

SUBSTITUTE FOR SENATE BILL No. 50

By Committee on Utilities

2-23

1 AN ACT concerning emergency communications service; relating to fees,
2 charges, collection and distribution; amending K.S.A. 2010 Supp. 12-
3 5327, 12-5338, 12-5361, 45-221 and 75-5133 and repealing the
4 existing sections; also repealing K.S.A. 12-5303, 12-5305, 12-5306,
5 12-5307, 12-5308 and 12-5309 and K.S.A. 2010 Supp. 12-5301, 12-
6 5302, 12-5304, 12-5310, 12-5321, 12-5322, 12-5323, 12-5324, 12-
7 5325, 12-5326, 12-5327, 12-5328, 12-5329, 12-5330, 12-5331, 12-
8 5332, 12-5333, 12-5334, 12-5335, 12-5336, 12-5337, 12-5351, 12-
9 5352, 12-5353, 12-5354, 12-5355, 12-5356, 12-5357, 12-5358, 12-
10 5359 and 12-5360.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. (a) Sections 1 through 19 and 25, and amendments
14 thereto, shall be known and may be cited as the Kansas 911 act.

15 (b) This section shall take effect on and after January 1, 2012.

16 New Sec. 2. As used in the Kansas 911 act:

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

19 (b) "Department" means the Kansas department of revenue.

20 (c) "Enhanced 911 service" or "E-911 service" means an emergency
21 telephone service that generally may provide, but is not limited to,
22 selective routing, automatic number identification and automatic location
23 identification features.

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

26 (e) "Governing body" means the board of county commissioners of a
27 county or the governing body of a city.

28 (f) "Kansas association of counties" or "KAC" means the statewide
29 association of counties established by K.S.A. 19-2690, and amendments
30 thereto.

31 (g) "Local collection point administrator" or "LCPA" means, on the
32 effective date of this act, the statewide association of cities established by
33 K.S.A. 12-1610e, and amendments thereto, and the statewide association
34 of counties established by K.S.A. 19-2690, and amendments thereto.
35 After January 1, 2012, "local collection point administrator" means the
36 person designated by the 911 coordinating council to serve as the local

1 collection point administrator to collect and distribute 911 fees and 911
2 state grant fund moneys.

3 (h) “Next generation 911” means 911 service that enables PSAPs to
4 receive Enhanced 911 service calls and emergency calls from Internet
5 Protocol (IP) based technologies and applications that may include text
6 messaging, image, video and data information from callers.

7 (i) “Person” means any individual, firm, partnership, copartnership,
8 joint venture, association, cooperative organization, corporation,
9 municipal or private, and whether organized for profit or not, state,
10 county, political subdivision, state department, commission, board,
11 bureau or fraternal organization, nonprofit organization, estate, trust,
12 business or common law trust, receiver, assignee for the benefit of
13 creditors, trustee or trustee in bankruptcy or any other legal entity.

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

18 (k) “Place of primary use” has the meaning provided in the mobile
19 telecommunications act as defined by 4 U.S.C. § 116 et seq., as in effect
20 on the effective date of this act.

21 (l) “Provider” means any person providing exchange
22 telecommunications service, wireless telecommunications service, VoIP
23 service or other service capable of contacting a PSAP.

24 (m) “PSAP” means a public safety answering point operated by a
25 city or county.

26 (n) “Retail transaction” means the purchase of prepaid wireless
27 service from a seller for any purpose other than resale, not including the
28 use, storage or consumption of such services.

29 (o) “Seller” means a person who sells prepaid wireless service to
30 another person.

31 (p) “Service user” means any person who is provided exchange
32 telecommunications service, wireless telecommunications service, VoIP
33 service, prepaid wireless service or any other service capable of
34 contacting a PSAP.

35 (q) “Subscriber account” means the 10-digit access number
36 assigned to a service user regardless of whether more than one such
37 number is aggregated for the purpose of billing a service user.

38 (r) “Subscriber radio equipment” means mobile and portable radio
39 equipment installed in vehicles or carried by persons for voice
40 communication with a radio system.

41 (s) “VoIP service” means voice over internet protocol.

42 (t) “Wireless telecommunications service” means commercial
43 mobile radio service as defined by 47 C.F.R. 20.3 as in effect on the

1 effective date of this act.

2 New Sec. 3. (a) (1) There is hereby created the 911 coordinating
3 council which shall monitor the delivery of 911 services, develop
4 strategies for future enhancements to the 911 system and distribute
5 available grant funds to PSAPs. In as much as possible, the council shall
6 include individuals with technical expertise regarding 911 systems,
7 internet technology and GIS technology.

8 (2) The 911 coordinating council shall consist of 12 voting members
9 to be appointed by the governor: Two members representing information
10 technology personnel from government units; one member representing a
11 law enforcement officer; one member representing a fire chief; one
12 member recommended by the adjutant general; one member
13 recommended by the Kansas emergency medical services board; one
14 member recommended by the Kansas commission for the deaf and hard
15 of hearing; two members representing PSAPs located in counties with
16 less than 75,000 in population; two members representing PSAPs located
17 in counties with greater than 75,000 in population; and one member
18 representing PSAPs without regard to size.

19 (3) Other voting members of the 911 coordinating council shall
20 include: One member of the Kansas house of representatives as appointed
21 by the speaker of the house; one member of the Kansas house of
22 representatives as appointed by the minority leader of the house; one
23 member of the Kansas senate as appointed by the senate president; and
24 one member of the Kansas senate as appointed by the senate minority
25 leader.

26 (4) The 911 coordinating council shall also include non-voting
27 members to be appointed by the governor: One member representing
28 rural telecommunications companies recommended by the Kansas rural
29 independent telephone companies; one member representing incumbent
30 local exchange carriers with over 50,000 access lines; one member
31 representing large wireless providers; one member representing VoIP
32 providers; one member recommended by the league of Kansas
33 municipalities; one member recommended by the Kansas association of
34 counties; one member recommended by the Kansas geographic
35 information systems policy board; one member recommended by KAN-
36 ED; one member recommended by the Kansas division of information
37 systems and communications; and one member, a Kansas resident,
38 recommended by the Mid-America regional council.

39 (b) The terms of office for voting members of the 911 coordinating
40 council shall commence on the effective date of this act and shall be
41 subject to reappointment every three years. No voting member shall serve
42 longer than two three-year terms. A voting member appointed as a
43 replacement for another voting member may finish the term of the

1 predecessor and may serve two additional three-year terms.

2 (c) (1) The governor shall select the chair of the 911 coordinating
3 council. The governor shall determine the chair's compensation and the
4 chair shall serve at the pleasure of the governor.

