

[As Amended by House Committee of the Whole]

As Amended by House Committee

[As Amended by Senate Committee of the Whole]

Session of 2011

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)~~ (f) "Local collection point administrator" or "LCPA" means, on
32 the effective date of this act, the statewide association of cities established

1 by K.S.A. 12-1610e, and amendments thereto, and the statewide
2 association of counties established by K.S.A. 19-2690, and amendments
3 thereto. After January 1, 2012, "local collection point administrator" means
4 the person designated by the 911 coordinating council to serve as the local
5 collection point administrator to collect and distribute 911 fees and 911
6 state grant fund moneys.

7 ~~(h)~~ **(g)** "Next generation 911" means 911 service that enables PSAPs
8 to receive Enhanced 911 service calls and emergency calls from Internet
9 Protocol (IP) based technologies and applications that may include text
10 messaging, image, video and data information from callers.

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

18 ~~(j)~~ **(i)** "Prepaid wireless service" means a wireless
19 telecommunications service that allows a caller to dial 911 to access the
20 911 system, which service must be paid for in advance and is sold in
21 predetermined units or dollars of which the number declines with use in a
22 known amount.

23 ~~(k)~~ **(j)** "Place of primary use" has the meaning provided in the
24 mobile telecommunications act as defined by 4 U.S.C. § 116 et seq., as in
25 effect on the effective date of this act.

26 ~~(l)~~ **(k)** "Provider" means any person providing exchange
27 telecommunications service, wireless telecommunications service, VoIP
28 service or other service capable of contacting a PSAP.

29 ~~(m)~~ **(l)** "PSAP" means a public safety answering point operated by a
30 city or county.

31 ~~(n)~~ **(m)** "Retail transaction" means the purchase of prepaid wireless
32 service from a seller for any purpose other than resale, not including the
33 use, storage or consumption of such services.

34 ~~(o)~~ **(n)** "Seller" means a person who sells prepaid wireless service to
35 another person.

36 ~~(p)~~ **(o)** "Service user" means any person who is provided exchange
37 telecommunications service, wireless telecommunications service, VoIP
38 service, prepaid wireless service or any other service capable of contacting
39 a PSAP.

40 ~~(q)~~ **(p)** "Subscriber account" means the 10-digit access number
41 assigned to a service user regardless of whether more than one such
42 number is aggregated for the purpose of billing a service user.

43 ~~(r)~~ **(q)** "Subscriber radio equipment" means mobile and portable

1 radio equipment installed in vehicles or carried by persons for voice
2 communication with a radio system.

3 ~~(r)~~ (r) “VoIP service” means voice over internet protocol.

4 ~~(s)~~ (s) “Wireless telecommunications service” means commercial
5 mobile radio service as defined by 47 C.F.R. 20.3 as in effect on the
6 effective date of this act.

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

13 (2) The 911 coordinating council shall consist of 12 voting members
14 to be appointed by the governor: Two members representing information
15 technology personnel from government units; one member representing a
16 law enforcement officer; one member representing a fire chief; one
17 member recommended by the adjutant general; one member recommended
18 by the Kansas emergency medical services board; one member
19 recommended by the Kansas commission for the deaf and hard of hearing;
20 two members representing PSAPs located in counties with less than
21 75,000 in population; two members representing PSAPs located in
22 counties with greater than 75,000 in population; and one member
23 representing PSAPs without regard to size. **At least two of the members**
24 **representing PSAPs shall be administrators of a PSAP.**

25 (3) Other voting members of the 911 coordinating council shall
26 include: One member of the Kansas house of representatives as appointed
27 by the speaker of the house; one member of the Kansas house of
28 representatives as appointed by the minority leader of the house; one
29 member of the Kansas senate as appointed by the senate president; and one
30 member of the Kansas senate as appointed by the senate minority leader.

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

1 (b) The terms of office for voting members of the 911 coordinating
 2 council shall commence on the effective date of this act and shall be
 3 subject to reappointment every three years. No voting member shall serve
 4 longer than two three-year terms. A voting member appointed as a
 5 replacement for another voting member may finish the term of the
 6 predecessor and may serve two additional three-year terms.

