital Strategies
Nelson Krueger	U.S. Cellular
Diane Gage	Sedgewick Co.
Patrick Fucik	Sprint
Bruce May	AT&T
TOM PALACE	INCA OF KS
Stuart Little	Johnson County
Ed Klumpp	KACP/KPOA/KSA

Encair Haas

Gov. office

ALAN D. CONROY
 Director
 RANEY L. GILLILAND
 Assistant Director for Research
 J.G. SCOTT
 Chief Fiscal Analyst



STAFF
 LEGISLATIVE COORDINATING COUNCIL
 INTERIM COMMITTEES
 STANDING COMMITTEES
 LEGISLATIVE INQUIRIES

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 68-West — State Capitol Building — 300 SW Tenth Avenue — Topeka, Kansas 66612-1504
 PHONE (785) 296-3181 ♦ FAX (785) 296-3824 ♦ TTY (785) 296-3677
 INTERNET: <http://www.kslegislature.org/kldr> E-MAIL: kslegres@kldr.ks.gov

To: Representative Rob Olson

From: Cindy Lash and Iraida Orr

You asked for information on the cost recovery laws of several nearby states. We selected Iowa, Nebraska, and Texas. Their cost-recovery laws or regulations are described below, with supporting information attached. As we discussed, I am also forwarding information provided by other parties that may be of interest to you.

At the national level, the FCC initially (1996) required that a cost recovery mechanism be in place for both the wireless provider and the PSAP before the carrier would be obligated to deliver E-9-1-1 service. However in 1999, the FCC revisited the issue and eliminated that requirement with regard to wireless carriers.

Iowa

In 1998, the Legislature passed a law requiring a statewide surcharge on wireless communications. Initially the surcharge was not to exceed \$0.50 per month per telephone. The cap on the surcharge was raised to \$0.65 in 2004, and at that time, wireless carrier cost recovery was limited to Phase I costs.

The Iowa Administrative Code specifies that 21% of the total surcharge generated per quarter shall be allocated to wireless carriers to recover their costs to deliver E-9-1-1 Phase I service. If the funding is insufficient to reimburse all carriers for their eligible costs, they receive a prorated amount.

The remainder of the surcharge moneys is used to reimburse eligible expenses of PSAPs, local exchange carriers who transport calls from the wireless carrier to the PSAP, and providers of automatic location information databases.

HOUSE ENERGY AND UTILITIES

DATE: 11/20/2010

ATTACHMENT 1-1

Nebraska

Nebraska created an enhanced wireless 9-1-1 fund in 2001. The statute indicates that a PSAP and wireless carrier may be compensated for costs determined to be eligible by the Public Service Commission. The Commission is further authorized to determine how funding is to be allocated among PSAPS and wireless carriers.

Texas

Texas imposes a fee on \$0.50 on each wireless telecommunications connection per month. State law says upon receipt of an invoice from a wireless service provider for reasonable expenses for network facilities (further described) the Texas Commission on State Emergency Communications shall reimburse the provider. (Note - the Commission oversees 24 regional planning commissions covering the more rural parts of the state. Large population centers are organized into independent regions, with individual processes.)

A Commission representative said the cost recovery requirement was adopted in 1997. The Commission's position is that it is important to have cost recovery for Phase 1 wireless costs in order to encourage implementation.

Iowa

Document 1 of 1

Source:

Iowa Administrative Rules/Iowa Administrative Code/6050__Homeland Security and Emergency Management Division __5B605__5D/0100__Chapter 10 ENHANCED 911 TELEPHONE SYSTEMS/605 — 10.9 (34A) Wireless E911 emergency communications fund.

605—10.9(34A) Wireless E911 emergency communications fund.

10.9(1) Wireless E911 surcharge money, collected and remitted by wireless service providers, shall be placed in a fund within the state treasury under the control of the administrator.

10.9(2) Iowa Code section 8.33 shall not apply to moneys in the fund. Moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this subrule. However, moneys in the fund may be combined with other moneys in the state treasury for purposes of investment.