5 (2) The chair shall serve as the coordinator of E-911 services and
6 next generation 911 services in the state, implement statewide 911
7 planning, have the authority to sign all certifications required under 47
8 C.F.R. part 400 and administer the 911 federal grant fund and 911 state
9 maintenance fund. The chair shall serve subject to the direction of the
10 council and ensure that policies adopted by the council are carried out.
11 The chair shall serve as the liaison between the council and the LCPA.
12 The chair shall preside over all meetings of the council and assist the
13 council in effectuating the provisions of this act.

14 (d) The 911 coordinating council shall select the local collection
15 point administrator, pursuant to section 6, and amendments thereto, to
16 collect 911 fees and to distribute such fees to PSAPs and to distribute 911
17 state grant fund moneys as directed by the council. The council shall
18 determine the compensation of the LCPA. The Kansas association of
19 counties shall provide the council with any staffing necessary in carrying
20 out the business of the council or effectuating the provisions of this act.
21 Upon approval by the council, the KAC shall be reimbursed for any costs
22 incurred in assisting the council. The moneys used to reimburse these
23 expenses shall be paid from the 911 state grant fund, pursuant to
24 subsection (i).

25 (e) The 911 coordinating council is hereby authorized to adopt rules
26 and regulations necessary to effectuate the provisions of this act,
27 including, but not limited to, creating a uniform reporting form
28 designating how moneys, including 911 fees, have been spent by the
29 PSAPs, requiring service providers to notify the council pursuant to
30 subsection (j), setting standards for coordinating and purchasing
31 equipment, recommending standards for training of PSAP personnel and
32 assessing civil penalties. The chair of the council shall work with the
33 council to develop rules and regulations necessary for the distribution of
34 moneys in the 911 federal grant fund. The council shall work with the
35 chair to carry out the provisions of this act. Rules and regulations
36 necessary to begin administration of this act shall be adopted by
37 December 31, 2011.

38 (f) The council may, pursuant to rules and regulations, raise or lower
39 the 911 fee upon a finding based on information submitted on the uniform
40 reporting forms, that moneys generated by such fee are in excess of or
41 below the costs required to operate PSAPs in the state. The council shall
42 not set the 911 fee below \$.50 or above \$.60.

43 (g) The council may appoint subcommittees as necessary to

1 administer grants, oversee collection and distribution of moneys by the
2 LCPA, develop technology standards, develop training recommendations
3 and other issues as deemed necessary by the council. Subcommittees, if
4 appointed, shall include members of the council and other persons as
5 needed.

6 (h) The council may reimburse independent contractors or state
7 agencies for expenses incurred in carrying out the business of the council,
8 including salaries, that are directly attributable to effectuating the
9 provisions of this act. The moneys used to reimburse these expenses shall
10 be paid from the 911 state grant fund, pursuant to subsection (i).

11 (i) All expenses related to the council shall be paid from the 911
12 state grant fund. No more than 2% of the total receipts from providers
13 and the department received by the LCPA shall be used to pay for such
14 expenses. Members of the council may receive reimbursement for meals
15 and travel expenses, but shall serve without other compensation with the
16 exception of legislative members.

17 (j) Every provider shall submit contact information for the provider
18 to the council prior to January 1, 2012. Any provider that has not
19 previously provided wireless telecommunications service in this state
20 shall submit contact information for the provider to the council within
21 three months of first offering wireless telecommunications services in this
22 state.

23 (k) Each PSAP shall file with the council, by March 1, 2012, a
24 report demonstrating how such PSAP has spent the moneys earned from
25 the 911 fee. The council shall designate the content and form of such
26 report.

27 (l) The council, upon a finding that a provider has violated any
28 provision of this act, may impose a civil penalty. No civil penalty shall be
29 imposed pursuant to this section except upon the written order of the
30 council. Such order shall state the violation, the penalty to be imposed
31 and the right of such person to appeal to a hearing before the council. Any
32 such person may, within 15 days after service of the order, make a written
33 request to the council for a hearing thereon. Hearings under this
34 subsection shall be conducted in accordance with the provisions of the
35 Kansas administrative procedure act.

36 (m) Any action of the council pursuant to subsection (l) is subject to
37 review in accordance with the Kansas judicial review act.

38 (n) Any civil penalty recovered pursuant to this section shall be
39 transferred to the LCPA for deposit in the 911 state grant fund.

40 (o) As long as the provider is working in good faith to comply with
41 the provisions of this act, no civil penalty shall be imposed prior to
42 January 1, 2013.

43 (p) The 911 coordinating council shall make an annual report, to

1 include a detailed description of all expenditures of the PSAPs, to the
2 house committee on energy and utilities and the senate committee on
3 utilities.

4 New Sec. 4. (a) There is hereby established in the state treasury
5 the 911 federal grant fund.

6 (b) The chair of the 911 coordinating council shall serve as the
7 administrator of the 911 federal grant fund and shall distribute grants in
8 accordance with the recommendations of the 911 coordinating council.
9 Subject to the conditions and in accordance with the requirements of this
10 act and 47 C.F.R. part 400, the chair is authorized to perform such acts
11 necessary for the effectuation of this act.

12 (c) Moneys received by the state from the federal government for
13 the purposes of the fund shall be credited to the fund.

14 (d) Subject to the conditions and in accordance with the
15 requirements of this act and 47 C.F.R. part 400, moneys credited to the
16 fund shall be used only:

17 (1) To pay all expenses incurred in the administration of the fund;
18 and

19 (2) to provide grants to eligible municipalities only for necessary
20 and reasonable costs incurred or to be incurred by PSAPs for: (A)
21 Implementation of enhanced 911 service and next generation 911 service,
22 as defined in section 2, and amendments thereto; (B) purchase of
23 equipment and upgrades and modification to equipment used solely to
24 process the data elements of enhanced 911 service and next generation
25 911 service, as defined in section 2, and amendments thereto; and (C)
26 maintenance and license fees for such equipment and training of
27 personnel to operate such equipment, including costs of training PSAP
28 personnel to provide effective service to all users of the emergency
29 telephone system who have communications disabilities. Such costs shall
30 not include expenditures to lease, construct, expand, acquire, remodel,
31 renovate, repair, furnish or make improvements to buildings or similar
32 facilities or for other capital outlay or equipment not expressly authorized
33 by this act.

34 (e) All payments and disbursements from the fund shall be made in
35 accordance with appropriation acts upon warrants of the director of
36 accounts and reports issued pursuant to vouchers approved by the chair or
37 by a person or persons designated by the chair.

38 New Sec. 5. (a) There is hereby established in the state treasury
39 the 911 state maintenance fund.

40 (b) The chair of the 911 coordinating council shall serve as the
41 administrator of the 911 state maintenance fund and shall distribute grants
42 in accordance with the recommendations of the 911 coordinating council.
43 Subject to the conditions and in accordance with the requirements of this

1 act and 47 C.F.R. part 400, the chair is authorized to perform such acts
2 necessary for the effectuation of this act.