7 (c) (1) The governor shall select the chair of the 911 coordinating
 8 council, **who shall be an administrator of a PSAP.** ~~The governor shall~~
 9 ~~determine the chair's compensation and the chair shall serve at the pleasure~~
 10 ~~of the governor.~~

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

20 (d) **Upon the advice and consent of the legislative coordinating**
 21 **council,** the 911 coordinating council shall select the local collection point
 22 administrator, pursuant to section 6, and amendments thereto, to collect
 23 911 fees and to distribute such fees to PSAPs and to distribute 911 state
 24 grant fund moneys as directed by the council. The council shall determine
 25 the compensation of the LCPA **who], after January 1, 2012,]** ~~The~~
 26 ~~Kansas association of counties shall provide the council with any staffing~~
 27 ~~necessary in carrying out the business of the council or effectuating the~~
 28 ~~provisions of this act. Upon approval by the council, the KAC shall be~~
 29 ~~reimbursed for any costs incurred in assisting the council. [Prior to~~
 30 **January 1, 2012, the department of administration shall provide the**
 31 **council with any staffing necessary in carrying out the business of the**
 32 **council or effectuating the provisions of this act.]** The moneys used to
 33 reimburse these expenses shall be paid from the 911 state grant fund,
 34 pursuant to subsection (i).

35 (e) The 911 coordinating council is hereby authorized to adopt rules
 36 and regulations necessary to effectuate the provisions of this act, including,
 37 but not limited to, creating a uniform reporting form designating how
 38 moneys, including 911 fees, have been spent by the PSAPs, requiring
 39 service providers to notify the council pursuant to subsection (j), setting
 40 standards for coordinating and purchasing equipment, recommending
 41 standards for training of PSAP personnel and assessing civil penalties. The
 42 chair of the council shall work with the council to develop rules and
 43 regulations necessary for the distribution of moneys in the 911 federal

1 grant fund. The council shall work with the chair to carry out the
2 provisions of this act. Rules and regulations necessary to begin
3 administration of this act shall be adopted by December 31, 2011.

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

9 (g) The council may appoint subcommittees as necessary to
10 administer grants, oversee collection and distribution of moneys by the
11 LCPA, develop technology standards, develop training recommendations
12 and other issues as deemed necessary by the council. Subcommittees, if
13 appointed, shall include members of the council and other persons as
14 needed.

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

20 (i) All expenses related to the council shall be paid from the 911 state
21 grant fund. No more than ~~2%~~ **1.5%** of the total receipts from providers and
22 the department received by the LCPA shall be used to pay for such
23 expenses. Members of the council may receive reimbursement for meals
24 and travel expenses, but shall serve without other compensation with the
25 exception of legislative members.

26 (j) Every provider shall submit contact information for the provider to
27 the council prior to January 1, 2012. Any provider that has not previously
28 provided wireless telecommunications service in this state shall submit
29 contact information for the provider to the council within three months of
30 first offering wireless telecommunications services in this state.

31 (k) Each PSAP shall file with the council, by March 1, 2012, **and**
32 **every March 1 thereafter**, a report demonstrating how such PSAP has
33 spent the moneys earned from the 911 fee **during the preceding calendar**
34 **year**. The council shall designate the content and form of such report.

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

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

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

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

8 (p) The 911 coordinating council shall make an annual report, to
9 include a detailed description of all expenditures ~~of~~ **made from 911 fees**
10 **received by** the PSAPs, to the house committee on energy and utilities and
11 the senate committee on utilities.

12 New Sec. 4. (a) There is hereby established in the state treasury the
13 911 federal grant fund.

14 (b) The chair of the 911 coordinating council shall serve as the
15 administrator of the 911 federal grant fund and shall distribute grants in
16 accordance with the recommendations of the 911 coordinating council.
17 Subject to the conditions and in accordance with the requirements of this
18 act and 47 C.F.R. part 400, the chair is authorized to perform such acts
19 necessary for the effectuation of this act.