10.9(3) Moneys in the fund shall be expended and distributed in the order and manner as follows:

a. An amount as appropriated by the general assembly to the homeland security and emergency management division for implementation, support, and maintenance of the functions of the E911 program and to employ the auditor of the state to perform an annual audit of the wireless E911 emergency communications fund.

b. The program manager shall allocate 21 percent of the total amount of surcharge generated per calendar quarter to wireless carriers to recover their costs to deliver wireless E911 phase 1 services as defined in the Federal Communications Commission docket 94-102 and further defined in their letter to King County, Washington, dated May 7, 2001. If this allocation is insufficient to reimburse all wireless carriers for the wireless service provider's eligible expenses, the program manager shall allocate a prorated amount to each wireless carrier equal to the percentage of the provider's eligible expenses as compared to the total of all eligible expenses for all wireless carriers for the calendar quarter during which expenses were submitted. When prorated expenses are paid, the remaining unpaid expenses shall no longer be eligible for payment under this paragraph.

c. The program manager shall reimburse local exchange service providers on a calendar quarter basis for their expenses for transport costs between the wireless E911 selective router and the public safety answering points related to the delivery of wireless E911 service.

d. The program manager shall reimburse local exchange service providers and third-party E911 automatic location information (ALI) database providers on a calendar quarter basis for the costs of maintaining and upgrading the E911 components and functionalities between the input and output points of the wireless E911 selective router. This includes the wireless E911 selective router and the automatic location information (ALI) database.

e. The program manager shall apply an amount up to \$500,000 per calendar quarter to any outstanding wireless E911 phase 1 obligations incurred pursuant to this chapter prior to July 1, 2004.

f. The program manager shall allocate an amount up to \$159,000 per calendar quarter equally to the joint E911 service boards and the department of public safety that have submitted a written request to the program manager. The written request shall be made with the "Request for Wireless E911 Funds" form contained in the "State of Iowa Wireless E911 Implementation and Operation Plan." The request is due to the program manager on May 15, or the next business day, of each year. A minimum of \$1,000 per calendar quarter shall be allocated for each public safety answering point with the E911 service area of the department of public safety or joint E911 service board.

Upon retirement of the outstanding obligations referred to in 10.9(3) "e," the amount allocated under 10.9(3) "f" shall be 25 percent of the total amount of surcharge generated per calendar quarter. The minimum amount allocated to the department of public safety and the joint E911 service boards shall be \$1,000 per PSAP operated by the respective authority. Additional funds shall be allocated as follows:

(1) Sixty-five percent of the total dollars available for allocation shall be allocated in proportion to the square miles of the E911 service area to the total square miles in the state.

(2) Thirty-five percent of the total dollars available for allocation shall be allocated in proportion to the wireless E911 calls answered at the public safety answering point in the E911 service area to the total of wireless E911 calls originating in the state.

g. If moneys remain after all obligations under subrule 10.9(3), paragraphs "a" to "f," as listed

above, have been fully paid, the remainder may be accumulated as a carryover operating surplus. These moneys shall be used to fund future wireless phase 2 network improvements and public safety answering point improvements. These moneys may also be used for wireless service provider's transport costs related to wireless E911 phase 2 services, if those costs are not otherwise recovered by the wireless service provider's customer billing or other sources and are approved by the program manager. Any moneys remaining in the fund at the end of each fiscal year shall not revert to the general fund of the state but shall remain available for the purposes of the fund.

10.9(4) Payments to wireless service providers and local exchange service providers shall be made quarterly, based on original, itemized claims or invoices presented within 20 days of the end of the calendar quarter. Payments to wireless service providers shall be made in accordance with these rules and the State of Iowa Accounting Policies and Procedures.

10.9(5) Wireless service providers and local exchange service providers shall be reimbursed for only those items and services that are defined as eligible in the enhanced wireless 911 service plan and when initiation of service has been ordered and authorized by the E911 program manager.

10.9(6) If it is found that an overpayment has been made to an entity, the E911 program manager shall attempt recovery of the debt from the entity by certified letter. Due diligence shall be documented and retained at the state homeland security and emergency management division. If resolution of the debt does not occur and the debt is at least \$50, the state homeland security and emergency management division will then utilize the income offset program through the department of revenue. Until resolution of the debt has occurred, the state homeland security and emergency management division may withhold future payments to the entity.

© Iowa Legislature

Nebraska

86-466. Compensation for costs.