3 (c) Moneys from the following sources shall be credited to the fund:

4 (1) Amounts appropriated or otherwise made available by the
5 legislature for the purposes of the fund;

6 (2) interest attributable to investment of moneys in the fund; and

7 (3) amounts received from any public or private entity for the
8 purposes of the fund.

9 (d) Moneys credited to the fund shall be used only:

10 (1) To pay all expenses incurred in the administration of the fund;
11 and

12 (2) to provide grants to eligible municipalities only for necessary
13 and reasonable costs incurred or to be incurred by PSAPs for: (A)
14 Implementation of enhanced 911 service and next generation 911 service,
15 as defined in section 2, and amendments thereto; (B) purchase of
16 equipment and upgrades and modification to equipment used solely to
17 process the data elements of enhanced 911 service and next generation
18 911 service, as defined in section 2, and amendments thereto; and (C)
19 maintenance and license fees for such equipment and training of
20 personnel to operate such equipment, including costs of training PSAP
21 personnel to provide effective service to all users of the emergency
22 telephone system who have communications disabilities. Such costs shall
23 not include expenditures to lease, construct, expand, acquire, remodel,
24 renovate, repair, furnish or make improvements to buildings or similar
25 facilities or for other capital outlay or equipment not expressly authorized
26 by this act.

27 (e) On or before the 10th of each month, the director of accounts and
28 reports shall transfer from the state general fund to the 911 state
29 maintenance fund interest earnings based on:

30 (1) The average daily balance of moneys in the 911 state
31 maintenance fund for the preceding month; and

32 (2) the net earnings rate of the pooled money investment portfolio
33 for the preceding month.

34 (f) All payments and disbursements from the fund shall be made in
35 accordance with appropriation acts upon warrants of the director of
36 accounts and reports issued pursuant to vouchers approved by the chair or
37 by a person or persons designated by the chair.

38 New Sec. 6. The 911 coordinating council shall select the local
39 collection point administrator. In selecting the LCPA, the council shall
40 contract with the LCPA for services for no longer than one year. The
41 council shall annually review the designation of the LCPA and the
42 contract with the LCPA for services.

43 New Sec. 7. (a) Upon the advice and consent of the 911

1 coordinating council, the LCPA shall establish the 911 state fund and the
2 911 state grant fund which shall not be part of the state treasury. On or
3 after the effective date of this section, the secretary of administration shall
4 certify all unobligated funds remaining in the wireless enhanced 911
5 grant fund as having originated as either federal grant moneys or 911 fee
6 moneys. All such moneys originating from 911 fees, and any interest
7 accrued on such fees, shall be paid to the LCPA for deposit in the 911
8 state grant fund. All unobligated federal moneys, and any interest accrued
9 on such moneys, shall be transferred to the 911 federal grant fund.

10 (b) The council shall be responsible for ensuring that the 911 state
11 grant fund and any interest earned on money credited to the fund is only
12 expended for the following purposes: (1) Projects involving the
13 development and implementation of next generation 911 services; (2)
14 costs associated with PSAP consolidation or cost-sharing projects; (3)
15 expenses related to the 911 coordinating council; (4) costs of audits
16 conducted pursuant to section 16, and amendments thereto; and (5) other
17 costs pursuant to section 14, and amendments thereto.

18 (c) The council shall develop criteria for eligible purchases and for
19 grant applicants and make the final determination as to the distribution of
20 grant funds. Such criteria shall promote the procurement of equipment
21 that meets open architecture and national technical standards. Distribution
22 of grant funds shall not include expenditures to procure, maintain or
23 upgrade subscriber radio equipment.

24 (d) The LCPA shall be authorized to maintain an action to collect
25 any funds owed by any providers in the district court in the county of the
26 registered office of such provider or, if such provider does not have a
27 registered office in the state, such an action may be maintained in the
28 county where such provider's principal office is located. If such provider
29 has no principal office in the state, such an action may be maintained in
30 the district court of any county in which such provider provides service.

31 (e) This section shall take effect on and after January 1, 2012.

32 New Sec. 8. (a) There is hereby imposed a 911 fee in the amount
33 of \$.50 per month per subscriber account of any exchange
34 telecommunications service, wireless telecommunications service, VoIP
35 service, or other service capable of contacting a PSAP. Such fee shall not
36 be imposed on prepaid wireless service. It shall be the duty of each
37 exchange telecommunications service provider, wireless
38 telecommunications service provider, VoIP service provider or other
39 service provider to remit such fees to the LCPA as provided in section 9,
40 and amendments thereto.

41 (b) This section shall take effect on and after January 1, 2012.

42 New Sec. 9. (a) Every billed service user shall be liable for the 911
43 fee until such fees have been paid to the exchange telecommunications

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

3 (b) The duty to collect the fees imposed pursuant to this act shall
4 commence January 1, 2012. Such fees shall be added to and may be
5 stated separately in billings for the subscriber account. If stated separately
6 in billings, the fees shall be labeled "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 shall
9 provide annually to the LCPA a list of the amount of uncollected 911 fees
10 along with the names and addresses of those service users which carry a
11 balance that can be determined by the provider to be nonpayment of such
12 fees.

13 (d) The fees imposed by this act shall be collected insofar as
14 practicable at the same time as, and along with, the charges for local
15 exchange, wireless, VoIP, or other service in accordance with regular
16 billing practice 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 shall be remitted to the LCPA not more than 15 days after the
20 close of the calendar month. On or before the 15th day of each calendar
21 month following, a return for the preceding month shall be filed with the
22 LCPA. Such return shall be in such form and shall contain such
23 information as required by the LCPA. The provider required to file the
24 return shall deliver the return together with a remittance of the amount of
25 fees payable to the LCPA. The provider shall maintain records of the
26 amount of any such fees collected in accordance with this act for a period
27 of three years from the time the fees are collected.

28 (f) The provisions of this section shall not be construed to apply to
29 prepaid wireless service.

30 (g) This section shall take effect on and after January 1, 2012.

31 New Sec. 10. (a) There is hereby imposed a prepaid wireless 911
32 fee of 1.1% per retail transaction or, on and after the effective date of an
33 adjusted amount per retail transaction that is established under subsection
34 (f), such adjusted amount.

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

40 (c) For purposes of subsection (b), a retail transaction that is effected
41 in person by a consumer in a business location of the seller shall be
42 treated as occurring in this state if that business location is in this state,
43 and any other retail transaction shall be treated as occurring in this state if

1 the retail transaction is treated as occurring in this state for the purposes
2 of subsection (c)(3) of K.S.A. 79-3673, and amendments thereto.