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

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

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

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

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

1 New Sec. 5. (a) There is hereby established in the state treasury the
2 911 state maintenance fund.

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

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

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

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

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

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

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

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

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

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

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

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

42 New Sec. 6. **Upon the advice and consent of the legislative**
43 **coordinating council**, the 911 coordinating council shall select the local

1 collection point administrator. In selecting the LCPA, the council shall
2 contract with the LCPA for services for no longer than ~~one~~ five years. The
3 **911 coordinating council and the legislative coordinating council** shall
4 annually review the designation of the LCPA and the contract with the
5 LCPA for services. **The LCPA shall be subject to the requirements of**
6 **the Kansas open meetings act, the Kansas open records act and shall**
7 **treat all moneys received as public funds pursuant to article 14 of**
8 **chapter 9 of the Kansas Statutes Annotated, and amendments thereto.**
9 **Notwithstanding any other provision of law to the contrary, the LCPA**
10 **shall not be considered a state agency.**

11 New Sec. 7. (a) Upon the advice and consent of the 911
12 coordinating council, the LCPA shall establish the 911 state fund and the
13 911 state grant fund which shall not be part of the state treasury. On or
14 after the effective date of this section, the secretary of administration shall
15 certify all unobligated funds remaining in the wireless enhanced 911 grant
16 fund as having originated as either federal grant moneys or 911 fee
17 moneys. All such moneys originating from 911 fees, and any interest
18 accrued on such fees, shall be paid to the LCPA for deposit in the 911 state
19 grant fund. All unobligated federal moneys, and any interest accrued on
20 such moneys, shall be transferred to the 911 federal grant fund.

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

29 (c) The council shall develop criteria for eligible purchases and for
30 grant applicants and make the final determination as to the distribution of
31 grant funds. Such criteria shall promote the procurement of equipment that
32 meets open architecture and national technical standards. Distribution of
33 grant funds shall not include expenditures to procure, maintain or upgrade
34 subscriber radio equipment.

35 (d) The LCPA shall be authorized to maintain an action to collect any
36 funds owed by any providers in the district court in the county of the
37 registered office of such provider or, if such provider does not have a
38 registered office in the state, such an action may be maintained in the
39 county where such provider's principal office is located. If such provider
40 has no principal office in the state, such an action may be maintained in
41 the district court of any county in which such provider provides service.

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

43 New Sec. 8. (a) There is hereby imposed a 911 fee in the amount of

1 ~~\$.50~~ per month per subscriber account of any exchange
2 telecommunications service, wireless telecommunications service, VoIP
3 service, or other service capable of contacting a PSAP. Such fee shall not
4 be imposed on prepaid wireless service. It shall be the duty of each
5 exchange telecommunications service provider, wireless
6 telecommunications service provider, VoIP service provider or other
7 service provider to remit such fees to the LCPA as provided in section 9,
8 and amendments thereto.

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

10 New Sec. 9. (a) Every billed service user shall be liable for the 911
11 fee until such fees have been paid to the exchange telecommunications
12 service provider, wireless telecommunications service provider, VoIP
13 service provider or other service provider.

14 (b) The duty to collect the fees imposed pursuant to this act shall
15 commence January 1, 2012. Such fees shall be added to and may be stated
16 separately in billings for the subscriber account. If stated separately in
17 billings, the fees shall be labeled “911 fees.”

18 (c) The provider shall have no obligation to take any legal action to
19 enforce the collection of the fees imposed by this act. The provider shall
20 provide annually to the LCPA a list of the amount of uncollected 911 fees
21 along with the names and addresses of those service users which carry a
22 balance that can be determined by the provider to be nonpayment of such
23 fees.

24 (d) The fees imposed by this act shall be collected insofar as
25 practicable at the same time as, and along with, the charges for local
26 exchange, wireless, VoIP, or other service in accordance with regular
27 billing practice of the provider.

28 (e) The 911 fees and the amounts required to be collected therefor are
29 due monthly. The amount of such fees collected in one month by the
30 provider shall be remitted to the LCPA not more than 15 days after the
31 close of the calendar month. On or before the 15th day of each calendar
32 month following, a return for the preceding month shall be filed with the
33 LCPA. Such return shall be in such form and shall contain such
34 information as required by the LCPA. The provider required to file the
35 return shall deliver the return together with a remittance of the amount of
36 fees payable to the LCPA. The provider shall maintain records of the
37 amount of any such fees collected in accordance with this act for a period
38 of three years from the time the fees are collected.