(1) A public safety answering point and wireless carrier may be compensated for costs determined by the commission to be eligible for funding. The level of funding available to each public safety answering point and wireless carrier for eligible cost compensation may be limited based upon the mechanism established by the commission pursuant to section 86-465. The commission is not required to provide compensation for costs to more than one public safety answering point in any county. A public safety answering point or wireless carrier may apply for disbursement from the Enhanced Wireless 911 Fund by submitting a written application to the commission. The commission shall receive and review applications, including supporting documentation. The commission shall notify each applicant as to the commission's approval or disapproval of the application.

(2) Each entity that receives disbursements from the fund shall make a full accounting of the money in a manner and form prescribed by the commission.

Source: Laws 2001, LB 585, § 11; R.S.Supp.,2001, § 86-2211; Laws 2002, LB 1105, § 267; Laws 2006, LB 1222, § 12.

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86-465. Commission; advisory board; duties.

(1) The commission shall, in consultation with the advisory board:

(a) Determine the costs to implement wireless automatic location identification;

(b) Determine the level of funding needed to trigger disbursements pursuant to the Enhanced Wireless 911 Services Act;

(c) Determine the percentage of the fund to be allocated to each funding purpose, including the percentage that shall be designated for funding 911 service under subdivision (2)(c) of this section;

(d) Determine how the funds distributed under subdivisions (2)(a) and (2)(c) of this section are to be allocated among the wireless carriers and the public safety answering points; and

(e) Establish a mechanism for determining the level of funding available to each public safety answering point and wireless carrier for costs determined to be eligible by the commission under subsection (2) of this section.

(2) The commission shall, in consultation with the advisory board, establish eligibility standards and criteria for fund disbursement applications and standards and criteria concerning the level of fund disbursement for each application. In establishing such criteria and standards, the following purposes may be eligible for funding:

(a) Costs incurred or to be incurred by wireless carriers to implement enhanced wireless 911 service pursuant to a service agreement with a public safety answering point or pursuant to a request for service from a public safety answering point. Such costs may include, but not be limited to, the portion of the costs for new equipment used for providing enhanced wireless 911 service, costs to lease another vendor's equipment or services to provide enhanced wireless 911 service, costs to create or maintain any data base or data base elements used solely for enhanced wireless 911 service, and other costs of establishing enhanced wireless 911 service. The portion of the costs of equipment or services used in the wireless carrier's main infrastructure resulting in revenue to the wireless carrier is not eligible for funding;

(b) Costs incurred or to be incurred by public safety answering points to implement enhanced wireless 911 service may include, but not be limited to, purchases of new equipment, costs of upgrades, modification and personnel training used solely to process the data elements of enhanced wireless 911 service, and maintenance costs and license fees for new equipment;

(c) Costs incurred or to be incurred by public safety answering points for the purchase, installation, maintenance, and operation of telecommunications equipment and telecommunications services required for the provision of enhanced wireless 911 service; and

(d) Expenses incurred by members of the advisory board while performing duties required by the act.

(3) A wireless carrier receiving funds from the Enhanced Wireless 911 Fund shall not directly assess any of the costs associated with the implementation or provision of enhanced wireless 911 service to any public safety answering point, county, or municipality without the express consent of the commission.

(4) The commission shall have any powers necessary to carry out the intent and purposes of the act.

Source: Laws 2001, LB 585, § 10; R.S.Supp.,2001, § 86-2210; Laws 2002, LB 1105, § 266; Laws 2006, LB 1222, § 11; Laws 2008, LB755, § 10.**Effective Date: March 20, 2008**

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Texas

1158, Sec. 80, eff. Jan. 1, 2002.

Sec. 771.0711. EMERGENCY SERVICE FEE FOR WIRELESS TELECOMMUNICATIONS CONNECTIONS. (a) To provide for automatic number identification and automatic location identification of wireless 9-1-1 calls, the commission shall impose on each wireless telecommunications connection a 9-1-1 emergency service fee. A political subdivision may not impose another fee on a wireless service provider or subscriber for 9-1-1 emergency service.