3 (d) The prepaid wireless 911 fee is the liability of the consumer and
4 not of the seller nor of any provider, except that the seller shall be liable
5 to remit all prepaid wireless 911 fees that the seller collects from
6 consumers pursuant to this section, and amendments thereto, including all
7 such fees that the seller is deemed to collect where the amount of the
8 charge has not been separately stated in an invoice, receipt or other
9 similar document provided to the consumer by the seller.

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

16 (f) The prepaid wireless 911 fee shall be proportionately increased
17 or reduced, as applicable, upon any change to the fee imposed by
18 subsection (a) of section 8, and amendments thereto. The adjusted amount
19 shall be determined by dividing the amount of the fee imposed by
20 subsection (a) of section 8, and amendments thereto, by \$50. Such
21 increase or reduction shall be effective on the effective date of the change
22 to the fee imposed by subsection (a) of section 8, and amendments
23 thereto, or, if later, the first day of the calendar quarter to occur at least 60
24 days after the enactment to the change to the fee imposed by subsection
25 (a) of section 8, and amendments thereto. The department shall provide
26 not less than 60 days' notice of such increase or decrease on the
27 department's website.

28 (g) When prepaid wireless service is sold with one or more other
29 products or services for a single, non-itemized price, then the percentage
30 specified in subsection (a) shall apply to the entire non-itemized price
31 unless the seller elects to apply such percentage to: (1) If the amount of
32 the prepaid wireless service is disclosed to the consumer as a dollar
33 amount, such dollar amount; or (2) if the seller can identify the portion of
34 the price that is attributable to the prepaid wireless service by reasonable
35 and verifiable standards from its books and records that are kept in the
36 regular course of business for other purposes, including, but not limited
37 to, non-tax purposes, such portion.

38 (h) This section shall take effect on and after January 1, 2012.

39 New Sec. 11. (a) Prepaid wireless 911 fees collected by sellers
40 shall be remitted to the department by electronic filing that is consistent
41 with the provisions of article 36 of chapter 79 of the Kansas Statutes
42 Annotated, and amendments thereto. The department shall establish
43 registration and payment procedures for the collection of the prepaid

1 wireless 911 fee.

2 (b) To minimize additional costs to the department, the department
3 may conduct audits of sellers in conjunction with sales and use tax audits.
4 The department is authorized to provide the LCPA with information
5 obtained in such audits if such information indicates that a seller may not
6 be complying with the provisions of this section and section 10, and
7 amendments thereto. The LCPA may request the department to initiate
8 collection or audit procedures on individual sellers if collection efforts by
9 the LCPA are unsuccessful.

10 (c) The department shall establish procedures by which a seller may
11 document that a sale is not a retail sale, which procedures shall
12 substantially coincide with procedures for documenting sale for resale
13 transactions for article 36 of chapter 79 of the Kansas Statutes Annotated,
14 and amendments thereto.

15 (d) The department shall transfer all remitted prepaid wireless 911
16 fees to the LCPA within 30 days of receipt for distribution as provided in
17 section 13, and amendments thereto.

18 (e) The department may retain up to \$70,000 of remitted funds in
19 fiscal year 2012 only for use in paying for programming and other one-
20 time costs for establishing a system for collecting the prepaid wireless
21 911 fee.

22 (f) This section shall take effect on and after January 1, 2012.

23 New Sec. 12. (a) The prepaid wireless 911 fee imposed in this act
24 shall be the only 911 funding obligation imposed with respect to prepaid
25 wireless service in this state. No tax, fee, surcharge or other charge shall
26 be imposed by this state, any political subdivision of this state or any
27 intergovernmental agency for 911 funding purposes upon any prepaid
28 wireless service provider, seller or consumer with respect to the sale,
29 purchase, use or provision of prepaid wireless service.

30 (b) This section shall take effect on and after January 1, 2012.

31 New Sec. 13. (a) Not later than 30 days after the receipt of moneys
32 from providers pursuant to sections 9 and 10, and amendments thereto,
33 and the department pursuant to section 11, and amendments thereto, the
34 LCPA shall distribute such moneys to PSAPs based upon the following
35 distribution method: In a county with a population over 80,000, 82% of
36 the money collected from service users whose place of primary use, as
37 provided by the providers, is within the county shall be distributed to the
38 PSAPs within the county based on place of primary use information; in a
39 county with a population between 65,000 and 79,999, 85% of the money
40 collected from service users whose place of primary use, as provided by
41 the providers, is within the county shall be distributed to the PSAPs
42 within the county based on place of primary use information; in a county
43 with a population between 55,000 and 64,999, 88% of the money

1 collected from service users whose place of primary use, as provided by
2 the providers, is within the county shall be distributed to the PSAPs
3 within the county based on place of primary use information; in a county
4 with a population between 45,000 and 54,999, 91% of the money
5 collected from service users whose place of primary use, as provided by
6 the providers, is within the county shall be distributed to the PSAPs
7 within the county based on place of primary use information; in a county
8 with a population between 35,000 and 44,999, 94% of the money
9 collected from service users whose place of primary use, as provided by
10 the providers, is within the county shall be distributed to the PSAPs
11 within the county based on place of primary use information; in a county
12 with a population between 25,000 and 34,999, 97% of the money
13 collected from service users whose place of primary use, as provided by
14 the providers, is within the county shall be distributed to the PSAPs
15 within the county based on place of primary use information; and in a
16 county with a population of less than 25,000, 100% of the money
17 collected from service users whose place of primary use, as provided by
18 the providers, is within the county shall be distributed to the PSAPs
19 within the county based on place of primary use information. There shall
20 be a minimum county distribution of \$50,000 and no county shall receive
21 less than \$50,000 of direct distribution moneys. If there is more than one
22 PSAP in a county then the direct distribution allocated to that county by
23 population shall be deducted from the minimum county distribution and
24 the difference shall be proportionately divided between the PSAPs in the
25 county. All moneys remaining after distribution and any moneys which
26 cannot be attributed to a specific PSAP shall be transferred to the 911
27 state grant fund.

28 (b) All fees remitted to the LCPA shall be deposited in the 911 state
29 fund and for the purposes of this act be treated as if they are public funds,
30 pursuant to article 14 of chapter 9 of the Kansas Statutes Annotated, and
31 amendments thereto.

32 (c) All moneys in the 911 state fund that have been collected from
33 the prepaid wireless 911 fee shall be deposited in the 911 state grant fund
34 unless \$2 million of such moneys have been deposited in any given year
35 then all remaining moneys shall be distributed to the PSAPs pursuant to
36 subsection (a).

37 (d) The LCPA shall keep accurate accounts of all receipts and
38 disbursements of moneys from the 911 fees.

39 (e) Information provided by providers to the local collection point
40 administrator or to the 911 coordinating council pursuant to this act will
41 be treated as proprietary records which will be withheld from the public
42 upon request of the party submitting such records.