39 **(f) The provider may retain an administrative fee of not more**
40 **than 1% of moneys collected from such fee.**

41 ~~(g)~~ (g) The provisions of this section shall not be construed to apply to
42 prepaid wireless service.

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

1 New Sec. 10. (a) There is hereby imposed a prepaid wireless 911
2 fee of ~~1.1%~~ ~~[1%]~~ 1.1% per retail transaction or, on and after the effective
3 date of an adjusted amount per retail transaction that is established under
4 subsection (f), such adjusted amount.

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

10 (c) For purposes of subsection (b), a retail transaction that is effected
11 in person by a consumer in a business location of the seller shall be treated
12 as occurring in this state if that business location is in this state, and any
13 other retail transaction shall be treated as occurring in this state if the retail
14 transaction is treated as occurring in this state for the purposes of
15 subsection (c)(3) of K.S.A. 79-3673, and amendments thereto.

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

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

29 (f) The prepaid wireless 911 fee shall be proportionately increased or
30 reduced, as applicable, upon any change to the fee imposed by subsection
31 (a) of section 8, and amendments thereto. The adjusted amount shall be
32 determined by dividing the amount of the fee imposed by subsection (a) of
33 section 8, and amendments thereto, by \$50. Such increase or reduction
34 shall be effective on the effective date of the change to the fee imposed by
35 subsection (a) of section 8, and amendments thereto, or, if later, the first
36 day of the calendar quarter to occur at least 60 days after the enactment to
37 the change to the fee imposed by subsection (a) of section 8, and
38 amendments thereto. The department shall provide not less than 60 days'
39 notice of such increase or decrease on the department's website.

40 (g) When prepaid wireless service is sold with one or more other
41 products or services for a single, non-itemized price, then the percentage
42 specified in subsection (a) shall apply to the entire non-itemized price
43 unless the seller elects to apply such percentage to: (1) If the amount of the

1 prepaid wireless service is disclosed to the consumer as a dollar amount,
2 such dollar amount; or (2) if the seller can identify the portion of the price
3 that is attributable to the prepaid wireless service by reasonable and
4 verifiable standards from its books and records that are kept in the regular
5 course of business for other purposes, including, but not limited to, non-
6 tax purposes, such portion.

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

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

13 (b) To minimize additional costs to the department, the department
14 may conduct audits of sellers in conjunction with sales and use tax audits.
15 The department is authorized to provide the LCPA with information
16 obtained in such audits if such information indicates that a seller may not
17 be complying with the provisions of this section and section 10, and
18 amendments thereto. The LCPA may request the department to initiate
19 collection or audit procedures on individual sellers if collection efforts by
20 the LCPA are unsuccessful.

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

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

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

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

34 New Sec. 12. (a) The prepaid wireless 911 fee imposed in this act
35 shall be the only 911 funding obligation imposed with respect to prepaid
36 wireless service in this state. No tax, fee, surcharge or other charge shall be
37 imposed by this state, any political subdivision of this state or any
38 intergovernmental agency for 911 funding purposes upon any prepaid
39 wireless service provider, seller or consumer with respect to the sale,
40 purchase, use or provision of prepaid wireless service.

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

42 New Sec. 13. (a) Not later than 30 days after the receipt of moneys
43 from providers pursuant to sections 9 and 10, and amendments thereto, and

