

Approved: February 4, 2010

Date

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Mike Petersen at 1:30 p.m. on January 21, 2010, in Room 548-S of the Capitol.

All members were present except
Sen. Pat Apple, excused.

Committee staff present:

Kristen Kellems, Office of the Revisor of Statutes
Raney Gilliland, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Ann McMorris, Committee Assistant
Jeannine Wallace, Sen. Apple's Office Assistant

Conferees appearing before the Committee:

Others attending:
See attached list.

Chairman Petersen called on staff to report on:

Interim Committee Activities

Cindy Lash of Legislative Research Department, provided information on the interim meetings of the Joint Committee on Energy and Environmental Policy and the Special Committee on Utilities. Pages 1 thru 5 of the report covered activities of the Joint Committee on Energy and Environmental Policy and concluded with recommendations. Pages 7 thru 11 discussed the two charges by the LCC to the Special Utilities Committee; namely new 9-1-1 and grant funding extension. LLC will be requested to allow introduction of the bill in both houses with hearings to be held in both House and Senate Utilities Committees as soon as possible after the start of the session. (Attachment 1)

Cindy provided a written comparison of provisions of **HB 2423** to Current Law and briefed the committee on the differences. (Attachment 2)

The next meeting is scheduled for January 26, 2010.

The meeting was adjourned at 2:25 p.m.

Respectfully submitted,

Ann McMorris
Committee Assistant

Attachments - 2

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21

**SENATE UTILITIES
COMMITTEE GUEST LIST
JANUARY 21, 2010**

NAME	REPRESENTING
Scott Jones	CCPL
LARRY BERG	MIDWEST ENERGY
Kendra Hanson	Hein Law Firm
Mark Schreiber	Westar
ERIK SARTORIUS	City of Overland Park
DAVE HOLTDAUS	KEC
Corey Mohn	KDOC
Patrick Fick	
Mike Huttles	Rural Ind. Telephone Co.
Lindsey Douglas	KDOT
Nelson Krueger	Surre West

**Interim Committee Highlights:
Joint Committee on Energy and Environmental Policy
Special Committee on Utilities**

Joint Committee on Energy and Environmental Policy

The Committee was established in 2008 as an 11-member bipartisan, joint committee whose members serve two-year terms. The Committee has a general responsibility to study Kansas energy and environmental policy.

- 2009 HB 2369 added a specific charge requiring the Committee to study and make recommendations regarding the use of energy-related moneys received under the ARRA.
- The LCC directed the Committee to review the possibility of moving energy efficiency programs from regulated utilities to an independent administrator, including consideration of 2009 SB 284 which would create a not-for-profit organization the sole purpose of which would be to achieve reductions in energy use by increasing the level of cost effective energy efficiency, conservation, and education available to Kansas citizens.
- At the request of the Joint Committee on Administrative Rules and Regulations (JCARR), the Committee also received a briefing on proposed rules and regulations to implement the Kansas Carbon Dioxide Reduction Act. That briefing included discussion of a bill that would amend the Act. The bill will be introduced to the 2010 Session by the JCARR.

Committee Activities

The Committee met for five days during 2009, including one meeting during the 2009 Session (January 13, September 29-30, and October 28-29).

Carbon Dioxide Emissions Reduction Policies

At the Committee's January 2009 meeting held in Memorial Hall, Dan Chartier from Edison Electric Institute provided an overview of cap and trade emissions control programs. He explained that under a cap-and-trade program the government's focus is on setting emissions goals and ensuring results. This stands in contrast to the approach generally used under the federal Clean Air Act which requires each emissions source to implement specific technology in

order to reduce emissions of particular substances. Examples of cap and trade programs that are in effect include the:

- European Union Emissions Trading Scheme (EU-ETS);
- Regional Greenhouse Gas Initiative (RGGI);
- Midwest Greenhouse Gas Reduction Accord (MGGRA);
- Western Climate Initiative (WCI); and
- Chicago Climate Exchange (CCX).

Federal Climate and Energy Legislation

NCSL provided a discussion of three bills under consideration in Congress that address climate and energy, typically referred to by the names of their sponsors: Waxman-Markey, Boxer-Kerry, and Bingaman. The Committee received testimony from many industry and environmental groups. Concerns voiced about pending federal proposals included:

- Potential additional costs that would be passed on to consumers;
- Inappropriate mechanisms for allocating emissions allowances (creating inequities among emissions sources and potentially failing to adequately control emissions);
- The absence of proven technology for carbon capture;
- Changes in state-federal regulatory responsibilities;
- The disparate impact on the Midwest and on certain industries (*e.g.*, petroleum refining, cement production, agriculture); and
- Absence of emissions credit market controls that will prevent price distortions (including concerns about administration of international offsets program).