43 (f) The provisions of subsection (e) shall expire on July 1, 2017,

1 unless the legislature acts to reenact such provision. The provisions of
2 subsection (e) shall be reviewed by the legislature prior to July 1, 2016.

3 (g) This section shall take effect on and after January 1, 2012.

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

19 (b) This section shall take effect on and after January 1, 2012.

20 New Sec. 15. (a) Except as provided by the Kansas tort claims act,
21 and except for failure to use ordinary care, or for intentional acts, the
22 LCPA and each provider, and their employees and agents, and each seller,
23 and their employees and agents, shall not be liable for the payment of
24 damages resulting directly or indirectly from the total or partial failure of
25 any transmission to an emergency communication service or for damages
26 resulting from the performance of installing, maintaining or providing
27 911 service.

28 (b) This section shall take effect on and after January 1, 2012.

29 New Sec. 16. (a) The receipts and disbursements of the LCPA
30 shall be audited yearly by a licensed municipal accountant or certified
31 public accountant.

32 (b) The LCPA may require an audit of any provider's books and
33 records concerning the collection and remittance of fees pursuant to this
34 act. The cost of any such audit shall be paid from the 911 state grant fund.

35 (c) On or before December 31, 2013, and at least once every three
36 years thereafter, the division of post audit shall conduct an audit of the
37 911 system to determine: (1) Whether the moneys received by PSAPs
38 pursuant to this act are being used appropriately; (2) whether the amount
39 of moneys collected pursuant to this act is adequate; and (3) the status of
40 911 service implementation. The auditor to conduct such audit shall be
41 specified in accordance with K.S.A. 46-1122, and amendments thereto.
42 The post auditor shall compute the reasonably anticipated cost of
43 providing audits pursuant to this subsection, subject to review and

1 approval by the contract audit committee established by K.S.A. 46-1120,
2 and amendments thereto. Upon such approval, the 911 state grant fund
3 shall reimburse the division of post audit for the amount approved by the
4 contract audit committee. The audit report shall be submitted to the 911
5 coordinating council, the LCPA, the house energy and utilities committee
6 and the senate utilities committee.

7 (d) The legislature shall review this act at the regular 2014
8 legislative session and at the regular legislative session every five years
9 thereafter.

10 (e) This section shall take effect on and after January 1, 2012.

11 New Sec. 17. (a) Nothing in this act shall be construed to limit the
12 ability of a provider from recovering directly from the provider's
13 customers its costs associated with designing, developing, deploying and
14 maintaining 911 service and its cost of collection and administration of
15 the fees imposed by this act, whether such costs are itemized on the
16 customer's bill as a surcharge or by any other lawful method.

17 (b) This section shall take effect on and after January 1, 2012.

18 New Sec. 18. A provider of wireless telecommunications service
19 shall: (1) Receive prior approval of the PSAP of that jurisdiction before
20 directing emergency calls to such PSAP; and (2) establish the unique
21 emergency telephone number "911" across the state, excluding the
22 Kansas turnpike assistance telephone number.

23 New Sec. 19. The governing body of each city and county shall
24 provide or contract for the 24-hour receipt of wireless emergency calls for
25 all wireless service areas within the jurisdiction of the city or county.

26 Sec. 20. K.S.A. 2010 Supp. 12-5327 is hereby amended to read as
27 follows: 12-5327. (a) After providing for public comment and review
28 each year, the secretary, in conjunction with the advisory board, shall
29 prepare a plan identifying the intended uses of the moneys available in
30 the fund. The intended use plan shall include, but not be limited to:

31 ~~(a)~~ (1) The wireless enhanced 911 project priority list;

32 ~~(b)~~ (2) a description of the short-term and long-term goals and
33 objectives of the fund for the deployment of wireless enhanced 911;

34 ~~(c)~~ (3) provisions addressing the needs of persons with
35 communication disabilities;

36 ~~(d)~~ (4) information on the projects to be financed, including a
37 description thereof, the terms of grants to be provided and the
38 municipalities receiving the grants; and

39 ~~(e)~~ (5) the criteria and method established for the provision of grants
40 to be made from the fund.

41 (b) *Notwithstanding the provisions of subsection (a), moneys in the*
42 *fund shall be used to pay any expenses authorized by this act incurred by*
43 *the 911 coordinating council in effectuating the provisions of this act.*

1 Sec. 21. K.S.A. 2010 Supp. 12-5338 is hereby amended to read as
2 follows: 12-5338. (a) On July ~~January~~ 1, 2011 ~~2012~~ :

3 ~~(1) the wireless enhanced 911 grant fee shall be discontinued, the~~
4 ~~advisory board shall be abolished, any unobligated balance of the~~
5 ~~wireless enhanced 911 grant fund shall be paid to the local collection~~
6 ~~point administrator for distribution to PSAP's based on the population of~~
7 ~~the municipality or municipalities served by the respective PSAP~~
8 ~~distributed pursuant to subsection (a) of section 7, and amendments~~
9 ~~thereto, and the fund shall be abolished.~~

10 ~~(2) Within any county which has a population of 125,000 or more;~~
11 ~~the amount of the tax imposed pursuant to K.S.A. 12-5302, and~~
12 ~~amendments thereto, shall not exceed \$.25 per month per access line or~~
13 ~~its equivalent and the amount of the wireless enhanced 911 local fee~~
14 ~~within such jurisdiction shall be an equal amount per month per wireless~~
15 ~~subscriber account.~~

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

21 ~~(4) The provisions of K.S.A. 2010 Supp. 12-5323 through 12-5329,~~
22 ~~and amendments thereto, shall expire.~~

23 ~~(b) On and after July 1, 2011, the proceeds of the wireless enhanced~~
24 ~~911 local fee shall be used only to pay for costs of emergency telephone~~
25 ~~service described in K.S.A. 12-5304, and amendments thereto, and~~
26 ~~expenditures authorized by K.S.A. 2010 Supp. 12-5330, and amendments~~
27 ~~thereto.~~

28 Sec. 22. K.S.A. 2010 Supp. 12-5361 is hereby amended to read as
29 follows: 12-5361. (a) On July ~~January~~ 1, 2011 ~~2012~~ :

30 ~~(1) the VoIP enhanced 911 grant fee shall be discontinued.~~

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

36 ~~(3) The provisions of K.S.A. 2010 Supp. 12-5354 and 12-5355, and~~
37 ~~amendments thereto, shall expire.~~

38 ~~(b) On and after July 1, 2011, the proceeds of the VoIP local fee shall~~
39 ~~be used only to pay for costs of emergency telephone service described in~~
40 ~~K.S.A. 12-5304, and amendments thereto, and expenditures authorized by~~
41 ~~K.S.A. 2010 Supp. 12-5330, and amendments thereto.~~