1 the department pursuant to section 11, and amendments thereto, the LCPA
2 shall distribute such moneys to PSAPs based upon the following
3 distribution method: In a county with a population over 80,000, 82% of the
4 money collected from service users whose place of primary use, as
5 provided by the providers, is within the county shall be distributed to the
6 PSAPs within the county based on place of primary use information; in a
7 county with a population between 65,000 and 79,999, 85% of the money
8 collected from service users whose place of primary use, as provided by
9 the providers, is within the county shall be distributed to the PSAPs within
10 the county based on place of primary use information; in a county with a
11 population between 55,000 and 64,999, 88% of the money collected from
12 service users whose place of primary use, as provided by the providers, is
13 within the county shall be distributed to the PSAPs within the county
14 based on place of primary use information; in a county with a population
15 between 45,000 and 54,999, 91% of the money collected from service
16 users whose place of primary use, as provided by the providers, is within
17 the county shall be distributed to the PSAPs within the county based on
18 place of primary use information; in a county with a population between
19 35,000 and 44,999, 94% of the money collected from service users whose
20 place of primary use, as provided by the providers, is within the county
21 shall be distributed to the PSAPs within the county based on place of
22 primary use information; in a county with a population between 25,000
23 and 34,999, 97% of the money collected from service users whose place of
24 primary use, as provided by the providers, is within the county shall be
25 distributed to the PSAPs within the county based on place of primary use
26 information; and in a county with a population of less than 25,000, 100%
27 of the money collected from service users whose place of primary use, as
28 provided by the providers, is within the county shall be distributed to the
29 PSAPs within the county based on place of primary use information. There
30 shall be a minimum county distribution of \$50,000 and no county shall
31 receive less than \$50,000 of direct distribution moneys. If there is more
32 than one PSAP in a county then the direct distribution allocated to that
33 county by population shall be deducted from the minimum county
34 distribution and the difference shall be proportionately divided between
35 the PSAPs in the county. All moneys remaining after distribution and any
36 moneys which cannot be attributed to a specific PSAP shall be transferred
37 to the 911 state grant fund.

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

42 (c) All moneys in the 911 state fund that have been collected from the
43 prepaid wireless 911 fee shall be deposited in the 911 state grant fund

1 unless \$2 million of such moneys have been deposited in any given year
2 then all remaining moneys shall be distributed to the PSAPs pursuant to
3 subsection (a).

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

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

10 (f) The provisions of subsection (e) shall expire on July 1, 2017,
11 unless the legislature acts to reenact such provision. The provisions of
12 subsection (e) shall be reviewed by the legislature prior to July 1, 2016.

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

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

29 **(b) If the 911 coordinating council, based upon information**
30 **obtained from the PSAP reports or an audit of the PSAPs, determines**
31 **that any PSAP has used any 911 fees for any purpose other than those**
32 **authorized in this act, such PSAP shall repay all such funds used for**
33 **any unauthorized purposes plus 10% to the LCPA for deposit in the**
34 **911 state grant fund.**

35 ~~(c)~~ (c) This section shall take effect on and after January 1, 2012.

36 New Sec. 15. (a) Except as provided by the Kansas tort claims act,
37 and except for failure to use ordinary care, or for intentional acts, the
38 LCPA and each provider, and their employees and agents, and each seller,
39 and their employees and agents, shall not be liable for the payment of
40 damages resulting directly or indirectly from the total or partial failure of
41 any transmission to an emergency communication service or for damages
42 resulting from the performance of installing, maintaining or providing 911
43 service.

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

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

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

8 (c) On or before December 31, 2013, and at least once every three
9 years thereafter, the division of post audit shall conduct an audit of the 911
10 system to determine: (1) Whether the moneys received by PSAPs pursuant
11 to this act are being used appropriately; (2) whether the amount of moneys
12 collected pursuant to this act is adequate; and (3) the status of 911 service
13 implementation. The auditor to conduct such audit shall be specified in
14 accordance with K.S.A. 46-1122, and amendments thereto. The post
15 auditor shall compute the reasonably anticipated cost of providing audits
16 pursuant to this subsection, subject to review and approval by the contract
17 audit committee established by K.S.A. 46-1120, and amendments thereto.
18 Upon such approval, the 911 state grant fund shall reimburse the division
19 of post audit for the amount approved by the contract audit committee. The
20 audit report shall be submitted to the 911 coordinating council, the LCPA,
21 the house energy and utilities committee and the senate utilities committee.