(b) A wireless service provider shall collect the fee in an amount equal to 50 cents a month for each wireless telecommunications connection from its subscribers and shall pay the money collected to the comptroller not later than the 30th day after the last day of the month during which the fees were collected. The comptroller may establish alternative dates for payment of fees under this section. The wireless service provider may retain an administrative fee of one percent of the amount collected. The comptroller shall deposit the money from the fees to the credit of the 9-1-1 services fee account. Until deposited to the credit of the 9-1-1 services fee account as required by Subsection (c), money the comptroller collects under this subsection remains in a trust fund with the state treasury.


(c) Money collected under Subsection (b) may be used only for services related to 9-1-1 services, including automatic number identification and automatic location information services. Not later than the 15th day after the end of the month in which the money is collected, the commission shall distribute to each emergency communication district that does not participate in the state system a portion of the money that bears the same proportion to the total amount collected that the population of the area served by the district bears to the population of the state. The remaining money collected under Subsection (b) shall be deposited to the 9-1-1 services fee account.

(d) A service provider of telecommunications service involved in providing wireless 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of wireless 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(e) A member of the commission, the governing body of a public agency, or the Department of Information Resources is not liable for any claim, damage, or loss arising from the provision of wireless 9-1-1 service unless the act or omission causing the claim, damage, or loss violates a statute or ordinance applicable to the action.

(f) A wireless service provider is not required to take legal action to enforce the collection of any wireless 9-1-1 service fee.

The comptroller may establish collection procedures and recover the cost of collection from the subscriber liable for the fee. The comptroller may institute legal proceedings to collect a fee and in those proceedings is entitled to recover from the subscriber court costs, attorney's fees, and interest on the amount delinquent.

 (g) On receipt of an invoice from a wireless service provider for reasonable expenses for network facilities, including equipment, installation, maintenance, and associated implementation costs, the commission or an emergency services district of a home-rule municipality or an emergency communication district created under Chapter 772 shall reimburse the wireless service provider in accordance with state law for all expenses related to 9-1-1 service.

(h) Information that a wireless service provider is required to furnish to a governmental entity in providing 9-1-1 service is confidential and exempt from disclosure under Chapter 552, Government Code. The wireless service provider is not liable to any person who uses a 9-1-1 service created under this subchapter

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NEWS

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

News media information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
TTY: 202/418-2555

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See *MCI v. FCC*, 515 F 2d 385 (D.C. Circ 1974).

FOR IMMEDIATE RELEASE:
November 18, 1999

News Media Contact:
Meribeth McCarrick at (202) 418-0654
e-mail: mmccarri@fcc.gov

FCC ACTS TO REMOVE BARRIERS IMPEDING ENHANCED WIRELESS 911 SERVICE

Washington, DC -- The Federal Communications Commission (FCC) today acted to remove impediments to the deployment of enhanced 911 (E911) services for wireless users. Enhanced wireless 911 services help ensure that in emergencies wireless phones provide vital information to assist 911 call centers, or Public Safety Answering Points (PSAPs), in locating the caller.

The FCC took a number of steps. First, the FCC amended its cost recovery rule to modify the requirement that a mechanism for cost recovery be in place before a carrier is obligated to provide E911 services. The FCC affirmed the requirement that a formal mechanism be in place for PSAP cost recovery, but eliminated as a barrier to E911 implementation any prerequisite that carrier E911 costs be covered by a mechanism. Of course, a cost recovery mechanism is not necessary to permit carriers to recover their costs. The Commission emphasized, however, that the revised rules do not disturb current state and local cost recovery schemes that are already working, nor was it discouraging state and local governments from deciding that cost recovery or sharing mechanisms that cover carrier costs are an effective way of expediting wireless E911 for their citizens, especially in rural areas.

The FCC also emphasized, however, that adequate funding for PSAPs remains critical to successful E911 implementation. To help ensure that carriers are not required to make unnecessary expenditures before a PSAP is ready to use E911 information, and to encourage and support local and state authorities in the funding of wireless E911, the FCC decided to retain in its revised rule a requirement for a PSAP cost recovery mechanism.

Second, the FCC concluded that negotiations between Commercial Mobile Radio Services (CMRS) carriers and PSAPs should remain the primary means of ensuring an expeditious selection of transmission method that meets the individual requirements of the PSAP and carrier in each situation. In the event that an impasse arises, FCC staff will be available to help resolve these disagreements, based on consideration of a number of specific factors.