42 Sec. 23. K.S.A. 2010 Supp. 45-221 is hereby amended to read as
43 follows: 45-221. (a) Except to the extent disclosure is otherwise required

- 1 by law, a public agency shall not be required to disclose:
- 2 (1) Records the disclosure of which is specifically prohibited or
3 restricted by federal law, state statute or rule of the Kansas supreme court
4 or rule of the senate committee on confirmation oversight relating to
5 information submitted to the committee pursuant to K.S.A. 2010 Supp.
6 75-4315d, and amendments thereto, or the disclosure of which is
7 prohibited or restricted pursuant to specific authorization of federal law,
8 state statute or rule of the Kansas supreme court or rule of the senate
9 committee on confirmation oversight relating to information submitted to
10 the committee pursuant to K.S.A. 2010 Supp. 75-4315d, and amendments
11 thereto, to restrict or prohibit disclosure.
- 12 (2) Records which are privileged under the rules of evidence, unless
13 the holder of the privilege consents to the disclosure.
- 14 (3) Medical, psychiatric, psychological or alcoholism or drug
15 dependency treatment records which pertain to identifiable patients.
- 16 (4) Personnel records, performance ratings or individually
17 identifiable records pertaining to employees or applicants for
18 employment, except that this exemption shall not apply to the names,
19 positions, salaries or actual compensation employment contracts or
20 employment-related contracts or agreements and lengths of service of
21 officers and employees of public agencies once they are employed as
22 such.
- 23 (5) Information which would reveal the identity of any undercover
24 agent or any informant reporting a specific violation of law.
- 25 (6) Letters of reference or recommendation pertaining to the
26 character or qualifications of an identifiable individual, except documents
27 relating to the appointment of persons to fill a vacancy in an elected
28 office.
- 29 (7) Library, archive and museum materials contributed by private
30 persons, to the extent of any limitations imposed as conditions of the
31 contribution.
- 32 (8) Information which would reveal the identity of an individual
33 who lawfully makes a donation to a public agency, if anonymity of the
34 donor is a condition of the donation, except if the donation is intended for
35 or restricted to providing remuneration or personal tangible benefit to a
36 named public officer or employee.
- 37 (9) Testing and examination materials, before the test or examination
38 is given or if it is to be given again, or records of individual test or
39 examination scores, other than records which show only passage or
40 failure and not specific scores.
- 41 (10) Criminal investigation records, except as provided herein. The
42 district court, in an action brought pursuant to K.S.A. 45-222, and
43 amendments thereto, may order disclosure of such records, subject to

1 such conditions as the court may impose, if the court finds that
2 disclosure:

3 (A) Is in the public interest;

4 (B) would not interfere with any prospective law enforcement
5 action, criminal investigation or prosecution;

6 (C) would not reveal the identity of any confidential source or
7 undercover agent;

8 (D) would not reveal confidential investigative techniques or
9 procedures not known to the general public;

10 (E) would not endanger the life or physical safety of any person; and

11 (F) would not reveal the name, address, phone number or any other
12 information which specifically and individually identifies the victim of
13 any sexual offense in article 35 of chapter 21 of the Kansas Statutes
14 Annotated, and amendments thereto.

15 If a public record is discretionarily closed by a public agency pursuant
16 to this subsection, the record custodian, upon request, shall provide a
17 written citation to the specific provisions of paragraphs (A) through (F)
18 that necessitate closure of that public record.

19 (11) Records of agencies involved in administrative adjudication or
20 civil litigation, compiled in the process of detecting or investigating
21 violations of civil law or administrative rules and regulations, if
22 disclosure would interfere with a prospective administrative adjudication
23 or civil litigation or reveal the identity of a confidential source or
24 undercover agent.

25 (12) Records of emergency or security information or procedures of
26 a public agency, or plans, drawings, specifications or related information
27 for any building or facility which is used for purposes requiring security
28 measures in or around the building or facility or which is used for the
29 generation or transmission of power, water, fuels or communications, if
30 disclosure would jeopardize security of the public agency, building or
31 facility.

32 (13) The contents of appraisals or engineering or feasibility
33 estimates or evaluations made by or for a public agency relative to the
34 acquisition of property, prior to the award of formal contracts therefor.

35 (14) Correspondence between a public agency and a private
36 individual, other than correspondence which is intended to give notice of
37 an action, policy or determination relating to any regulatory, supervisory
38 or enforcement responsibility of the public agency or which is widely
39 distributed to the public by a public agency and is not specifically in
40 response to communications from such a private individual.

41 (15) Records pertaining to employer-employee negotiations, if
42 disclosure would reveal information discussed in a lawful executive
43 session under K.S.A. 75-4319, and amendments thereto.

1 (16) Software programs for electronic data processing and
2 documentation thereof, but each public agency shall maintain a register,
3 open to the public, that describes:

4 (A) The information which the agency maintains on computer
5 facilities; and

6 (B) the form in which the information can be made available using
7 existing computer programs.

8 (17) Applications, financial statements and other information
9 submitted in connection with applications for student financial assistance
10 where financial need is a consideration for the award.

11 (18) Plans, designs, drawings or specifications which are prepared
12 by a person other than an employee of a public agency or records which
13 are the property of a private person.

14 (19) Well samples, logs or surveys which the state corporation
15 commission requires to be filed by persons who have drilled or caused to
16 be drilled, or are drilling or causing to be drilled, holes for the purpose of
17 discovery or production of oil or gas, to the extent that disclosure is
18 limited by rules and regulations of the state corporation commission.

19 (20) Notes, preliminary drafts, research data in the process of
20 analysis, unfunded grant proposals, memoranda, recommendations or
21 other records in which opinions are expressed or policies or actions are
22 proposed, except that this exemption shall not apply when such records
23 are publicly cited or identified in an open meeting or in an agenda of an
24 open meeting.

25 (21) Records of a public agency having legislative powers, which
26 records pertain to proposed legislation or amendments to proposed
27 legislation, except that this exemption shall not apply when such records
28 are:

29 (A) Publicly cited or identified in an open meeting or in an agenda
30 of an open meeting; or

31 (B) distributed to a majority of a quorum of any body which has
32 authority to take action or make recommendations to the public agency
33 with regard to the matters to which such records pertain.

34 (22) Records of a public agency having legislative powers, which
35 records pertain to research prepared for one or more members of such
36 agency, except that this exemption shall not apply when such records are:

37 (A) Publicly cited or identified in an open meeting or in an agenda
38 of an open meeting; or

39 (B) distributed to a majority of a quorum of any body which has
40 authority to take action or make recommendations to the public agency
41 with regard to the matters to which such records pertain.

42 (23) Library patron and circulation records which pertain to
43 identifiable individuals.