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

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

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

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

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

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

40 Sec. 20. K.S.A. 2010 Supp. 12-5327 is hereby amended to read as
41 follows: 12-5327. (a) After providing for public comment and review
42 each year, the secretary, in conjunction with the advisory board, shall
43 prepare a plan identifying the intended uses of the moneys available in the

1 fund. The intended use plan shall include, but not be limited to:

- 2 ~~(a)~~ (1) The wireless enhanced 911 project priority list;
- 3 ~~(b)~~ (2) a description of the short-term and long-term goals and
4 objectives of the fund for the deployment of wireless enhanced 911;
- 5 ~~(c)~~ (3) provisions addressing the needs of persons with
6 communication disabilities;
- 7 ~~(d)~~ (4) information on the projects to be financed, including a
8 description thereof, the terms of grants to be provided and the
9 municipalities receiving the grants; and
- 10 ~~(e)~~ (5) the criteria and method established for the provision of grants
11 to be made from the fund.

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

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

17 ~~(+)~~ the wireless enhanced 911 grant fee shall be discontinued, the
18 advisory board shall be abolished, any unobligated balance of the wireless
19 enhanced 911 grant fund shall be paid to the local collection point
20 administrator for distribution to PSAP's based on the population of the
21 municipality or municipalities served by the respective PSAP distributed
22 pursuant to subsection (a) of section 7, and amendments thereto, and the
23 fund shall be abolished.

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

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

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

37 ~~(b)~~ On and after July 1, 2011, the proceeds of the wireless enhanced
38 911 local fee shall be used only to pay for costs of emergency telephone
39 service described in K.S.A. 12-5304, and amendments thereto, and
40 expenditures authorized by K.S.A. 2010 Supp. 12-5330, and amendments
41 thereto.

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

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

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

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

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

13 Sec. 23. K.S.A. 2010 Supp. 45-221 is hereby amended to read as
14 follows: 45-221. (a) Except to the extent disclosure is otherwise required
15 by law, a public agency shall not be required to disclose:

16 (1) Records the disclosure of which is specifically prohibited or
17 restricted by federal law, state statute or rule of the Kansas supreme court
18 or rule of the senate committee on confirmation oversight relating to
19 information submitted to the committee pursuant to K.S.A. 2010 Supp. 75-
20 4315d, and amendments thereto, or the disclosure of which is prohibited or
21 restricted pursuant to specific authorization of federal law, state statute or
22 rule of the Kansas supreme court or rule of the senate committee on
23 confirmation oversight relating to information submitted to the committee
24 pursuant to K.S.A. 2010 Supp. 75-4315d, and amendments thereto, to
25 restrict or prohibit disclosure.

26 (2) Records which are privileged under the rules of evidence, unless
27 the holder of the privilege consents to the disclosure.

28 (3) Medical, psychiatric, psychological or alcoholism or drug
29 dependency treatment records which pertain to identifiable patients.

30 (4) Personnel records, performance ratings or individually identifiable
31 records pertaining to employees or applicants for employment, except that
32 this exemption shall not apply to the names, positions, salaries or actual
33 compensation employment contracts or employment-related contracts or
34 agreements and lengths of service of officers and employees of public
35 agencies once they are employed as such.

36 (5) Information which would reveal the identity of any undercover
37 agent or any informant reporting a specific violation of law.

38 (6) Letters of reference or recommendation pertaining to the character
39 or qualifications of an identifiable individual, except documents relating to
40 the appointment of persons to fill a vacancy in an elected office.

41 (7) Library, archive and museum materials contributed by private
42 persons, to the extent of any limitations imposed as conditions of the
43 contribution.

1 (8) Information which would reveal the identity of an individual who
2 lawfully makes a donation to a public agency, if anonymity of the donor is
3 a condition of the donation, except if the donation is intended for or
4 restricted to providing remuneration or personal tangible benefit to a
5 named public officer or employee.

6 (9) Testing and examination materials, before the test or examination
7 is given or if it is to be given again, or records of individual test or
8 examination scores, other than records which show only passage or failure
9 and not specific scores.

10 (10) Criminal investigation records, except as provided herein. The
11 district court, in an action brought pursuant to K.S.A. 45-222, and
12 amendments thereto, may order disclosure of such records, subject to such
13 conditions as the court may impose, if the court finds that disclosure:

14 (A) Is in the public interest;

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

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

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

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

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

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

30 (11) Records of agencies involved in administrative adjudication or
31 civil litigation, compiled in the process of detecting or investigating
32 violations of civil law or administrative rules and regulations, if disclosure
33 would interfere with a prospective administrative adjudication or civil
34 litigation or reveal the identity of a confidential source or undercover
35 agent.