Third, the FCC noted the critical role played by incumbent local exchange carriers (LECs) in the implementation of wireless E911 service, by, for example, transmitting calls from the wireless carrier to the PSAP. While declining to adopt any new obligations, the FCC made

clear that parties could bring complaints before the state public service commissions or the FCC if an incumbent LEC failed in the performance of any of its obligations. It also stated that parties could request consideration of such complaints under the Commission's "rocket docket" procedures.

Background on Wireless 911 Rules:

The FCC's wireless E911 rules require certain CMRS carriers to begin transmission of enhanced location information in two phases. Phase I requires carriers to transmit a caller's phone number and general location to a Public Safety Answering Point (PSAP). Phase II requires more precise location information be provided to the PSAP. Under the current rules, two prerequisites must be met before the wireless carrier is obligated to implement E911. The carrier must receive a request from a PSAP that it has the capabilities to receive and use the location information, and there must be in place a mechanism for recovering the costs of implementation. Carriers are to provide the requested E911 service by the later of six months after the prerequisites are met, or April 1, 1998 (for Phase I) or October 1, 2001 (for Phase II).

Today's action is in response to filings concerning delays in E911 implementation as well as petitions for reconsideration and clarification of the FCC's E911 rules. Resolution of these issues should address delays in implementation of Phase I service and ensure implementation of Phase II service.

Detailed Summary of Specific Actions Taken by the FCC:

First, the FCC decided that the E911 rules will continue to require that a mechanism for PSAP cost recovery be in place before a carrier's obligation to provide E911 services is triggered. However, the FCC eliminated the prerequisite for carrier cost recovery. Specifically, the FCC explained that before a carrier is required to provide E911 services pursuant to a PSAP request, the PSAP must have a means of receiving and utilizing the data elements associated with those costs. The FCC stated that adequate funding of PSAPs is a critical element in ensuring timely E911 implementation and retaining the provision for PSAP cost recovery may assist PSAPs in obtaining necessary funding. The FCC noted that by retaining the PSAP cost recovery requirement, it was not mandating action by state or local governments or defining the nature or extent of any funding mechanism. The Order is not intended to interfere with their authority over 911 systems and how those systems are managed and maintained. However, the FCC noted that state and local public safety officials need to be provided with a means to use wireless E911 location information. Otherwise, PSAPs will be unable to dispatch emergency services to wireless 911 callers in life-threatening situations as quickly as possible.

Second, the FCC agreed that disputes between CMRS carriers and PSAPs on the choice of E911 transmission means also have contributed to delays in Phase I implementation. However, based on the current record and in light of the modification of the cost recovery prerequisite for E911 implementation, the FCC concluded that negotiations between the parties remain the primary means of ensuring an expeditious selection of transmission method that meets the individual requirements of the PSAP and carrier in each situation. In the event that an impasse arises, FCC staff will be available to help resolve these disagreements, based on consideration of a number of specific factors. These factors would include: the additional costs of the methodologies to the PSAP and the wireless carrier,

whether the carrier is paying for its own E911 implementation costs or receiving funding from another cost recovery mechanism; the technical configuration of the PSAP's existing E911 system; the impact of technology choice on the implementation of seamless, ubiquitous and reliable E911 systems in a given area; and the ability of the transmission technology to accommodate Phase II of wireless E911 and other planned changes in the E911 system.

Third, the FCC found that this Commission and the relevant State public service commissions can address the issues concerning local exchange carriers (LECs) that are identified as potential reasons for delay in the implementation of E911. LECs are important factors in achieving E911 implementation when State 911 systems are LEC-based. Although the FCC did not, at this point, impose special obligations on incumbent LECs to implement wireless E911, it noted that incumbent LECs are already subject to obligations under the Telecommunications Act of 1996, as well as various Federal and State regulations, to ensure that interconnection agreements with CMRS carriers are fulfilled promptly and fairly. The FCC intends to further monitor the role of LECs to determine whether there is a need to impose additional obligations to ensure implementation of the wireless E911 rules. The FCC also noted that parties may request consideration under its rocket docket procedures of complaints filed under Section 208 of the Communications Act against LECs for violation of LECs' existing obligations.