1 (24) Records which are compiled for census or research purposes
2 and which pertain to identifiable individuals.

3 (25) Records which represent and constitute the work product of an
4 attorney.

5 (26) Records of a utility or other public service pertaining to
6 individually identifiable residential customers of the utility or service,
7 except that information concerning billings for specific individual
8 customers named by the requester shall be subject to disclosure as
9 provided by this act.

10 (27) Specifications for competitive bidding, until the specifications
11 are officially approved by the public agency.

12 (28) Sealed bids and related documents, until a bid is accepted or all
13 bids rejected.

14 (29) Correctional records pertaining to an identifiable inmate or
15 release, except that:

16 (A) The name; photograph and other identifying information;
17 sentence data; parole eligibility date; custody or supervision level;
18 disciplinary record; supervision violations; conditions of supervision,
19 excluding requirements pertaining to mental health or substance abuse
20 counseling; location of facility where incarcerated or location of parole
21 office maintaining supervision and address of a releasee whose crime was
22 committed after the effective date of this act shall be subject to disclosure
23 to any person other than another inmate or releasee, except that the
24 disclosure of the location of an inmate transferred to another state
25 pursuant to the interstate corrections compact shall be at the discretion of
26 the secretary of corrections;

27 (B) the ombudsman of corrections, the attorney general, law
28 enforcement agencies, counsel for the inmate to whom the record pertains
29 and any county or district attorney shall have access to correctional
30 records to the extent otherwise permitted by law;

31 (C) the information provided to the law enforcement agency
32 pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and
33 amendments thereto, shall be subject to disclosure to any person, except
34 that the name, address, telephone number or any other information which
35 specifically and individually identifies the victim of any offender required
36 to register as provided by the Kansas offender registration act, K.S.A. 22-
37 4901 et seq., and amendments thereto, shall not be disclosed; and

38 (D) records of the department of corrections regarding the financial
39 assets of an offender in the custody of the secretary of corrections shall be
40 subject to disclosure to the victim, or such victim's family, of the crime
41 for which the inmate is in custody as set forth in an order of restitution by
42 the sentencing court.

43 (30) Public records containing information of a personal nature

1 where the public disclosure thereof would constitute a clearly
2 unwarranted invasion of personal privacy.

3 (31) Public records pertaining to prospective location of a business
4 or industry where no previous public disclosure has been made of the
5 business' or industry's interest in locating in, relocating within or
6 expanding within the state. This exception shall not include those records
7 pertaining to application of agencies for permits or licenses necessary to
8 do business or to expand business operations within this state, except as
9 otherwise provided by law.

10 (32) Engineering and architectural estimates made by or for any
11 public agency relative to public improvements.

12 (33) Financial information submitted by contractors in qualification
13 statements to any public agency.

14 (34) Records involved in the obtaining and processing of intellectual
15 property rights that are expected to be, wholly or partially vested in or
16 owned by a state educational institution, as defined in K.S.A. 76-711, and
17 amendments thereto, or an assignee of the institution organized and
18 existing for the benefit of the institution.

19 (35) Any report or record which is made pursuant to K.S.A. 65-
20 4922, 65-4923 or 65-4924, and amendments thereto, and which is
21 privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments
22 thereto.

23 (36) Information which would reveal the precise location of an
24 archeological site.

25 (37) Any financial data or traffic information from a railroad
26 company, to a public agency, concerning the sale, lease or rehabilitation
27 of the railroad's property in Kansas.

28 (38) Risk-based capital reports, risk-based capital plans and
29 corrective orders including the working papers and the results of any
30 analysis filed with the commissioner of insurance in accordance with
31 K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

32 (39) Memoranda and related materials required to be used to support
33 the annual actuarial opinions submitted pursuant to subsection (b) of
34 K.S.A. 40-409, and amendments thereto.

35 (40) Disclosure reports filed with the commissioner of insurance
36 under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

37 (41) All financial analysis ratios and examination synopses
38 concerning insurance companies that are submitted to the commissioner
39 by the national association of insurance commissioners' insurance
40 regulatory information system.

41 (42) Any records the disclosure of which is restricted or prohibited
42 by a tribal-state gaming compact.

43 (43) Market research, market plans, business plans and the terms and

1 conditions of managed care or other third party contracts, developed or
2 entered into by the university of Kansas medical center in the operation
3 and management of the university hospital which the chancellor of the
4 university of Kansas or the chancellor's designee determines would give
5 an unfair advantage to competitors of the university of Kansas medical
6 center.

7 (44) The amount of franchise tax paid to the secretary of revenue or
8 the secretary of state by domestic corporations, foreign corporations,
9 domestic limited liability companies, foreign limited liability companies,
10 domestic limited partnership, foreign limited partnership, domestic
11 limited liability partnerships and foreign limited liability partnerships.

12 (45) Records, other than criminal investigation records, the
13 disclosure of which would pose a substantial likelihood of revealing
14 security measures that protect: (A) Systems, facilities or equipment used
15 in the production, transmission or distribution of energy, water or
16 communications services; (B) transportation and sewer or wastewater
17 treatment systems, facilities or equipment; or (C) private property or
18 persons, if the records are submitted to the agency. For purposes of this
19 paragraph, security means measures that protect against criminal acts
20 intended to intimidate or coerce the civilian population, influence
21 government policy by intimidation or coercion or to affect the operation
22 of government by disruption of public services, mass destruction,
23 assassination or kidnapping. Security measures include, but are not
24 limited to, intelligence information, tactical plans, resource deployment
25 and vulnerability assessments.

26 (46) Any information or material received by the register of deeds of
27 a county from military discharge papers (DD Form 214). Such papers
28 shall be disclosed: To the military dischargee; to such dischargee's
29 immediate family members and lineal descendants; to such dischargee's
30 heirs, agents or assigns; to the licensed funeral director who has custody
31 of the body of the deceased dischargee; when required by a department or
32 agency of the federal or state government or a political subdivision
33 thereof; when the form is required to perfect the claim of military service
34 or honorable discharge or a claim of a dependent of the dischargee; and
35 upon the written approval of the commissioner of veterans affairs, to a
36 person conducting research.

37 (47) Information that would reveal the location of a shelter or a
38 safehouse or similar place where persons are provided protection from
39 abuse or the name, address, location or other contact information of
40 alleged victims of stalking, domestic violence or sexual assault.

41 (48) Policy information provided by an insurance carrier in
42 accordance with subsection (h)(1) of K.S.A. 44-532, and amendments
43 thereto. This exemption shall not be construed to preclude access to an

1 individual employer's record for the purpose of verification of insurance
2 coverage or to the department of labor for their business purposes.