36 (12) Records of emergency or security information or procedures of a
37 public agency, or plans, drawings, specifications or related information for
38 any building or facility which is used for purposes requiring security
39 measures in or around the building or facility or which is used for the
40 generation or transmission of power, water, fuels or communications, if
41 disclosure would jeopardize security of the public agency, building or
42 facility.

43 (13) The contents of appraisals or engineering or feasibility estimates

1 or evaluations made by or for a public agency relative to the acquisition of
2 property, prior to the award of formal contracts therefor.

3 (14) Correspondence between a public agency and a private
4 individual, other than correspondence which is intended to give notice of
5 an action, policy or determination relating to any regulatory, supervisory or
6 enforcement responsibility of the public agency or which is widely
7 distributed to the public by a public agency and is not specifically in
8 response to communications from such a private individual.

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

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

15 (A) The information which the agency maintains on computer
16 facilities; and

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

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

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

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

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

36 (21) Records of a public agency having legislative powers, which
37 records pertain to proposed legislation or amendments to proposed
38 legislation, except that this exemption shall not apply when such records
39 are:

40 (A) Publicly cited or identified in an open meeting or in an agenda of
41 an open meeting; or

42 (B) distributed to a majority of a quorum of any body which has
43 authority to take action or make recommendations to the public agency

1 with regard to the matters to which such records pertain.

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

5 (A) Publicly cited or identified in an open meeting or in an agenda of
6 an open meeting; or

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

10 (23) Library patron and circulation records which pertain to
11 identifiable individuals.

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

14 (25) Records which represent and constitute the work product of an
15 attorney.

16 (26) Records of a utility or other public service pertaining to
17 individually identifiable residential customers of the utility or service,
18 except that information concerning billings for specific individual
19 customers named by the requester shall be subject to disclosure as
20 provided by this act.

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

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

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

27 (A) The name; photograph and other identifying information;
28 sentence data; parole eligibility date; custody or supervision level;
29 disciplinary record; supervision violations; conditions of supervision,
30 excluding requirements pertaining to mental health or substance abuse
31 counseling; location of facility where incarcerated or location of parole
32 office maintaining supervision and address of a releasee whose crime was
33 committed after the effective date of this act shall be subject to disclosure
34 to any person other than another inmate or releasee, except that the
35 disclosure of the location of an inmate transferred to another state pursuant
36 to the interstate corrections compact shall be at the discretion of the
37 secretary of corrections;

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

42 (C) the information provided to the law enforcement agency pursuant
43 to the sex offender registration act, K.S.A. 22-4901 et seq., and

1 amendments thereto, shall be subject to disclosure to any person, except
2 that the name, address, telephone number or any other information which
3 specifically and individually identifies the victim of any offender required
4 to register as provided by the Kansas offender registration act, K.S.A. 22-
5 4901 et seq., and amendments thereto, shall not be disclosed; and

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

11 (30) Public records containing information of a personal nature where
12 the public disclosure thereof would constitute a clearly unwarranted
13 invasion of personal privacy.

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

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

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

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

30 (35) Any report or record which is made pursuant to K.S.A. 65-4922,
31 65-4923 or 65-4924, and amendments thereto, and which is privileged
32 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

33 (36) Information which would reveal the precise location of an
34 archeological site.

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

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

42 (39) Memoranda and related materials required to be used to support
43 the annual actuarial opinions submitted pursuant to subsection (b) of

1 K.S.A. 40-409, and amendments thereto.

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

4 (41) All financial analysis ratios and examination synopses
5 concerning insurance companies that are submitted to the commissioner by
6 the national association of insurance commissioners' insurance regulatory
7 information system.

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

10 (43) Market research, market plans, business plans and the terms and
11 conditions of managed care or other third party contracts, developed or
12 entered into by the university of Kansas medical center in the operation
13 and management of the university hospital which the chancellor of the
14 university of Kansas or the chancellor's designee determines would give an
15 unfair advantage to competitors of the university of Kansas medical center.