The Water-Energy Nexus: Water Use in Energy Production

The Committee reviewed Kansas water law and discussed the need for efficient use of water resources in energy production processes. Among the issues discussed under this topic was the need for additional water to support construction of a new unit at the Wolf Creek nuclear power plant.

The Committee received information on this topic from professors at Kansas State University, the Division of Water Resources, the Kansas Water Office, and representatives of utilities, refineries and environmental groups.

The Committee learned that thermoelectric power plants in the State (which can include coal, natural gas, oil, and biomass combustion plants as well as nuclear facilities) divert about 2,530,000 acre-feet per year of water for cooling. About 67,000 acre-feet per year (3%) evaporates; the rest is returned to the source.

The Wolf Creek plant consumes an average of 26,097 acre-feet per year. The Kansas Water Office is exploring a number of options for providing the required additional water if a second nuclear unit is constructed at the Wolf Creek site. Those options focus on capturing and

storing water for that purpose, including raising lake levels, dredging John Redmond reservoir, or constructing a new reservoir.

Representatives of various segments of the energy industry made the following points regarding the relationship of water to energy:

- Electric power producers in Kansas obtain and utilize water under existing water law;
- Electric power producers engage in a number of water conservation practices including recycling of water used for some processes;
- Electricity generation competes with other uses for available water;
- Water availability and quality affect siting and type of new electric generation;
- Oil refineries may use air rather than water cooling in their production processes resulting in significant reductions in water use;
- Recycled waste water is appropriate for and is being used in certain oil refining processes;
- Ethanol producers are able to recycle water used in production processes to limit the amount of wastewater discharged;
- Research has resulted in plant varieties (including crops used for energy production) that may be grown successfully in dry land conditions; and
- Research has identified efficient farming practices that can maximize yield with reduced irrigation

American Recovery and Reinvestment Act of 2009 Energy Funds

The Committee learned that the Kansas Corporation Commission (KCC) received more than \$50 million from the Department of Energy under the ARRA. The Commission has designated those funds for use in five major programs:

- Efficiency Kansas -- \$37.2 million
- Comprehensive Rate Design -- \$1 million
- Energy Efficiency and Conservation Block Grant --\$9.5 million
- Technical Staff -- \$821,422
- Appliance Rebates -- \$2.68 million (administered by the Kansas Housing Resources Corporation)

In addition, the KCC has established an Energy Efficiency Building Codes Working Group to develop recommendations for the Legislature and outline a plan to achieve compliance with ARRA requirements related to adoption of statewide building codes for energy efficiency. The specific ARRA language follows:

The state building code authority (or local building code authorities) will adopt a building code that achieves energy savings equivalent to the latest IECC (Residential) and ANSI/ASHRAE/IESNA 90.1-2007 (Commercial) and a plan to achieve compliance;

A plan is developed for the jurisdiction achieving compliance to do so within 8 years of the date of enactment in at least 90 percent of new or renovated residential and commercial building space.

Then-Governor Sebelius communicated with leadership of the House and Senate committees that handle energy matters, encouraging the Legislature to take steps necessary to ensure compliance with the federal Act. Members of the Joint Committee noted that the issue of statewide energy efficiency building codes has been considered by the Legislature a number of times, but has never obtained the necessary support to be enacted.

The largest portion of the ARRA energy funds received by the KCC will be used in the Efficiency Kansas program which provides loans to finance cost effective energy-efficiency improvements in existing commercial and residential buildings. Efficiency Kansas is a revolving loan program that Kansans can access through partner banks and utilities. All energy efficiency projects financed through the program must be based on results of an energy audit. Those results are assigned priority based on cost effectiveness.

The Kansas Housing Resources Corporation received \$56 million of ARRA funds for weatherization of homes occupied by low income individuals and families. US Department of Energy (DOE) regulations establish program eligibility at or below 200 percent of the poverty level (\$20,800 annually for a single person or \$42,400 annually for a family of 4 in Kansas).

In an agreement with the KCC, the Housing Resources Corporation also received approximately \$2.7 million of ARRA funds to continue an existing appliance replacement program. The program enables income-eligible homeowners and renters to replace old, inefficient and unsafe appliances with new, energy-efficient models.