Finally, the FCC noted that requests in the record for protection from liability for providing E911 service and to mandate nationwide usage of 911 as the number for emergency assistance have been resolved by the Wireless Communications and Public Safety Act of 1999 (E911 Act). That Act requires that States provide CMRS carriers, users, and PSAPs involved in the transmission of wireless 911 and E911 calls with liability protection to the same extent the State provides protection with respect to wireline 911 services. The E911 Act also provides that the FCC designate 911 as the universal emergency telephone number for both wireline and wireless telephone service and includes provisions for transition periods and FCC action to encourage the development of State E911 systems.

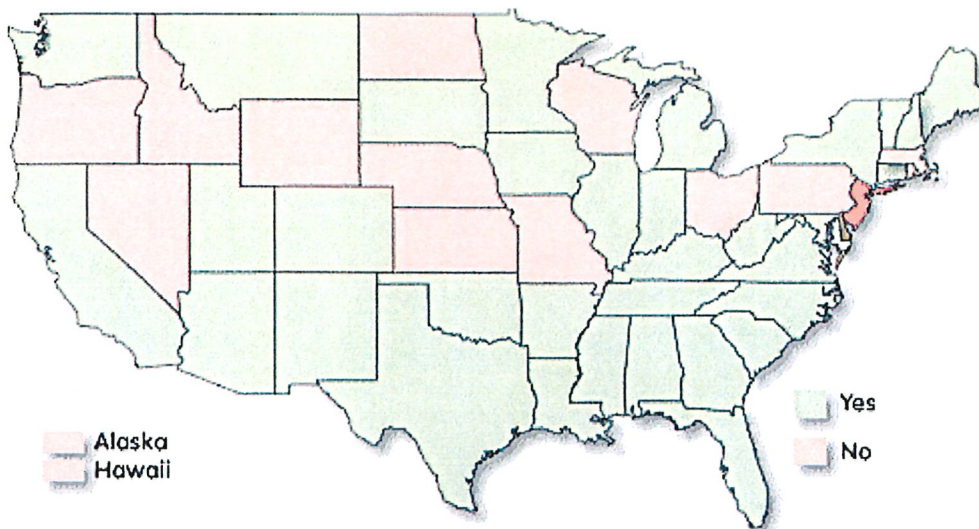
Action by the Commission on November 18, 1999 by Second Memorandum Opinion and Order (FCC 99- xx). Chairman Kennard, Commissioners Ness, Furchtgott-Roth, Powell and Tristani, with Commissioner Furchtgott-Roth issuing a separate statement.

Wireless Bureau Contact: Barbara Reideler at (202) 418-1300, TTY at (202) 418-7233 or e-mail: breidele@fcc.gov

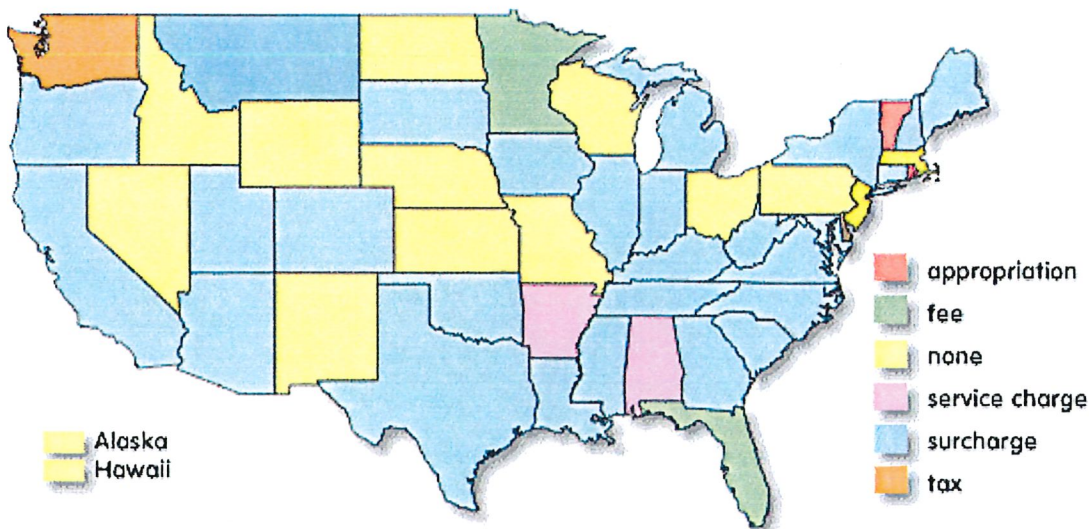
CC Docket No. 94-102
WT Report No. 99- 32

Wireless E911 Cost Recovery By State

In May, 2001 the Association of Public-Safety Communications Officials (APCO) issued two maps showing the state-by-state status of cost recovery in America.