16 (44) The amount of franchise tax paid to the secretary of revenue or
17 the secretary of state by domestic corporations, foreign corporations,
18 domestic limited liability companies, foreign limited liability companies,
19 domestic limited partnership, foreign limited partnership, domestic limited
20 liability partnerships and foreign limited liability partnerships.

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

35 (46) Any information or material received by the register of deeds of
36 a county from military discharge papers (DD Form 214). Such papers shall
37 be disclosed: To the military dischargee; to such dischargee's immediate
38 family members and lineal descendants; to such dischargee's heirs, agents
39 or assigns; to the licensed funeral director who has custody of the body of
40 the deceased dischargee; when required by a department or agency of the
41 federal or state government or a political subdivision thereof; when the
42 form is required to perfect the claim of military service or honorable
43 discharge or a claim of a dependent of the dischargee; and upon the written

1 approval of the commissioner of veterans affairs, to a person conducting
2 research.

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

7 (48) Policy information provided by an insurance carrier in
8 accordance with subsection (h)(1) of K.S.A. 44-532, and amendments
9 thereto. This exemption shall not be construed to preclude access to an
10 individual employer's record for the purpose of verification of insurance
11 coverage or to the department of labor for their business purposes.

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

16 (50) *Information provided by providers to the local collection point*
17 *administrator or to the 911 coordinating council pursuant to the Kansas*
18 *911 act, and amendments thereto, upon request of the party submitting*
19 *such records.*

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

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

36 (d) If a public record contains material which is not subject to
37 disclosure pursuant to this act, the public agency shall separate or delete
38 such material and make available to the requester that material in the
39 public record which is subject to disclosure pursuant to this act. If a public
40 record is not subject to disclosure because it pertains to an identifiable
41 individual, the public agency shall delete the identifying portions of the
42 record and make available to the requester any remaining portions which
43 are subject to disclosure pursuant to this act, unless the request is for a

1 record pertaining to a specific individual or to such a limited group of
2 individuals that the individuals' identities are reasonably ascertainable, the
3 public agency shall not be required to disclose those portions of the record
4 which pertain to such individual or individuals.

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

8 (f) Notwithstanding the provisions of subsection (a), any public
9 record which has been in existence more than 70 years shall be open for
10 inspection by any person unless disclosure of the record is specifically
11 prohibited or restricted by federal law, state statute or rule of the Kansas
12 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and
13 amendments thereto.

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

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

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

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

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

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

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

43 (5) provide information from returns and reports filed under article 42

1 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*,
2 to county appraisers as is necessary to insure proper valuations of property.
3 Information from such returns and reports may also be exchanged with any
4 other state agency administering and collecting conservation or other taxes
5 and fees imposed on or measured by mineral production;

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

14 (7) provide information from returns and applications for registration
15 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-
16 3601, and amendments thereto, to a city or county treasurer or clerk or
17 finance officer to explain the basis of statistics contained in reports
18 provided by subsection (b)(6);

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

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

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

41 (11) release or publish cigarette and tobacco license information
42 obtained from cigarette and tobacco licensees in accordance with the
43 Kansas cigarette and tobacco products act. The information to be released

1 is limited to: County name, owner, business name, address, license type
2 and license number;

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

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

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

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

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

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

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

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

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

5 Sec. 26. K.S.A. 12-5309 and K.S.A. 2010 Supp. 12-5327, 12-5338,
6 12-5361, 45-221 and 75-5133 are hereby repealed.

7 Sec. 27. From and after January 1, 2012, K.S.A. 12-5303, 12-5305,
8 12-5306, 12-5307, 12-5308 and K.S.A. 2010 Supp. 12-5301, 12-5302, 12-
9 5304, 12-5310, 12-5321, 12-5322, 12-5323, 12-5324, 12-5325, 12-5326,
10 12-5327, 12-5328, 12-5329, 12-5330, 12-5331, 12-5332, 12-5333, 12-
11 5334, 12-5335, 12-5336, 12-5337, 12-5351, 12-5352, 12-5353, 12-5354,
12 12-5355, 12-5356, 12-5357, 12-5358, 12-5359 and 12-5360 are hereby
13 repealed.

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

16