State Liability Under the Kansas Carbon Dioxide Reduction Act

The Committee received a briefing on proposed rules and regulations that would implement the Kansas Carbon Dioxide Reduction Act. The Rules and Regulations Committee previously expressed concern about proposed KAR 82-3-1117 that would have placed CO2 storage facilities in the possession of the State at some point in the future, raising concern about the potential financial liability associated with those storage facilities. Subsequently, the KCC decided not to proceed with the proposed regulation regarding long-term possession of the CO2 storage facilities. The Rules and Regulations Committee will introduce a bill in the 2010 Session to amend the Carbon Dioxide Reduction Act to clarify that the State will not assume ownership of storage facilities in the future.

Independent Administrator for Energy Efficiency Programs

The Committee reviewed 2009 SB 284 which would require the KCC to establish an independent not-for-profit corporation to develop, implement, and monitor natural gas and electrical energy efficiency, conservation, and education programs. The Committee heard a

summary of testimony presented to the Senate Utilities Committee during the 2009 Session, and received testimony from a representative of the Vermont Energy Investment Corporation, an independent energy efficiency agency in Vermont, as well as from a number of utilities and interested parties.

The Committee requested clarification of the Division of the Budget's fiscal note on SB 284, which showed the impact of the bill would be an expenditure of \$3,560 from Public Service Regulation Fund in 2010. Those costs were simply the cost to establish the not-for-profit agency required by the bill. Because the not-for-profit entity would not be a state agency, none of its expenditures or revenues would be included in an estimate of State fiscal impact. Based on the introduced version of the bill, the KCC estimated that annual revenue for the not-for-profit entity would be approximately \$14,700,000 (representing ½ of 1 percent of 2007 gross operating revenues of investor-owned electric and natural gas utilities which totaled \$2,940,051,000).

The Corporation Commission has examined utility-based energy efficiency programs on a number of occasions. The Commission concluded it has the authority to approve utility-operated energy efficiency programs, that most utilities were conducting energy efficiency programs and that the most effective way to expand the number of energy efficiency programs would be to encourage voluntary collaboration with utilities playing a strong role.

The KCC established a policy framework for review and evaluation of energy efficiency programs and established parameters for determination of costs and benefits prior to program implementation and for evaluating the program effectiveness after implementation. Most recently, the Commission determined that energy efficiency program costs could be recovered through a bill rider mechanism. The Commission intends to use approximately \$1 million of ARRA funds redesign utility rate structures to encourage energy efficiency.

Conclusions and Recommendations

The Committee's activities regarding the water-energy nexus, including the need for additional water for any expansion of Wolf Creek, cap and trade proposals, pending federal energy legislation, and State liability under the Kansas Carbon Dioxide Reduction Act, all were undertaken in order to provide background information for future work of the Committee and the Legislature. The Committee does not make any recommendations on those issues at this time.

In regard to creation of an independent energy efficiency agency, the Committee recognizes a connection between the programs instituted with the ARRA funds and the issues connected with establishment of such an agency. The Committee does not make any recommendation at this time regarding the need for an independent agency, but recognizes the possibility that the Senate Utilities Committee may work 2009 SB 284 during the 2010 Session.

The Committee concludes that additional information is required regarding use of ARRA funds and regarding implementation of other energy efficiency programs before final recommendations can be made to the 2010 Legislature. In order to obtain that information and formulate any resulting recommendations to the Legislature, the Committee will hold a joint

meeting with the Senate Utilities Committee and the House Committee on Energy and Utilities. The information requested for presentation at that meeting includes:

- Clarification of federal requirements for accepting federal stimulus money for energy and energy efficiency programs;
- Suggestions regarding how to extend the KCCs Efficiency Kansas program beyond the availability of ARRA funds;
- Suggestions regarding how to capture the money being currently spent by utilities for energy efficiency;
- Suggestions regarding how to increase the weatherization of homes occupied by recipients of Low-Income Home Energy Assistance Program support;
- Suggestions for increasing landlord involvement in energy efficiency programs;
- Suggestions for standardizing utility programs for energy efficiency if there is not an independent energy efficiency administrator;
- Identification of methods for determining the appropriate level of utility funding for energy efficiency with a verifiable means of measuring the saving we are achieving;
- Identification of a means of identifying achievable and measurable energy conservation goals and energy demand growth rates;
- Identification of a means of verifying measurements of the benefits of energy efficiency programs so that accurate savings numbers are recorded and can be attributed to the appropriate program/effort;
- An explanation of how consumer education and buy-in programs will work to modify consumer behavior passively if not directly and the direction being pursued by the KCC to develop and implement programs that will modify consumer behavior regarding energy efficiency; and
- A summary of federal requirements for use of ARRA funds and commitments the State has made regarding use of those funds.