This map depicts which states have cost recovery in place as of May 2001.



This map depicts the type of cost recovery that each state has in place as of May 2001.

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[Home](#)

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300 SW 8th Ave.
Topeka, KS 66603
(785) 354-9565



300 SW 8th Ave.
Topeka, KS 66603
(785) 272-2585

January 21, 2010

Dear House Utilities Committee Members:

First, we would like to thank you in advance for your consideration of HB 2423. This legislation is an important public safety measure and we appreciate the Committee's quick work to move this bill.

With regard to the amendments that have been proposed, we would like to offer the following comments:

Legislative Review. We fully support the addition of a statutory requirement that the Legislature review this issue every five years. This was part of the agreement with the telecommunications industry and it was inadvertently left out of the draft legislation.

Point of Sale for Prepaid Users. As a part of our compromise, we fully support the amendment that has been proposed by the telecommunications industry to change the way that the fee is collected on prepaid users to retail point of sale.

Cost Recovery for Providers. We categorically oppose any tax dollars being used for cost recovery for providers and we, therefore, oppose the amendment that is being offered by Sprint for this purpose.

Please do not hesitate to contact either of us if we can be of any assistance. Again, thank you in advance for your consideration of this bill.

Sincerely,

Kimberly A. Winn
Director of Policy Development & Communications
League of Kansas Municipalities

Melissa Wangemann
General Counsel/Director of Legislative Services
Kansas Association of Counties

HOUSE ENERGY AND UTILITIES

DATE: 1/21/2010

ATTACHMENT 2-1

Amendment 1
Prepared by Matt Sterling
Assistant Revisor of Statutes

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.

than

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.

pursuant to rules and regulations
established by the 911
coordinating council

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

HOUSE ENERGY AND UTILITIES

DATE: 12/1/2010

ATTACHMENT 3-1

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.

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.

expenses related to the 911 coordinating council; the costs of audits conducted pursuant to section 9 on its effective date, and amendments thereto; and

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.

, the

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.

and the wireless enhanced 911 local fee

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~~
39 ~~fund shall be abolished.~~

for deposit in the LCPA grant fund and the wireless enhanced 911 grant

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,

, the

and the VoIP enhanced 911 local fee

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 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~~

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.

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.

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

On or before December 31, 2011, and at least once every three years thereafter, the division of post audit shall conduct an audit of the 911 system to determine: (1) Whether the moneys 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.

4-2

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.

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.

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

(d) The legislature shall review this act at the regular 2015 legislative session and at the regular legislative session every five years thereafter.

And reletter accordingly

HOUSE ENERGY AND UTILITIES
DATE: 9/21/10
ATTACHMENT 5

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, municipi-
 35 pal or private, and whether organized for profit or not, state, county,
 36 political subdivision, state department, commission, board, bureau or fra-
 37 ternal organization, nonprofit organization, estate, trust, business or com-
 38 mon law trust, receiver, assignee for the benefit of creditors, trustee or
 39 trustee in bankruptcy or any other legal entity.

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

HOUSE ENERGY AND UTILITIES

DATE: 1/21/2010

ATTACHMENT 6-1

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

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

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

9 (9) "Service user" means any person who is provided exchange tele-
10 communications service, wireless telecommunications service, VoIP ser-
11 vice, 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.

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.

(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 79, 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.

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.

9

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

10

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

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. 16.~~ (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. 17.~~ (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

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

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

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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.

22

6-14

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 a 911 call and the location of the cell site or base station receiving a 911 call from any wireless handset accessing that system to the designed PSAP.

And renumber accordingly thereafter

HOUSE ENERGY AND UTILITIES
 DATE: 1/29/2010
 ATTACHMENT 7-1

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).

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.

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

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 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

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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.

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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

5-7

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

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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.

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

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