3 (49) An individual's e-mail address, cell phone number and other
4 contact information which has been given to the public agency for the
5 purpose of public agency notifications or communications which are
6 widely distributed to the public.

7 (50) *Information provided by providers to the local collection point*
8 *administrator or to the 911 coordinating council pursuant to the Kansas*
9 *911 act, and amendments thereto, upon request of the party submitting*
10 *such records.*

11 (b) Except to the extent disclosure is otherwise required by law or as
12 appropriate during the course of an administrative proceeding or on
13 appeal from agency action, a public agency or officer shall not disclose
14 financial information of a taxpayer which may be required or requested
15 by a county appraiser or the director of property valuation to assist in the
16 determination of the value of the taxpayer's property for ad valorem
17 taxation purposes; or any financial information of a personal nature
18 required or requested by a public agency or officer, including a name, job
19 description or title revealing the salary or other compensation of officers,
20 employees or applicants for employment with a firm, corporation or
21 agency, except a public agency. Nothing contained herein shall be
22 construed to prohibit the publication of statistics, so classified as to
23 prevent identification of particular reports or returns and the items
24 thereof.

25 (c) As used in this section, the term "cited or identified" shall not
26 include a request to an employee of a public agency that a document be
27 prepared.

28 (d) If a public record contains material which is not subject to
29 disclosure pursuant to this act, the public agency shall separate or delete
30 such material and make available to the requester that material in the
31 public record which is subject to disclosure pursuant to this act. If a
32 public record is not subject to disclosure because it pertains to an
33 identifiable individual, the public agency shall delete the identifying
34 portions of the record and make available to the requester any remaining
35 portions which are subject to disclosure pursuant to this act, unless the
36 request is for a record pertaining to a specific individual or to such a
37 limited group of individuals that the individuals' identities are reasonably
38 ascertainable, the public agency shall not be required to disclose those
39 portions of the record which pertain to such individual or individuals.

40 (e) The provisions of this section shall not be construed to exempt
41 from public disclosure statistical information not descriptive of any
42 identifiable person.

43 (f) Notwithstanding the provisions of subsection (a), any public

1 record which has been in existence more than 70 years shall be open for
2 inspection by any person unless disclosure of the record is specifically
3 prohibited or restricted by federal law, state statute or rule of the Kansas
4 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and
5 amendments thereto.

6 (g) Any confidential records or information relating to security
7 measures provided or received under the provisions of subsection (a)(45)
8 shall not be subject to subpoena, discovery or other demand in any
9 administrative, criminal or civil action.

10 Sec. 24. K.S.A. 2010 Supp. 75-5133 is hereby amended to read as
11 follows: 75-5133. (a) Except as otherwise more specifically provided by
12 law, all information received by the secretary of revenue, the director of
13 taxation or the director of alcoholic beverage control from returns,
14 reports, license applications or registration documents made or filed
15 under the provisions of any law imposing any sales, use or other excise
16 tax administered by the secretary of revenue, the director of taxation, or
17 the director of alcoholic beverage control, or from any investigation
18 conducted under such provisions, shall be confidential, and it shall be
19 unlawful for any officer or employee of the department of revenue to
20 divulge any such information except in accordance with other provisions
21 of law respecting the enforcement and collection of such tax, in
22 accordance with proper judicial order or as provided in K.S.A. 74-2424,
23 and amendments thereto.

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

25 (1) Publish statistics, so classified as to prevent identification of
26 particular reports or returns and the items thereof;

27 (2) allow the inspection of returns by the attorney general or the
28 attorney general's designee;

29 (3) provide the post auditor access to all such excise tax reports or
30 returns in accordance with and subject to the provisions of subsection (g)
31 of K.S.A. 46-1106, and amendments thereto;

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

36 (5) provide information from returns and reports filed under article
37 42 of chapter 79 of the Kansas Statutes Annotated, *and amendments*
38 *thereto*, to county appraisers as is necessary to insure proper valuations of
39 property. Information from such returns and reports may also be
40 exchanged with any other state agency administering and collecting
41 conservation or other taxes and fees imposed on or measured by mineral
42 production;

43 (6) provide, upon request by a city or county clerk or treasurer or

1 finance officer of any city or county receiving distributions from a local
2 excise tax, monthly reports identifying each retailer doing business in
3 such city or county or making taxable sales sourced to such city or
4 county, setting forth the tax liability and the amount of such tax remitted
5 by each retailer during the preceding month, and identifying each
6 business location maintained by the retailer and such retailer's sales or use
7 tax registration or account number;

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

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

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

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

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

40 (12) provide environmental surcharge or solvent fee, or both,
41 information from returns and applications for registration filed pursuant
42 to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the
43 secretary of health and environment or the secretary's designee for the

1 sole purpose of ensuring that retailers collect the environmental surcharge
2 tax or solvent fee, or both;

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

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

13 (15) disclose information received pursuant to the Kansas cigarette
14 and tobacco act and subject to the confidentiality provisions of this act to
15 any criminal justice agency, as defined in subsection (c) of K.S.A. 22-
16 4701, and amendments thereto, or to any law enforcement officer, as
17 defined in subsection (c)(10) of K.S.A. 21-3110, and amendments
18 thereto, on behalf of a criminal justice agency, when requested in writing
19 in conjunction with a pending investigation; ~~and~~

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

23 *(17) provide information concerning remittance by sellers, as*
24 *defined in section 2, and amendments thereto, of prepaid wireless 911*
25 *fees from returns to the local collection point administrator, as defined in*
26 *section 2, and amendments thereto, for purposes of verifying seller*
27 *compliance with collection and remittance of such fees.*

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

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

38 New Sec. 25. The provisions of this act are declared to be severable
39 and if any provision, word, phrase or clause of the act or the application
40 thereof to any person shall be held invalid, such invalidity shall not affect
41 the validity of the remaining portions of this act.

42 Sec. 26. K.S.A. 12-5309 and K.S.A. 2010 Supp. 12-5327, 12-5338,
43 12-5361, 45-221 and 75-5133 are hereby repealed.

1 Sec. 27. From and after January 1, 2012, K.S.A. 12-5303, 12-5305,
2 12-5306, 12-5307, 12-5308 and K.S.A. 2010 Supp. 12-5301, 12-5302,
3 12-5304, 12-5310, 12-5321, 12-5322, 12-5323, 12-5324, 12-5325, 12-
4 5326, 12-5327, 12-5328, 12-5329, 12-5330, 12-5331, 12-5332, 12-5333,
5 12-5334, 12-5335, 12-5336, 12-5337, 12-5351, 12-5352, 12-5353, 12-
6 5354, 12-5355, 12-5356, 12-5357, 12-5358, 12-5359 and 12-5360 are
7 hereby repealed.

8 Sec. 28. This act shall take effect and be in force from and after its
9 publication in the Kansas register.
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