Special Committee on Utilities

The Special Utilities Committee was created by the LCC with two charges:

- to review the new 9-1-1 emergency system technology that would allow text, pictures, video and data to be transmitted to emergency 9-1-1 centers in Kansas; and
- to review the possible extension of grant funding that currently is scheduled to sunset in July, 2010 for 9-1-1 emergency services for counties with a population of less than 75,000.

The Committee held two days of meetings. The first meeting addressed Next Generation 9-1-1, a federal 9-1-1 grant received by the state, the role of the Kansas Wireless Enhanced 9-1-1 Advisory Board, and digital communication tower access for public safety answering points (PSAPs). The second meeting focused on the funding structure for 9-1-1.

Next Generation 9-1-1

The Committee heard from representatives of the National 9-1-1 Office in the U.S. Department of Transportation (DOT) and from the National Emergency Number Association. They learned that the basic infrastructure of the original 9-1-1 system has been jury-rigged to accommodate enhanced 9-1-1 (which provides for automatic identification of the caller and location), wireless telephones, and VoIP. The infrastructure is not capable of receiving useful, actionable information generated by text, pictures, and video that could improve emergency response, nor does the analog technology used promote sharing of operations. With digital technology, calls can be transferred seamlessly between answering points.

NG9-1-1 is a digital, Internet Protocol (IP) based 9-1-1 system. Some characteristics of such a system include:

- ability to receive voice, text, or video information, from many types of devices;
- Advanced data sharing, automatically performed; and
- Enhanced "long distance" capability, so the physical location of the PSAP is immaterial.

U.S. DOT is working with the National Conference of State Legislatures on model legislation for NG9-1-1, which should be available in the next year or so.

The transition to NG9-1-1 will be an evolutionary process, probably beginning with the ability to accept text messaging, then video. Prerequisites to transition include assured funding, a complete set of standards, and coordination between jurisdictions. The National NG Migration Plan estimates that implementation will take ten years, after the funding, standards and coordination are in place. States are preparing now by looking at ways PSAPs can access the Internet Protocol backbone and establishing planning groups.

In an NG9-1-1 environment, a state-level mechanism is required for developing and managing system architecture, implementation, coordination and funding. Local jurisdictions, however, retain primary responsibility to receive calls and information, and to provide emergency response.

Federal Grant for 9-1-1

The Committee heard from a representative of the Governor's Grants Office, which operates the State 9-1-1 grant program under an agreement with the Department of Administration. The Grants Office recently applied for and received a grant under the federal ENHANCE 9-1-1 Act of 2004. The grant amount is \$770,990, with half the funding provided by federal sources, and half provided by state match.

The grant calls for the formation of a multi-jurisdictional governing body to provide oversight of the project. The governing body will hire a consultant who will be responsible for establishing an ESINet in Kansas, implementing industry-based standards, addressing funding issues, and implementing Next Generation technologies at three PSAPs on a pilot basis in the final year of the grant. Approximately 70 percent of project funds will be spent on equipment, with the remainder used primarily for expenses associated with the consultant.

Committee members expressed serious concerns that the project will develop and implement significant state policy under the jurisdiction of a non-elected governing body with no input from the Legislature.

Kansas Wireless Enhanced 9-1-1 Advisory Board

The Chairperson of the Advisory Board reviewed the history, activities, and long-range goals of the Board. The Board's focus has been on awarding state grants. They have attempted to use the grant process to encourage sharing of resources within a county or region, but do not believe they have statutory authority to use grant funding to force consolidation. The Board has focused its long-range planning on ensuring that public safety answering points can maintain their current systems when the funding structure changes in July 2010.

Statewide Interoperable Communications System

The Committee heard from representatives of the Kansas Department of Transportation (KDOT) and from the Statewide Interoperability Executive Committee. The goal of the Statewide Interoperable Communications System is to facilitate seamless communications in critical events for public safety-related officials operating on different radio systems. The P25 wide-area trunk radio system, which allows multiple users to communicate simultaneously, has been installed in many counties across the

state. Approximately the western one-third of the state will receive the Motobridge Interoperability solution, which allows one person to talk at a time, rather than the P25 wide-area trunk system.

The Department also operates a leasing program, under which it leases 800 MHz radio equipment to public safety agencies (nine leases to-date) and leases space on its communication towers (seven leases to-date). A Committee member expressed concern that groups that request access to the towers are being turned down, or are quoted prices that make leasing unfeasible. The Department was asked to provide a list of people who requested access and were denied or did not go forward, including the reason why, if known. The list was received and distributed to Committee members.

Continuation of funding for the 9-1-1 System

State law calls for the current funding structure to sunset in July 2010. At that time, the wireless enhanced 911 grant fee is discontinued, the advisory board is abolished, any unobligated balance in the grant fund is distributed to PSAPs based on the population served, and the grant fund is abolished. A new fee structure is established, as follows:

- In counties with a population of 125,000 or more, the tax on wireline cannot exceed \$0.25 per month per access line, and the local fee on wireless and VoIP must be an equal amount; and
- In counties with a population less than 125,000, the tax on wireline cannot exceed \$0.50 per month per access line, and the local fee on wireless and VoIP must be an equal amount.

The Public Safety Answering Points, represented by the League of Kansas Municipalities and the Kansas Association of Counties, and the telecommunications Industry presented a joint statement containing their proposal for ongoing funding of the 9-1-1 system.

The Committee reviewed and discussed the proposal at length. Members expressed their conceptual support for many elements of the proposal, but did not conceptually endorse other points. The list below contains their direction regarding elements to be included in legislation presented to the 2010 Legislature.

Customer Fees

The customer fee for both wireless and wireline devices would be set at \$0.55 per access line per month. The fee for prepaid wireless service would remain at the current level, one percent of the retail price. The Legislature would review these fees at least every five years.

Administrative Fees

Administrative fees would be capped at four percent of receipts, with the wireless companies and the local collection point administrator each allowed to retain an amount equal to two percent of receipts.

Collection Point

The current local collection point administrator would serve as the single collection point for all E 9-1-1 fees, including fees for wireline, wireless, VoIP, and prepaid services. The current

statutory language would be retained regarding the method of collection.

Distribution

Of the \$0.55 fee,

- \$0.45 (less the administrative fees) would be remitted directly to the PSAP from which the fee was generated, and;
- \$0.10 (less the administrative fees) would be redistributed to PSAPs with a population less than 75,000.

Fees on prepaid service (less the administrative fees) would be placed in a newly-created grant fund.

Grant Fund

The new grant fund would be administered by the local collection point administrator. All PSAPs would be eligible to apply for grants. Grant money could be used to incent sharing of equipment or services, support planning and implementation for Next Generation 9-1-1, cost sharing, and other statutorily allowed purposes. The balance in the current grant fund (which is administered by the Governor's Grants Office) would be transferred to the new grant fund administered by the local collection point administrator.

Use of Fee Moneys

Current statutory limits on the use of 9-1-1 fee moneys would be retained. In addition, there would be a specific prohibition on using this money to purchase subscriber radio equipment, with the definition of "subscriber" to be determined later.

Statewide Committee

The LKM, KAC, and industry were asked to firm up this proposal to address the number and type of members, how the members would be appointed, the duties of the committee, and possible reimbursement for committee members.

Point of Sale for Prepaid

Current statutory language would be retained, but language would be added to clarify that the 9-1-1 fee is to be charged over and above the amount of the prepaid card or device.

Audits and Reviews

The local collection point administrator would have an annual financial audit conducted by a Certified Public Accountant, which would include administrative fees. The current statutory authority to audit industry would be retained.

Legislative Post Audit would audit one-third of PSAPs annually, in accordance with a scope statement spelled out in statute. The costs of those audits, whether conducted by Legislative Post Audit or contracted under its authority, would be funded from grant moneys. Audit reports would be provided to the Legislative Coordinating Council; to the Chairperson, Vice-Chairperson, and Ranking Minority Member of the House Energy and Utilities Committee and the Senate Utilities Committees; and to the statewide committee.

Effective Date

The current system would be extended through December 31, 2010; the new system would begin January 1, 2011. Thereafter, it would operate on a calendar year. No collection penalties would be assessed in the first 12 months for companies acting in good faith to remit data and moneys.

The bill would take effect upon publication in the *Kansas Register*.

The LCC will be requested to allow introduction of the bill in both the House and the Senate, and the chairpersons of the House Energy and Utilities Committee and the Senate Utilities Committee will be requested to hold hearings on the bill as soon as possible after the start of the session.

Other Elements of the Proposal

Elements of the proposal which were not conceptually endorsed by the Committee, but which may be considered during the Session include the following:

- Requiring point-of-sale collection of 9-1-1 fees on prepaid services (rather than collection from the wholesaler);
- Cost recovery for carriers;
- Language modifications addressing such issues as "place of primary use" and the definition of subscriber; and,
- Expansion of liability coverage to include VoIP providers if they provide actual location information.

Comparison of Provisions of HB 2423 to Current Law

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

HB 2423

Current Law

Imposition of 9-1-1 service and charges

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

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

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

Pre-paid wireless

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

Wireline Service

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

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

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

Wireless and VoIP Service

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

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

Pre-paid wireless

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

**Collection
of tax/fees**

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

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

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

**Remittance
of tax/fees**

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

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

Wireline, Wireless, VoIP

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

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

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

Wireline

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

Wireless, VoIP

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

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

Prepaid Wireless Service

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

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Administrative Fees

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

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

Wireline

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

Wireless, VoIP, Prepaid Wireless Service

No provision for service provider to retain a fee

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

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

Distribution

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

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

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

Wireline

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

Wireless, VoIP

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

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

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

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Use of Proceeds (tax, fee, and grant)

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

Implementation of 9-1-1 services

Purchase of 9-1-1 equipment and upgrades

Maintenance and license fees for 9-1-1 equipment
Training of personnel

Monthly recurring charges billed by service suppliers
Installation, service establishment, and nonrecurring start-up charges billed by the service supplier

Charges for capital improvements and equipment or other physical enhancements to the 9-1-1 system

Acquisition and installation of road signs designed to aid in the delivery of emergency

Costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair furnish or make improvements to buildings or similar facilities.

Costs shall not include expenditures to purchase subscriber radio equipment. New Sec. 6

Grant moneys (including earned interest) may be used for projects involving development of NG 9-1-1, costs associated with PSAP consolidation or cost-sharing projects, and uses identified above for fee moneys; and shall be used for expenses related to the 9-1-1 coordinating council, audits of providers, and audits of PSAPS conducted by Legislative Post Audit. New Sec. 11(a), New Sec. 7(g), New Sec. 9(b)(c)

Moneys may be used only for the following:

Same except Wireless/VoIP/PP grant 12-5323(c) and local fee 12-5330(b) only apply to wireless and VoIP enhanced 9-1-1

Same except Wireless/VoIP/PP grant 12-5323(c) and local fee 12-5330(b) only if used solely to process the data elements of wireless and VoIP enhanced 9-1-1

Same Wireless/VoIP/PP grant 12-5323(c) and local fee 12-5330(b)

Wireless/VoIP/PP grant 12-5323(c) and local fee 12-5330(b) limits training to operating the equipment, including training to provide effective service to users with communication disabilities

Same Wireline 12-5304(b)

Same Wireline 12-5304(b)

Same Wireline 12-5304(b)

Same Wireline 12-5304(b)

Same Wireless/VoIP/PP grant 12-5323(c) and local fee 12-5330(b) but adds "...or for other capital outlay or equipment not expressly authorized by this act."

Wireless/VoIP/PP grant 12-5323(c) - pay costs of administering the grant fund, including actual and necessary expenses of the advisory board and cost of audits, but aggregate costs cannot exceed 5%

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**Coordinating Council/
Advisory Body**

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

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

Governor's appointees:

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

Legislators, appointed by legislative leadership

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

Governor designates chairperson

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

Advisory body has 9 members, all appointed by the Governor. No legislators
Governor's appointees:

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

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

1 representing local fire/EMS

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

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

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**Rules and
Regs/ Civil
Penalties**

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

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

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

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

Immunity

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

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

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Audits

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

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

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

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

Legislative Post Audit shall conduct an **annual audit of the 9-1-1 service system** to determine the following:

Legislative Post Audit to conduct audits of the 9-1-1 service system in **2006 (wireless)** and in **2008 (wireline, wireless, VoIP)** to determine:

- whether PSAPs are using fee money appropriately
- whether the amount of moneys collected is adequate
- the status of 9-1-1 service implementation

- same
- same
- same

2008 audit also determined the need and level of continued funding for the 9-1-1 system. 12-5334

(Audit costs paid from Legislative Post Audit budget)

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

Provider Costs

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

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

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Grant Fund

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

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

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

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

Dissolution of Current Grant Fund and Board

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

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

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

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